

Chapter XLIV.

THE SPEAKER.¹

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³ House and not the Speaker decides as to the prerogatives of the House. Sections 1490, 1491 of Volume II.

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⁴ Orders arrest of a disturber in the gallery. Section 1605 of this volume.

⁵ Appointment of committees by. See Chapter CIV, sections 4448–4512, of Volume IV.

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⁶ As when the Speaker's seat as a Member is contested (sec. 809, Vol. I), but not when a pending resolution in effect censured his acts, section 2621, Volume III.

⁷ Mr. Speaker Colfax left the chair to participate in debate as to the electoral count. Section 1950 of Volume III.

Speaker debates even a question of order from the chair with deference to rights of the House. Section 3043 of Volume IV.

1307. Dignity of the Speaker's office and principles governing its administration.—On December 1, 1823,¹ Mr. Speaker Clay, in taking the chair, thus described the principles regulating the duties of the Speaker:

They enjoin promptitude and impartiality in deciding the various questions of order as they arise; firmness and dignity in his deportment toward the House; patience, good temper, and courtesy toward the individual Members, and the best arrangement and distribution of the talent of the House, in its numerous subdivisions, for the dispatch of the public business, and the fair exhibition of every subject presented for consideration. They especially require of him, in those moments of agitation from which no deliberative assembly is always entirely exempt, to remain cool and unshaken amidst all the storms of debate, carefully guarding the preservation of the permanent laws and rules of the House from being sacrificed to temporary passions, prejudices, or interests.

1308. On March 3, 1893,² in presenting the usual resolution of thanks to the Speaker, ex-Speaker Reed³ said of the office of Speaker:

No factional or party malice ought ever to strive to diminish his standing or lessen his esteem in the eyes of Members or of the world. No disappointments or defeats ought ever to be permitted to show themselves to the injury of that high place. Whoever at any time, whether for purposes of censure or rebuke or from any other motive, attempts to lower the prestige of that office, by just so much lowers the prestige of the House itself, whose servant and exponent the Speaker is. No attack, whether open or covert, can be made upon that great office without leaving to the future a legacy of disorder and of bad government. This is not because the Speaker is himself a sacred creation; it is because he is the embodiment of the House, its power and dignity.

1309. On taking the chair, on March 4, 1871,⁴ Mr. Speaker Blaine said:

Chosen by the party representing the political majority in this House, the Speaker owes a faithful allegiance to the principles and policy of that party; but he will fall far below the honorable requirements of his station if he fails to give to the minority their full rights under the rules which he is called upon to administer.⁵

1310. Duties of the Speaker regarding the opening of the session and the reading of the Journal.
Form and history of Rule I, section 1.

¹First session Eighteenth Congress, Journal, p. 8.

²Second session Fifty-second Congress, Record, p. 2614.

³Mr. Reed at this time had been Speaker in the Fifty-first Congress and was yet to be Speaker of the Fifty-fourth and Fifty-fifth Congresses.

⁴First session Forty-second Congress, Globe, p. 6.

⁵On February 2, 1905, a question arose as to the social rank of the Speaker. The President had invited the Speaker to a state dinner to the Supreme Court, and asked him if he would object to a seat below the Attorney-General. The Speaker (Mr. Cannon) replied that were it a private dinner he would be content with any place the host might assign to him; and were he a private individual he would be equally pleased with whatever course the host might take; but he felt that in attending a state dinner as Speaker of the House he might not waive the position to which he was entitled officially. At the dinner in question, the Chief Justice, as the guest of honor, would of course sit on the right of the host. The Vice-President, if there were one, on the left, and the Speaker of the House in the third place. And in the failure of a Vice-President the Speaker should have the second place. Rather than waive this the Speaker asked to be excused from attending. (See Benton's Thirty Years' View, Vol. I, p. 118, for Speaker Macon's assertion of his position.)

The rules of the House, in section 1 of Rule I, prescribe:

The Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting, immediately call the Members to order,¹ and on the appearance of a quorum, cause the Journal of the proceedings of the last day's sitting to be read,² having previously examined and approved the same.³

This is the form reported by the Committee on Rules, who made the revision in the Forty-sixth Congress.⁴ The substance was derived from old rule No. 1, which dated from the first rules, April 7, 1789,⁵ and which, with unimportant changes, forms all of the present rule except the portion relating to the examination and correction of the Journal. That was taken from old Rule No. 5, which dated from December 3, 1811,⁶ and May 26, 1824.⁷

1311. Rule as to form in which the Speaker shall put the question and method of determining the result.

Rule for taking a vote by tellers.

Form and history of Rule I, section 5.

The forms for putting the question by the Speaker are specified in section 5 of Rule I:

He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: "As many as are in favor (as the question may be) say Aye;" and after the affirmative voice is expressed, "As many as are opposed say No;" if he doubts, or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative; if he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one from each side of the question to tell the Members in the affirmative and negative; which being reported he shall rise and state the decision.

This rule, in its present form, dates from the revision of 1880,⁸ when it was made up from the old Rules Nos. 3 and 4. The first clause, "He shall rise to put a question, but may state it sitting," was Rule 3, and dated from April 7, 1789.⁹ The latter portion of the rule is very nearly verbatim from the old Rule No. 4, which came down from the revision of March 15, 1860.¹⁰ But the form of 1860 was simply the former rule stated more clearly.

¹ On March 22, 1844 (second session Twenty-eighth Congress, Journal, p. 635; Globe, p. 434), Mr. Garrett Davis, of Kentucky, proposed under suspension of the rules to adopt a rule providing that when the Speaker should have called the House to order, the roll should be called and the names of those present be entered on the Journal. The proposition was defeated, yeas 85, nays 86.

² Rule 16 of the Continental Congress (May 26, 1778) was: "Every morning the minutes of the preceding day shall be read before Congress enters on new business."

³ This being the requirement of the rule the reading can be dispensed with only by a suspension of the rules. (First session Twenty-ninth Congress, Journal, p. 148.)

⁴ See Cong. Record, second session Forty-sixth Congress, p. 204. This revision was very complete and thorough, and the report was the unanimous action of the committee, who were: Samuel J. Randall (Speaker), Alexander H. Stephens, J. C. S. Blackburn, James A. Garfield, and William P. Frye. The present classification, order, and numbering date from that revision.

⁵ See Journal, first session First Congress, p. 8.

⁶ See report No. 38, first session Twelfth Congress.

⁷ See Annals, first session Eighteenth Congress, p. 2764.

⁸ Second session Forty-sixth Congress, Record p. 204.

⁹ First session First Congress, Journal, p. 9.

¹⁰ Cong. Globe, first session Thirty-sixth Congress, p. 1178. The revision of 1860 was important, and the Committee on Rules making it were: William Pennington (N. J.) (the Speaker), Israel Washburn, jr. (Me.), Thomas S. Bocock (Va.), Galusha A. Grow (Pa.), and Warren Winslow (N. C.).

The old rule dated from April 7, 1789, and September 15, 1837. The rule of 1789 provided at first that in case the Speaker doubted or a division was called for, those in the affirmative should pass to the right of the Chair and those in the negative to the left, and if he still doubted or a count was required, the Speaker should name two Members, one from each side, to tell the Members in the affirmative, and then two others, one from each side, to tell those in the negative. After a few months of trial, this rule was modified by doing away with the passing of Members to the right and left of the Chair, and substituting the division by rising.¹ In 1837 Mr. John Bell, of Tennessee, proposed and the House adopted the provision requiring one-fifth of a quorum to order the tellers.²

1312. The question, if in order, must be put.—Jefferson's Manual, in Section III, on the general subject relating to privilege, has the following:

It is a breach of order for the Speaker to refuse to put a question which is in order.

1313. The Speaker decides all questions of order, subject to appeal.

A Member may not speak more than once on an appeal, except by permission of the House.

The Speaker signs all acts, addresses, writs, warrants, and subpoenas.

Form and history of Rule I, section 4.

In section 4 of Rule I it is provided:

He shall sign all acts, addresses, joint resolutions, writs, warrants, and subpoenas of, or issued by order of, the House, and decide all questions of order, subject to an appeal by any Member, on which appeal no Member shall speak more than once, unless by permission of the House.

This form was adopted in the revision of 1880.³ The first portion, relating to the signing of acts, addresses, etc., was taken from the old Rule No. 8, dating from November 13, 1794,⁴ and providing:

All acts, addresses, and joint resolutions shall be signed by the Speaker; and all writs, warrants, and subpoenas issued by order of the House shall be under his hand and seal, attested by the Clerk.⁵

The portion relating to questions of order is from the old Rule No. 2, dating from April 7, 1789,⁶ and provided that the Speaker might "speak to points of order in preference to other Members, rising from his seat for that purpose; and shall decide questions of order, subject to an appeal to the House by any two Members."

On December 23, 1811,⁷ the following words were added: "On which appeal no Member shall speak more than once, except by leave of the House."

1314. It is not the duty of the Speaker to decide any question which is not directly presented in the course of the proceedings of the House.—On February 28, 1885,⁸ Mr. James B. Belford, of Colorado, claiming that a question of personal privilege was involved, referred to the fact that on the evening before, while he was making a speech, the gentlemen from Indiana, Mr. Thomas M. Browne, had insisted that he should speak from his seat and not from

¹ Journal, first session First Congress, pp. 9 and 47.

² Cong. Globe, first session Twenty-fifth Congress, p. 34.

³ Cong. Record, second session Forty-sixth Congress, p. 204.

⁴ Journal, Third and Fourth Congresses, p. 227 (Gales & Seaton ed.).

⁵ The Clerk attests warrants still under section 2 of Rule III. See section 252 of Volume I of this work.

⁶ Journal, first session First Congress, p. 9.

⁷ See Reports, first session Twelfth Congress, No. 38.

⁸ Second session Forty-eighth Congress, Record, p. 2302.

the aisle. Therefore, Mr. Belford asked the Speaker for a construction of the rule relating to this subject.

The Speaker¹ said:

The Chair does not see that the gentleman from Colorado presents any matter of personal privilege. * * * The gentleman is asking the Chair to give an opinion merely upon the construction of a rule which is not now presented as a practical question. There is no matter now before the House involving the construction of that rule. * * * The Chair decides questions as to the construction of the rules when they properly arise in the course of business. It is not the province of the Chair to determine any question which is not directly presented in the course of the proceedings of the House.

1315. The Speaker of his own initiative has submitted to the House for decision a question as to procedure.—On February 28, 1840,² the Speaker³ submitted to the House a question as to how the House should proceed under its rule for the order of business. He stated that he wished a decision of the House to settle its future practice under similar circumstances. Although Mr. Rice Garland, of Louisiana, suggested that the Speaker ought to put his own construction on the rules, and leave the House to pass on an appeal, the House acquiesced in the mode proposed by the Speaker and by vote decided the question submitted.

1316. On March 24, 1880,⁴ question not provided for by rule or previous decision arising as to the reading of the Journal, the Speaker⁵ said:

It is an accepted parliamentary rule, governing all legislative bodies, and is a practice of the House, that the House shall regulate the manner of its proceedings. The Chair therefore submits the question whether the Journal of yesterday shall first be read.

On March 25⁶ Mr. H. Casey Young, of Tennessee, criticised this practice of referring matters to the House for decision.

Thereupon the Speaker cited the precedent of 1840, and also had read sections of Cushing's Law and Practice of Legislative Assemblies to show the English practice.

1317. The Chair is constrained in his rulings to give precedent its proper influence—On January 10, 1842,⁷ Chairman George W. Hopkins, of Virginia, in the course of a ruling made in the Committee of the Whole, said:

A chairman does not sit here to expound rules according to his own arbitrary views. A just deference for the opinions of his fellows should constrain him to give to precedent its proper influence; and until the House shall reverse them, to give them all the consideration which is due to cases heretofore settled by a solemn decision of the House.

1318. It is not the duty of the Speaker to construe the Constitution as affecting proposed legislation.—On April 22, 1878,⁸ Mr. John H. Reagan, of Texas, moved that the rules be suspended to pass a bill relating to the construction of certain public works on rivers and harbors.

¹ John G. Carlisle, of Kentucky, Speaker.

² First session Twenty-sixth Congress, Globe, p. 226.

³ R. M. T. Hunter, of Virginia, Speaker.

⁴ Second session Forty-sixth Congress, Record, p. 1838.

⁵ Samuel J. Randall, of Pennsylvania, Speaker.

⁶ Record, p. 1877.

⁷ Second session Twenty-seventh Congress, Globe, p. 112.

⁸ Second session Forty-fifth Congress. Journal, p. 921; Record, p. 2713.

Mr. Samuel S. Cox, of New York, made the point of order that under the Constitution, section 8, Article I, regulating commerce between the States, this bill was not in order.

The Speaker¹ overruled the point of order, on the ground that it was not the duty of the Chair to construe the Constitution as affecting or touching any proposed legislation.²

The rules were suspended and the bill passed, 166 yeas to 66 nays.

1319. On May 21, 1879,³ while the House was considering the bill (H. R. 564) relating to coinage and coin, etc., Mr. James A. Garfield, of Ohio, made the point of order that a certain section was in violation of that article of the Constitution which provides that the validity of the public debt of the United States shall not be questioned.

The Speaker¹ said:

The Chair rules that it is not the duty of the Chair to rule upon the construction of a law. That belongs to the House, and the Chair therefore overrules the point of order.

1320. On March 3, 1859,⁴ the House was considering the Senate amendments to the sundry civil appropriation bill, and had reached an amendment providing for reviving the power of the President to issue Treasury notes conferred by the act of December 23, 1857.

Mr. Wilson Reilly, of Pennsylvania, made the point of order that the amendment was out of order, on the ground that it virtually provided for raising revenue, which, under the Constitution, it was not competent for the Senate to originate.

The Speaker⁵ said:

The Chair does not perceive how the question of order could be made upon the amendment. It would devolve upon the Chair the necessity of disposing, by his volition, of an amendment sent here by the Senate of the United States. * * * The Chair decides that he has nothing to do with the question, whether the amendment is in order or constitutional or not. That is a question for the House to determine by their votes.

Mr. Reilly having appealed, the appeal was laid on the table, yeas 122, nays 36.

1321. The competency of the House to take a proposed course of action is a matter for the decision of the House rather than the Speaker.—On April 19, 1852,⁶ Mr. James L. Orr, of South Carolina, moved to recommit a report to the Committee on Printing with instructions.

Mr. Willis A. Gorman, of Indiana, made the point of order that it was not competent for the House alone to instruct a joint committee created by act of Congress, and that the motion submitted by Mr. Orr was consequently out of order.

The Speaker⁷ overruled the point of order on the ground that it was not his place, but rather that of the House, to decide upon the effect of their action.⁸

¹ Samuel J. Randall, of Pennsylvania, Speaker.

² See also first session Forty-sixth Congress, Journal, p. 347; Record, p. 1501.

³ First session Forty-sixth Congress, Record, p. 1501.

⁴ Second session Thirty-fifth Congress, Journal, pp. 603–605; Globe, p. 1680.

⁵ James L. Orr, of South Carolina, Speaker.

⁶ First session Thirty-second Congress, Journal, p. 611.

⁷ Linn Boyd, of Kentucky, Speaker.

⁸ Again, on May 5, 1852 (first session Thirty-second Congress) Globe, p. 1251, Mr. Speaker Boyd affirmed this position.

On appeal, the decision was sustained.

1322. It is for the House and not the Speaker to decide whether or not a Senate amendment to a revenue bill violates the privileges of the House. As to time of making points of order on constitutional questions.

On February 11, 1901,¹ the House had voted to disagree to the Senate amendment, in the nature of a substitute, to the bill (H. R. 12394) to reduce the war revenue, and the pending question was on a motion to ask for a conference with the Senate.

Thereupon Mr. James A. Tawney, of Minnesota, raised a question that the Senate had no constitutional power to originate a substitute for a revenue bill, and therefore that the House could not ask for a conference on this substitute measure without becoming a party to the violation of the Constitution.

In the course of the debate Mr. James D. Richardson, of Tennessee, made the point of order that the question was raised too late, since the House had already considered the Senate amendment and disagreed to it.

The Speaker² said:

There are two questions before us—first, the point of order made by the gentleman from Minnesota [Mr. Tawney], which involves the question of the constitutionality of the action of the Senate in its treatment of the bill sent to that body by the House.

A second point of order has been made by the gentleman from Tennessee that the point of order of the gentleman from Minnesota comes too late. The Chair is of opinion, referring to the latter point of order, that the gentleman from Minnesota can make his point at any time, and the Chair would be slow to shut out a point of order involving a constitutional question, especially when the action of the House on a division of the question on which a disagreement was declared on the amendment is in logical harmony with the course taken by the gentleman from Minnesota. It is only left for the Chair to decide whether the other question is one for him to decide or for the House to decide, whether the action of the Senate has violated its constitutional right or not. This question is no longer open in the House of Representatives. It has been decided again and again, in many cases, that when you reach that question it is a decision for the House to make. The question, therefore, before the House is on the second part of the resolution pending, namely, that the House ask for a conference. That is debatable. The gentleman from New York has the floor.

After debate as to the right of the Senate to amend, and as to whether or not the House would, after nonconcurring to the amendment, sacrifice any of its prerogatives by asking for a conference, it was decided, yeas 198, nays 38, to ask a conference.

1323. It is for the House and not the Speaker to decide on the legislative effect of a proposition.—On March 22, 1869,³ while the House was considering a resolution in regard to the disposal of contested election cases, Mr. Fernando Wood, of New York, rising to a parliamentary inquiry, asked if the resolution would bind the House in its subsequent action as to payment of contestants.

The Speaker⁴ said:

That is not a parliamentary inquiry. The Chair must decline to rule on the effect of the resolution. It is for the House to judge as to that.

¹Second session Fifty-sixth Congress, Journal, pp. 217, 218; Record, pp. 2258–2262.

²David B. Henderson, of Iowa, Speaker.

³First session Forty-first Congress, Globe, p. 197.

⁴James G. Blaine, of Maine, Speaker.

1324. On July 8, 1850,¹ the House was considering the report of the committee appointed to consider the conduct of the Secretary of War, the Hon. George W. Crawford, with reference to the Galphin claim, when Mr. Winfield S. Featherston, of Mississippi, moved to amend the resolution pending by adding thereto the following:

And that the House does not approve of the conduct of the Secretary of War in continuing to be interested in the prosecution of it when it was to be examined, adjusted, and paid by one of the Departments of the Government, he himself being at the same time at the head of another of those Departments; but the House considers that such connection and interest of a member of the Cabinet with a claim pending and prosecuted before another Department would be improper, dangerous as a precedent, and ought not to be sanctioned. And, consequently, that the House also totally dissents from the opinion which the Secretary of War has said the President of the United States expressed to him, viz, "that his (the said Crawford) being at the head of the War Department and the agent of the claimants did not take from him any rights he may have had as such agent, or would have justified him in having the examination and decision of the claim by the Secretary of the Treasury suspended;" and that this House decidedly disapproves of and dissents from the opinion given by the Attorney-General in favor of an allowance of interest on said claim, and from the action of the Secretary of the Treasury in payment of the same.

Mr. William Duer, of New York, objected to so much of the amendment of the gentleman from Mississippi (Mr. Featherston) as related to the conduct of the President and the Secretary of the Treasury and the Attorney-General, and submitted as a point of order that as the House was then engaged in an inquiry into the conduct of the Secretary of War, it was not in order to connect with that inquiry an examination of the conduct of other officers not on trial, and who had not had an opportunity to make a defense; and also that so much of said amendment was out of order, as being on a subject different from that under consideration.

The Speaker² overruled the point of order, and decided that the amendment was germane to the subject under consideration, and that the objections of the gentleman from New York were considerations for the House in its decision on the amendment, but could not be entertained as a point of order.

Mr. Duer having appealed, the appeal was laid on the table.

1325. The fact that the subject of a pending bill has already been acted on in another form is a matter for the consideration of the House, but does not justify the Speaker in ruling the bill out.—On February 8, 1897,³ during consideration of business presented by the Committee for the District of Columbia, Mr. Joseph W. Babcock, of Wisconsin, from that committee, presented House resolution No. 212, to suspend the operation of an act approved February 13, 1895, entitled "An act to amend an act entitled 'An act to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes,' approved June 16, 1880."

Mr. Alexander M. Dockery, of Missouri, raised the point of order that several days before the House had passed legislation repealing that act and prohibiting further payments of judgments.

¹First session Thirty-first Congress, Journal, pp. 1116, 1117; Globe, pp. 1359, 1360.

²Howell Cobb, of Georgia, Speaker.

³Second session Fifty-fourth Congress, Record, p. 1663; Journal, p. 155.

The Speaker¹ said:

The Chair would suggest * * * that the action taken by the House was on an amendment to the appropriation bill. It might very well be that the House might desire to amend the appropriation bill, or, failing in that, it might desire to suspend the act. The action of the House on last Thursday can only be made effective by the action of the Senate. It might well be that the Senate would prefer not to have it on an appropriation bill, either for technical reasons or because of its modification of the appropriation bill. The action now proposed is entirely different. The former action of the House can not become effectual except by the action of the Senate. If the House is satisfied with its action and thinks that that disposed of the question, the present proposition can be met by raising the question of consideration or by finally disposing of the bill after discussion. * * * The House might think it was desirable to have a provision passed which had no reference whatever to the appropriation bill, and it could not be precluded by any action of the Speaker from taking that course. The matter is fully in charge of the House, and if the question of consideration is raised and consideration is refused, why, the House expresses its opinion in that way. If, on the contrary, it considers the bill, its expression may take another form.

1326. Under the early practice the Speakers used to rule subjects out of order because they were already before the House in another form.

In theory, at least, in the early practice a subject laid on the table was not regarded as disposed of adversely.

On January 31, 1826,² Mr. Thomas Metcalf, of Kentucky, called up a resolution asking information of the President concerning the proposed Congress at Panama.

Mr. John Forsyth, of Georgia, made the point of order that the resolution was not in order, since the same subject, although stated in different language, was before the House in the form of a resolution offered by Mr. James Hamilton, of South Carolina, and laid on the table December 16.³

The Speaker⁴ decided that it was not in order to entertain Mr. Metcalf's resolution, since the subject-matter thereof was already before the House in the resolution of Mr. Hamilton.

1327. The fact that the provision of a proposed amendment is contained in a later portion of the bill constitutes no reason why it should be ruled out by the Speaker.—On May 19, 1902,⁵ the naval appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. Ernest W. Roberts, of Massachusetts, offered as an amendment a provision relating to the construction of naval vessels in navy-yards.

Mr. Charles K. Wheeler, of Kentucky, called attention to the fact that this provision was substantially the same as a paragraph in a portion of the bill not yet reached.

The Chairman⁶ said:

If certain language is adopted by the Committee of the Whole in one part of the bill and subsequently the same language is reached in another part of the bill, the repetition of the language can be struck out. The Chair thinks the amendment is in order.

¹Thomas B. Reed, of Maine, Speaker.

²First session Nineteenth Congress, Journal, p. 100; Debates, p. 1208.

³The motion to lay on the table did not at that time have its present significance. (See secs. 5389, 5390 of Vol. V of this work.) It was the frequent practice of the Speakers formerly to rule out resolutions or propositions on the ground that the subject-matter thereof was already before the House in another form. (First session Nineteenth Congress, Journal, p. 512, May 4, 1826.)

⁴John W. Taylor, of New York, Speaker.

⁵First session Fifty-seventh Congress, Record, pp. 5643, 5644.

⁶James S. Sherman, of New York, Chairman.

1328. The fact that a proposed amendment is inconsistent with the text or embodies a proposition already voted on, constitutes a condition to be passed upon by the House and not by the Speaker.—On May 19, 1882,¹ the House was considering the bill (H. R. 4167) to enable national banking associations to extend their corporate existence.

Mr. William W. Crapo, of Massachusetts, had offered an amendment as a new section, which was pending.

Mr. Thomas M. Bayne, of Pennsylvania, offered as an amendment to the pending amendment the following:

Provided, however, That said banks may withhold said bonds in whole or in part for one year upon notifying the Secretary of the Treasury of their intention so to do, in which event said bonds shall not be redeemable until the expiration of the year.

Mr. Roger Q. Mills, of Texas, made the point of order that substantially this same proposition had already been voted on.

Mr. Samuel J. Randall, of Pennsylvania, made the point of order that the House by an affirmative vote had determined that the bonds when called should be surrendered by the banks within thirty days.

The Speaker² said:

There has been no affirmative vote upon inserting the proposed new section. The vote has been taken merely upon striking out certain words in that provision. While the amendment of the gentleman from Pennsylvania (Mr. Bayne) is essentially different from that already pending, and may be inconsistent with it, the Chair thinks it is for the House to determine whether this proposition shall be adopted or not. The point of order is overruled.

1329. On April 12, 1828,³ the tariff bill being under consideration, Mr. Andrew Stewart, of Pennsylvania, proposed an amendment.

Mr. George McDuffie, of South Carolina, made the point of order that the amendment could not be received, being inconsistent with one already adopted by the House.

The Speaker⁴ decided that it was not the province of the Chair to decide what the effect of the amendment would be.

Mr. McDuffie appealed, but after examination withdrew the appeal.

1330. On December 14, 1900,⁵ the bill (H. R. 12394) to amend an act entitled "An act to provide ways and means to meet war expenditures and for other purposes," was under consideration in Committee of the Whole House on the state of the Union, and the section relating to beer was before the committee.

Mr. John K. Stewart, of New York, offered this amendment:

Provided further, That the beer shall be pure beer, made exclusively from malt and hops, so pronounced by inspectors to be appointed by the Government for that purpose, the inspectors to be appointed by the Treasury Department and paid at the rate of \$3,000 per year: *Provided further,* That violation of the above provision shall be a misdemeanor, punishable upon conviction by a fine not exceeding \$1,000, or imprisonment for not more than one year, or both, in the discretion of the court; and if such beer is found on such inspection to be impure, then a tax of \$2 shall be imposed.

¹ First session Forty-seventh Congress, Record, pp. 4121–4123; Journal, p. 1285.

² J. Warren Keifer, of Ohio, Speaker.

³ First session Twentieth Congress, Debates, p. 2311.

⁴ Andrew Stevenson, of Virginia, Speaker.

⁵ Second session Fifty-sixth Congress, Record, pp. 319, 320.

Mr. George W. Steele, of Indiana, made the point of order that the amendment was not germane.

After debate the Chairman¹ said:

As the Chair understands, there are two classes of beer contemplated by this amendment, and it provides a different tax for each. It provides the instrumentalities by which beer shall be classified for purposes of taxation. In that portion of the bill referring to cigars there is not only a clause fixing the amount of taxation, but there are provided instrumentalities for carrying out the operations of the law, and also an appropriation to aid in that purpose. It seems to the Chair—

At this point Mr. Sereno E. Paine, of New York, called attention to the fact that the committee had already adopted a proposition fixing one tax on all kinds of beer, and therefore that the amendment could not be in order.

The Chairman concluded:

The Chair thinks the gentleman's position is not tenable, and has no doubt as to the germaneness of this proposition.

1331. On February 7, 1901,² during the consideration of the Post-Office appropriation bill in the Committee of the Whole House on the state of the Union, an amendment was offered relating to the discretion of the Postmaster General in using the appropriation for special facilities on trunk lines of railroad.

Mr. Oscar W. Underwood, of Alabama, made the point of order that the proposed amendment was in conflict with the provisions of an amendment just voted on.

After debate the chairman³ held:

The point of order is made upon this amendment that it would accomplish substantially, if adopted, what has already been provided for in the text of the bill which has just been voted upon.

Now, it is not, certainly, for the Chair to decide as to the effect of this amendment, although the reading of the text of the bill, which has been adopted and the amendment, will commend themselves, so far as that question is concerned, to the committee. The Chair desires to have read from Jefferson's Manual the following:

"If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order; for were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative or important modification, and suppress, instead of subserving, the legislative will."

The Chair concurs in the extract just read from the Manual, and therefore overrules the point of order. The question is on the amendment.

1332. On April 3, 1902,⁴ while the bill (S. 1025) to promote the efficiency of the Revenue-Cutter Service was under consideration in Committee of the Whole House on the State of the Union, the following amendment was offered by John F. Lacey, of Iowa:

Add, at the end of section 3, the following: "*Provided*, That the same reduction of pay shall be made for shore duty as in corresponding grades in the Navy."

Mr. James S. Sherman, of New York, raised the question of order "that precisely the same amendment, only in different phraseology," had just been voted down.

¹ William P. Hepburn, of Iowa, Chairman.

² Second session Fifty-sixth Congress, Record, pp. 2098, 2099.

³ Henry S. Boutell, of Illinois, chairman.

⁴ First session Fifty-seventh Congress, Record, p. 3634.

The chairman ¹ held:

The motion just voted down was the motion of the gentleman from Colorado to strike out the word "Army," and insert in lieu thereof the word "Navy." The amendment offered by the gentleman from Iowa is to add at the end of the section the following words:

"Provided, That the same reduction of pay shall be made for shore duty as in corresponding grades of the Navy."

The language of the pending amendment is certainly very different from that of the amendment already rejected. The Chair can not say, from anything appearing in the bill or anything that has been submitted, that it is the same amendment. In terms it is a very different amendment. What the effect may be of adopting the amendment is for the committee to consider and not for the Chair to decide. The point of order is therefore overruled.

1333. On March 10, 1902,² while the Committee of the Whole House on the state of the Union was considering the bill (H. R. 11728) relating to the rural free delivery service, Mr. John F. Lacey, of Iowa, offered on amendment providing a system of payment by contract.

Mr. Claude A. Swanson, of Virginia, made the point of order that the amendment was not in order, the committee having already by amendment provided that the service should be carried on by salaried carriers and not by contract.

The Chairman ³ said:

The Chair is of the opinion that although the committee may have expressed its intentions in the former paragraph as to the general principle, yet that would not be inconsistent with a wish to experimentally try the contract system as is proposed in this amendment. It is not for the Chair to determine that the committee would hold the two inconsistent. That is for the committee.

1334. On February 26, 1904,⁴ the naval appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. Gilbert M. Hitchcock, of Nebraska, proposed as a new section, but at a place in the bill wherein were included other sections relating to the same subject, the following:

That no money appropriated in this bill for armor shall be used to purchase armor not yet contracted for from any manufacturer or manufacturers who constitute in whole or in part a trust or trade conspiracy to control the price of steel products in violation of the laws of the United States.

Mr. Alston G. Dayton, of West Virginia, made a point of order, and Mr. John Dalzell, of Pennsylvania, elaborated it by pointing out that the amendment would modify conditions prescribed in an amendment already agreed to.

The Chairman ⁵ said:

It is not within the discretion of the Chair to pass upon the consistency of amendments. This proposed amendment does not limit, relate, nor apply to the \$12,000,000 appropriation contained in the paragraph already passed. It seems to the Chair to be merely a limitation upon the appropriation to purchase additional armor not covered by that paragraph, and is therefore in order. The Chair overrules the point of order.

¹ Marlin E. Olmsted, of Pennsylvania.

² First session Fifty-seventh Congress, Record, p. 2590.

³ Frederick H. Gillett, of Massachusetts, Chairman.

⁴ Second session Fifty-eighth Congress, Record, p. 2447.

⁵ Marlin E. Olmsted, of Pennsylvania.

1335. On January 11, 1871, while the Senate was considering amendments of the House to the Senate joint resolution (S. Res. 262) authorizing the appointment of Commissioners in relation to the Republic of Dominica, a proposition was made in the form of an amendment to name certain persons as Commissioners. The point of order was made that the text to which both Houses had agreed provided that the Commissioners should be named by the President, and therefore that the proposed amendment was out of order.

The Vice-President¹ said it was correct that the text of the joint resolution had been removed from the consideration of both Houses, both Houses having agreed to it, with the single exception of the amendment now pending between the two Houses.²

The amendment proposed now would be inconsistent with a part of the joint resolution which had been agreed to by both Houses, but in Jefferson's Manual the doctrine was laid down which had always been held as parliamentary law:

If an amendment be proposed inconsistent with one already agreed to it is fit ground for its rejection by the House, but not within the competence of the Speaker to suppress, as if it were against order.

As the text in this case proposed one thing, and the amendment proposed another and inconsistent thing, there might be ground for the Senate to reject it, but not for the Chair to rule it out of order.³

1336. On April 20, 1906,⁴ the District of Columbia appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when this paragraph was read:

Court-house, District of Columbia: For the following force necessary for the care and protection of the court-house in the District of Columbia, under the direction of the United States marshal of the District of Columbia: Engineer, \$1,200; three watchmen, at \$720 each; three firemen, at \$720 each; five laborers, at \$480 each, and three assistant messengers, at \$720 each; in all, \$10,080, to be expended under the direction of the Attorney-General.

The words "three assistant messengers, at \$720 each" were stricken out on a point of order, and then an amendment was offered as follows:

Insert "three messengers, at \$720 each.

An amendment to this amendment to strike out "three" and insert "seven" was disagreed to, and then the amendment was agreed to.

On April 21,⁵ the same paragraph being under consideration, Mr. Edgar D. Crumpacker, of Indiana, proposed this amendment:

Insert after the words "five laborers, at \$480 each" the words "four messengers, \$720 each," so that the paragraph in this portion would read "four messengers, \$720 each; three messengers, \$720 each."

Mr. John J. Fitzgerald, of New York, made the point of order that this amendment proposed in effect to insert a proposition which on the day before the House had disagreed to, when the amendment to strike out "three" and insert "seven" was disagreed to.

¹ Ex-Speaker Colfax.

² This amendment did not relate to the subject of Commissioners.

³ Third session Forty-first Congress, Globe, p. 430.

⁴ First session Fifty-ninth Congress, Record, pp. 5631-5635.

⁵ Record, p. 5664.

After debate the Chairman¹ said:

The Chair thinks the amendment offered by the gentleman from Indiana is an independent amendment. Whether it makes consistent text or grammatical text or anything else is not a question of order that the Chair can determine, but is a question of good sense, to be determined by the committee itself. The Chair therefore overrules the point of order.

1337. The Speaker does not rule out a pending legislative proposition, even though the lapse of time may have rendered it futile.—On August 8, 1846,² the House was considering a resolution to terminate debate upon the message from the President of the United States, recommending an appropriation of \$2,000,000 to aid in settling difficulties with Mexico.

Mr. Garrett Davis, of Kentucky, raised the question of order that the resolution proposed to fix the hour of “2 o’clock this day” as the time at which debate should terminate. That hour having passed the resolution was in itself a nullity, and ought not to be further entertained by the Chair.

The Speaker *pro tempore*³ decided that the resolution being in order when offered could not, by mere lapse of time, be rendered out of order, and that while the fact that the hour fixed had passed might be a good reason for voting against it, it was no reason why the Chair should interfere in its regular progress. He therefore overruled the point of order made by Mr. Davis.

Mr. Robert Toombs, of Georgia, having appealed, Mr. James J. McKay, of North Carolina, moved that the whole subject be laid on the table. There were on this motion, yeas 123, nays 26. So the appeal and the resolution were laid on the table.

1338. A question as to whether or not a committee in its report has violated its instructions is passed on by the, House and not the Speaker.—On May 26, 1836,⁴ the House was considering the report of a select committee in relation to the disposition of petitions relating to the abolition of slavery in the District of Columbia, when Mr. Stephen C. Phillips, of Massachusetts, submitted, in writing, the following point of order:

Can a committee, specially instructed to report two resolutions, the form of which was given by the House, report another resolution changing the rules and orders of the House in regard to the management of its business and depriving citizens of the privilege of obtaining the usual consideration for petitions upon subjects other than that referred to the committee?

The Speaker⁵ stated that it was not within the competency of the Chair to draw within the vortex of order the question raised by the gentleman from Massachusetts. Questions relating to the jurisdiction of the committees of the House or whether they had or had not exceeded that jurisdiction or transcended the authority conferred upon them by the House were for the House and not the Speaker to determine. If gentlemen were of opinion that committees in their reports had exceeded the authority given them by the House, there were other modes of correcting what they had done; as, for example, the report might be recommitted with instructions,

¹ John Dalzell, of Pennsylvania, Chairman.

² First session Twenty-ninth Congress, Journal, p. 1277; Globe, p. 1212.

³ John W. Tibbatts, of Kentucky, Speaker *pro tempore*.

⁴ First session Twenty-fourth Congress, Journal, p. 882; Debates, p. 4053.

⁵ James K. Polk, of Tennessee, Speaker.

or the House, on that, as well as other grounds, might refuse to concur in their report.

The point now raised could not therefore be considered as a point of order to be decided by the Chair. It was in some respects analogous to the case of inconsistent amendments proposed, in which case it was well settled that "if an amendment be proposed inconsistent with one already agreed to it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order; for were he permitted to draw questions of consistence within the vortex of order he might usurp a negative on important modifications and suppress instead of subserving the legislative will."

So in this case, if the House should be satisfied that the committee were not clothed with authority, by the order of the House under which they were appointed, to report this resolution, "it may be a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order."

1339. It is for the House and not the Speaker to decide as to the efficiency of a report made in writing by a committee.—On January 12, 1888,¹ the bill (H. R. 1733) to provide for the issue of circulating notes to national banking associations was called up for consideration.

Mr. J. B. Weaver, of Iowa, made the point of order that the report accompanying the bill, containing nothing further than a recommendation of its passage, was not a sufficient compliance with the rule.

After debate, the Speaker² said:

The Chair can only say what has been frequently said before upon similar points—that it is not within the province of the Chair to decide upon the sufficiency of a report made by a committee of the House. All that the rule requires is that a report shall be submitted in writing, without specifying the nature of the report, and if that provision of the rule is complied with the Chair must entertain the report.

The argument of the gentleman from Iowa may be a very proper one to address to the House itself upon a motion to recommit the bill for a report containing further and more specific information; but the gentleman will see at once that if the Chair should undertake to decide such questions the reception of all reports would depend upon the judgment of the Chair as to whether they were full or sufficiently explanatory of the measure to which they referred. So that point of order must be overruled.

1340. Discussion and ruling in the Senate as to decisions of questions of order by the presiding officer.

Reference to discussions of the powers of the Vice-President as presiding officer of the Senate and as to calling to order.

On February 25, 1907,³ in the Senate, a question of order was raised as to an amendment proposed to the pending agricultural appropriation bill, and Mr. Albert J. Beveridge, of Indiana, suggested that the Vice-President might submit the decision to the Senate instead of making a ruling, which would be subject to appeal.

¹ First session Fifty-sixth Congress, Journal, pp. 375, 376; Record, p. 425.

² John G. Carlisle, of Kentucky, Speaker.

³ Second session Fifty-ninth Congress, Record, pp. 3876–3882.

In the course of the debate which followed, Mr. Jacob H. Gallinger, of New Hampshire, submitted precedents made by former presiding officers of the Senate:

As far back as the Thirty-first Congress, Mr. Howe made a point of order against an amendment proposed by Mr. Conkling, and the point of order, beyond a question, was good, but it was submitted to the Senate. A little later on, in the Forty-sixth Congress, the Senate having under consideration the bill (H. R. 1343) to provide for certain expenses of the present session of Congress, Mr. Plumb offered to amend it by adding "for mileage of Senators at the extra session." Mr. Wallace raised the point of order that the amendment, not having been moved by direction of a standing or select committee of the Senate or in pursuance of an estimate from the head of a Department, was not in order. The question was submitted to the Senate.

In the Forty-third Congress Mr. Allen offered to amend the agricultural appropriation bill by inserting:

"For the purpose of purchasing and distributing seeds and seed grains among the drought-stricken inhabitants of the United States by the Secretary of Agriculture, and in his discretion and under such rules as he may prescribe, the sum of \$300,000, or so much thereof as may be necessary, the same to be made immediately available."

Mr. Vilas raised the point of order that the amendment was not moved by direction of a standing or select committee of the Senate or proposed in pursuance of an estimate of the head of some one of the Departments, and was therefore not in order under the first clause of Rule XVI. The then Vice-President, Mr. Stevenson, submitted the question to the Senate.

In the Fifty-third Congress the telegraph cable company matter came up, when Mr. Blackburn raised the question of order, and it was submitted to the Senate by the Vice-President, Mr. Stevenson.

In the Thirty-second Congress a bill to supply deficiencies in appropriations for the year ending June 30, 1852, was pending, and an amendment was proposed to that which it was argued was not a proper amendment. Mr. William R. King, who was a very distinguished Senator and who occupied the chair at that time, submitted the question to the Senate.

In the Fifty-first Congress an amendment to the Indian appropriation bill was offered, and Vice President Stevenson submitted it to the Senate, the same point being made that is made today. In the Fifty-fourth Congress an amendment was offered to the Indian appropriation bill, and Mr. Faulkner, who was a most excellent presiding officer, submitted the question to the Senate.

The pension appropriation bill being under consideration in the Fiftieth Congress, an important amendment was offered to it, and a point of order was raised that it proposed general legislation to a general appropriation bill. The question was submitted to the Senate.

After further debate, the Vice-President¹ ruled:

The Senator from Wyoming [Mr. Warren] makes several points of order against the amendment proposed by the Senator from Indiana [Mr. Beveridge]. The Chair will consider but one, and that is that the amendment proposes general legislation. The rules of the Senate with respect to amendments proposed to appropriation bills are comprehensive and specific. Subdivision 3 of Rule XVI provides that—

"No amendment which proposes general legislation shall be received to any general appropriation bill."

The question arises whether the amendment offered proposes general legislation. The Chair doubts whether there is a Senator within the Chamber who, upon the most casual reading of the amendment proposed, would not hold that it did distinctly and clearly propose general legislation. If it does propose general legislation and is in contravention of the rule, the Chair believes that it is his duty and in the interest of orderly procedure to hold that the point of order is well taken and that the amendment is out of order.

The precedents to which the attention of the Chair has been directed with respect to the submission of questions of order to the Senate have no application to the pending question. The presiding officers have in past years occasionally submitted questions of order to the Senate. It has been done under the authority conferred by Rule XX, in the discretion of the Chair and not from suggestions from the floor. During the present session the Chair has frequently been invited by Senators to submit to the

¹ Charles W. Fairbanks, of Indiana, Vice-President.

Senate points of order on amendments which were not in order, and in every case of such invitation the Chair has felt obliged to decline to do so. To assent to such suggestions is to break down the rules which the Senate has deliberately adopted for the conduct of public legislation.

The Chair feels that it is not for him lightly to break the rules and safeguards which the Senate has adopted for his and its guidance. The Chair, of course, has nothing to do with the merits of the amendment which is proposed. Whether the amendment is one of general public interest or otherwise is a matter with which the Chair can not concern himself. The Senators interested in the amendment are not remediless. The Chair, in holding that under the rule an amendment is not in order, does not kill the amendment. The Senate has provided against such a contingency by the rules which were long since adopted. If a majority of the Senate are of opinion that the ruling of the Chair is not in consonance with the spirit of the rules of the Senate, they may hold that the amendment is in order; or, if the Senate should be of opinion that in the large public interest an amendment should be received regardless of the rule, it is competent for the Senate so to decide, and a majority of the Senate may determine it.¹

This amendment, which was offered by the Senator from Indiana on the 14th of February, was embodied in a bill introduced by him on the 6th of last December. The Chair is of opinion that if the measure is of such large consequence in the opinion of the Senate, as is now claimed, the Senate could have expressed itself upon that subject long prior to the closing hours of the present session and in an orderly and appropriate way.

For these considerations the point of order is sustained. The Chair would say further that under the rules of the Senate an appeal lies from this decision, and the Chair would invite such an appeal if he is in error in the view he entertains of the force and effect of the rule.

1341. The Speaker held it his duty to proceed in accordance with the mandatory provision of a law in the enactment of which the then existing House had concurred.—On March 1, 1877,² the House resumed consideration of the objections to the counting of the vote of Henry N. Solace as a Presidential elector from the State of Vermont, and a resolution relating thereto having been adopted, Mr. Wm. J. O'Brien, of Maryland, claimed the floor to submit a resolution notifying the Senate of the action of the House.

The Speaker³ stated that he had allowed a vote to be taken on every legislative motion. He had allowed the motion to reconsider to be voted upon whenever it had been made, so that the House might have an opportunity to correct any error it might have committed. The House had had an opportunity to vote on the motion to lay on the table the propositions themselves, and on the motions to reconsider the vote upon those propositions. Now, when the House had advanced to a declaration of its judgment on the objection to counting the vote from the State of Vermont, it was brought to the following paragraph of the [electoral] law (which had been passed in the then existing Congress with the concurrence of the then existing House)⁴ as its guide and its mandatory instructions:

When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the question submitted.

¹For an interesting discussion of the powers of the Vice-President as presiding officer of the Senate see first session Twentieth Congress, Debates, pp. 278–341. And for a Vice-President's rulings as to calling to order see first session Nineteenth Congress, index to Debates, under "Order." See also first session, Thirty-first Congress, Globe pp. 631, 632, for remarks of Vice-President Fillmore as to the power to call to order.

²Second session Forty-fourth Congress, Journal, p. 604; Record, p. 2054.

³Samuel J. Randall, of Pennsylvania, Speaker.

⁴19 Stat. L., p. 227.

The Senate has notified the House of its action upon the objection to counting the vote from Vermont. The House has now reached its judgment upon the objection, and, as far as the Chair is concerned, it is his duty, by the terms of the act, mandatory and ministerial, to notify the Senate to that effect, and he would therefore direct the Clerk accordingly, and that the House is now ready to meet the Senate to proceed with the counting of the electoral votes for President and Vice President.

1342. By request of the House, the Speaker has named himself as one of the members of a commission authorized by law.—On March 2, 1895,¹ a Speaker pro tempore being in the chair, Mr. Joseph W. Bailey, of Texas, offered a resolution providing that the Speaker (Mr. Crisp) be requested to appoint himself as one of the delegates to the international monetary conference provided for by the sundry civil appropriation bill for the year ending June 30, 1896. This resolution was agreed to, and on the same day, when the Speaker announced the three delegates to be appointed on the part of the House, he announced himself as the third. This delegation consisted of two from the majority and one from the minority side of the House.

1343. The Speaker preserves order on the floor and in the galleries and lobby.

Form and history of Rule I, section 2.

The rules of the House, Rule I, section 2, among the duties of the Speaker, provide:

He shall preserve order and decorum, and, in case of disturbance or disorderly conduct in the galleries, or in the lobby, may cause the same to be cleared.

This is the form established by the revision of the Forty-sixth Congress.² The clause "He shall preserve order and decorum" was taken from the old rule No. 2, which dated from April 7, 1789.³ The latter portion, relating to the galleries and lobby, was old rule No. 9, and dated from March 14, 1794,⁴ when a resolution was offered from the floor and adopted, that the Speaker or chairman of the Committee of the Whole should have power to cause the galleries or lobby cleared in case of disorder therein.

1344. The Speaker may name any Member persisting in disorderly conduct.

The parliamentary law provides that the House shall deal with a Member named by the Speaker.

¹Third session Fifty-third Congress, Record, pp. 3223, 3251.

²Second session Forty-sixth Congress, Cong. Record, p. 204.

³See Journal first session First Congress, p. 9. This was the date of the adoption of the first system of rules. The committee who reported them were Nicholas Gilman (N. H.), Elbridge Gerry (Mass.), Jeremiah Wadsworth (Conn.), Elias Boudinot (N. J.), Thornas Hartley (Pa.), William Smith (Md.), Richard Bland Lee (Va.), Thomas Tudor Tucker (S. C.), James Madison (Va.), Roger Sherman (Conn.), Benj. Goodhue (Maw.). All of these, excepting Messrs. Hartley, Lee, and Goodhue, had served in the Continental Congress.

⁴Third and Fourth Congresses, Journal, p. 92 (Gales & Seaton ed.).

Jefferson's Manual, in Section XVII, provides:

If repeated calls do not produce order,¹ the Speaker may call by his name any Member obstinately persisting in irregularity; whereupon the House may require the Member to withdraw. He is then to be heard in exculpation and withdraw. Then the Speaker states the offense committed, and the House considers the degree of punishment they will inflict.²

"Sir, I well remember the august and solemn appearance of this body some twenty years ago, when the fathers sat here. Then it was a majestic body indeed. There was something awful in its appearance. The solemn stillness, the gravity of Senators, the propriety of conduct, the silent auditory—all impressed the spectator with a solemn awe when he entered this Chamber or came into its galleries or lobbies. The House of Representatives, too, was silent. If there a voice was heard in the galleries, instantly the eye of the Speaker rested upon the Sergeant-at-Arms, and a messenger or the Sergeant in person immediately repaired to the individual in the gallery and touched him, and there was silence. If a Member sat in an indecorous position, or laid his foot upon his desk, the Speaker sent his page with this message: "The compliments of the Speaker to Mr. ———, and he will please take down his foot;" and he never put it up a second time. There was grandeur about legislation then."

1345. The Speaker represses a Member who is out of order, but except naming him may not otherwise censure or punish him.—On March 15, 1882,³ while Mr. Frank Hiscock, of New York, had the floor in debate, and was refusing to yield, Mr. Hernando De S. Money, of Mississippi, insisted on speaking, and did proceed to utter sentences, although Mr. Hiscock still refused to Yield. Thereupon the Speaker⁴ said:

The Chair wishes to state if gentlemen think they can impose on the House and the Chair by undertaking to make speeches in violation of the rules, the Chair will take pains to reprimand them, at least.

At once Mr. Money, while not objecting to being called to order, raised a question as to the right of the Speaker to reprimand.

The subject was debated on this day, and on the next day Mr. Robert M. McLane, of Maryland, proposed a resolution condemning any attempted exercise of such power. This resolution was withdrawn after the Speaker had made the following statement:

After all that has been said, there should be no misunderstanding the position taken by the Chair. It never has proposed to assume the powers of the House in punishing a Member for any past disorderly conduct; it has only asserted its right as a presiding officer to preserve order and do all that may be necessary within parliamentary usage to secure that end. The duty of the Chair in this respect is one settled not only by long parliamentary usage, but by the imperative terms of the rules of the House. The Chair used the word "reprimand" in its ordinary and proper sense, not in its technical sense. The meaning of the term "reprimand" is well defined and well understood. To "reprimand" is to check and repress a Member when out of order. Beyond this a presiding officer should not go in administering a reprimand; less than this the Chair can not do and discharge its duty to the House. The Chair never assumed to reprimand a Member for what he had done; that is for the House. The Chair should check, repress, or reprimand a Member while persisting in being out of order. The Chair desires to repeat that in all that took place yesterday; in all that was said, it never undertook to reprimand a Member for any past act;

¹This procedure has rarely, if ever, occurred in the House. Members who offend are usually called to order by some other Member or by the Speaker, and when called to order the House in case of flagrant offense takes the matter under consideration.

²On February 11, 1857 (Third session Thirty-fourth Congress, Globe, p. 649), Mr. Sam Houston, of Texas, while speaking in the Senate, asked for order, saying:

³First session Forty-seventh Congress, Record, pp. 1941, 1967–1969.

⁴J. Warren Keffer, of Ohio, Speaker.

but if to call a Member to order and remind him that he is not in order is to reprimand him, then the Chair simply did what the rules require him to do.

The highest parliamentary reprimand known to the Parliament of England is to mention a member's name, which puts him then in parliamentary disgrace. Our manual of practice allows that to be done here. That was not done on yesterday; nor was any person reprimanded beyond the mere calling him to order and insisting upon the preservation of order. The Chair has the right in extreme cases to order the Sergeant-at-Arms to forcibly preserve order; even to the extent of arresting a Member if he persists in violating order, and may it not first use less violent means?¹

1346. The mace is the symbol of the office of Sergeant-at-Arms, and is borne by that officer while enforcing order on the floor.

Present form and history of section 2 of Rule IV.

Section 2 of Rule IV provides:

The symbol of his office shall be the mace, which shall be borne by him while enforcing order on the floor.

This rule dates from 1789.² It was originally proposed, following the parliamentary usage, that the mace should be placed on the Clerk's table during the sitting of the House and under it when the House should be in committee, but the House recommitted the proposition, and it was not carried.³ The mace during the sessions of the House is kept in an upright position on a marble pedestal at the right of the Speaker's chair. It is not taken down during a recess, but is taken down, however, when the House resolves into Committee of the Whole and is replaced in position when the Speaker resumes the chair. It is taken from its pedestal and borne by the Sergeant-at-Arms while enforcing order on the floor under direction of the Speaker or chairman of the Committee of the Whole.

The first mace, a representation of the Roman fasces, was made of ebony rods bound transversely with a silver band, and each tipped with a silver spearhead. From the center of the bundle of rods a silver stem supported a globe of silver, upon which was an eagle of massive silver. The height was about 3 feet. This mace was destroyed at the burning of the Capitol on August 24, 1814. For twenty five years a hastily constructed mace of common pine wood, painted, did service; but in 1842 the mace now in use was procured. It is of about the size and nearly the design of the old mace.

1347. The Deputy Sergeant-at-Arms having attempted, without the mace, to enforce an order of the Speaker on a Member, a question of privilege arose therefrom.—On February 7, 1885,⁴ Mr. John D. White, of Kentucky, while addressing the House, was called to order, and the Speaker pro tempore directed him to resume his seat.

Mr. White disregarding this order, the Speaker pro tempore directed the Sergeant-at-Arms to see that the order was obeyed by Mr. White.

¹ On April 3, 1850, Vice-President Millard Fillmore addressed the Senate at length concerning the power of the Vice President to call to order. His conclusion was that he shared this power with the Members of the Senate, and that the duty was even more incumbent on him than on them. (First session Thirty-first Congress, *Globe*, pp. 631, 632.)

For consideration of this subject by other Vice-Presidents, see *Debates*, first session Twentieth Congress, pp. 278341. Also "Order," in index to debates, first session Nineteenth Congress.

² When the first rules were adopted.

³ See *Journal and Annals* for first session First Congress, April 13, 1789.

⁴ Second session Forty-eighth Congress, *Journal*, pp. 499–5W; *Record*, pp. 1419, 1420.

The Deputy Sergeant-at-Arms thereupon proceeded up the aisle without the mace and took hold of Mr. White, who refused to take his seat. The deputy Sergeant-at-Arms thereupon procured the mace and returned up the aisle to Mr. White, who took his seat.

Mr. White then, as a question of personal privilege, stated that the Assistant Sergeant-at-Arms, without authority or semblance of authority, had undertaken to arrest him.

The Speaker pro tempore¹ stated that Mr. White, being called to order by Members and directed by the Chair to take his seat, had disregarded said order, whereupon the Chair had directed the Sergeant-at-Arms to enforce the said order, which was then executed by the said officer.

Later, after the yeas and nays had been taken on a pending proposition, Mr. White claimed the floor on a question of privilege, and stated that a citizen, without any semblance of authority or power, had approached him on the floor of the House and laid violent hands on him and in an offensive manner demanded that he take his seat.

Mr. Nathaniel J. Hammond, of Georgia, made the point of order that the identical matter presented by Mr. White had been passed upon by the Chair; and no appeal from said decision being made, further discussion was out of order.

The Speaker pro tempore sustained the said point of order, and held the question presented by Mr. White not now in order as a question of privilege.

1348. Extreme disorder arising in the Committee of the Whole, the Speaker may take the chair “without order to bring the House into order.”

Disorderly words spoken in Committee of the Whole are to be taken down as in the House, but are to be reported to the House, which alone may punish.

Jefferson's Manual has these provisions in relation to disorder in the Committee of the Whole:

In Section XII:

In a Committee of the Whole, the tellers on a division differing as to numbers, great heats and confusion arose, and danger of a decision by the sword. The Speaker took the chair, the mace was forcibly laid on the table; whereupon, the Members retiring to their places, the Speaker told the House “he had taken the chair without an order, to bring the House into order.” Some excepted against it; but it was generally approved as the only expedient to suppress the disorder. And every Member was required, standing up in his place, to engage that he would proceed no further in consequence of what had happened in the grand committee, which was done. (3 Grey, 128.)

A Committee of the Whole being broken up in disorder and the chair resumed by the Speaker without an order, the House was adjourned. The next day the committee was considered as thereby dissolved, and the subject again before the House; and it was decided in the House, without returning into committee. (3 Grey, 130.)

In Section XVII:

Disorderly words spoken in a committee must be written down as in the House; but the committee can only report them to the House for animadversion. (6 Grey, 46.)

In Section XXX:

A committee can not punish a breach of order in the House or in the gallery.² (9 Grey, 113.) It can only rise and report it to the House, who may proceed to punish.

¹Joseph S. C. Blackburn, of Kentucky, Speaker pro tempore.

²A rule allows the chairman of the Committee of the Whole to have the gallery cleared. (See section 4704 of Vol. IV, of this work.)

1349. In 1880 the Speaker took the chair to quell disorder in Committee of the Whole, but that being accomplished, yielded the chair to the Chairman, that the committee might rise in due form before the House should adjourn.

On December 31, 1880,¹ the House was in Committee of the Whole House on the state of the Union considering the bill (H. R. 4592) to facilitate the refunding of the public debt, Mr. James W. Covert, of New York, being Chairman.

During the proceedings a controversy arose between Messrs. William A. J. Sparks, of Illinois, and J. B. Weaver, of Iowa, and on account of menacing words and actions of the two Members, the members of the committee generally rose to their feet, and many came to the front, some interposing between the two.

At this point the Speaker took the chair and called the House to order, saying:

The Speaker has taken the chair for the purpose of restoring order, believing that parliamentary propriety and practice justify him in so doing.

The Sergeant-at Arms (by direction of the Speaker), with his mace of office, moved about the floor of the House, and order was restored.

The Speaker then said:

The Speaker will now yield the chair to the Chairman of the Committee of the Whole, order being restored.

Mr. William M. Springer, of Illinois, moved that the House adjourn.

The Speaker² said:

The Chair would prefer to have the Committee of the Whole rise in due form.

Mr. Covert, as Chairman of the Committee of the Whole, then took the chair, the committee immediately voted to rise, and, after it had risen and reported, the House adjourned.

1350. A Member having defied the authority of the Chairman in Committee of the Whole, the latter directed the committee to rise, and, after the Speaker had taken the chair, reported the occurrence to the House.

The Committee of the Whole having risen informally because of disorder created by a Member, the Speaker directed the committee to resume its sitting after the Member had explained and when no further action in relation thereto was proposed.

On March 29, 1897,³ the House was in Committee of the Whole House on the state of the Union considering the tariff bill (H. R. 379). Mr. Henry U. Johnson, of Indiana, who had risen to a point of order, was, after brief debate, directed by the Chairman⁴ to take his seat. The gentleman from Indiana not taking his seat, but persisting in his remarks, the Chairman said:

The committee will rise informally until the House can enforce order.

¹Third session Forty-sixth Congress, Record, p. 311; Journal, p. 114.

²Samuel J. Randall, of Pennsylvania, Speaker.

³First session Fifty-fifth Congress, Record, pp. 433, 434; Journal, p. 52.

⁴James S. Sherman, of New York, Chairman.

The Committee of the Whole rose, the Speaker took the chair, and the Chairman reported:

Mr. Speaker, the Committee of the Whole House on the state of the Union having under consideration House bill No. 379, the gentleman from Indiana [Mr. Johnson] declined to recognize the ruling of the Chair and be governed by the rules of the House; and the committee rose for the purpose of enforcing the rules.

Thereupon Mr. Benton McMillin, of Tennessee, made a point of order that the report made by the Chairman of the Committee of the Whole could not be taken cognizance of by proceedings in the House. The committee itself was the proper forum to enforce its orders and direct its business. The Speaker of the House had no control in such matters as had progressed no further than this did.

The Speaker¹ said:

The Chair thinks that when the Committee of the Whole makes report that there has been disorder in the committee the House is competent to attend to administering whatever justice it deems necessary.

Thereupon Mr. Johnson, there being no objection, was allowed to make an explanation.

Then the Speaker said:

The Chair thinks it is proper to say to the House—and the Chair is quite sure that the House will agree—that one of the first duties of a Member is to obey the directions of a presiding officer until they have been reversed by proper authority, because the presiding officer, however humble an individual he may be, does not act of his own volition or of his own motion, but he acts as the representative of the House of which he is Speaker, or of the Committee of the Whole, of which he is Chairman; and certainly the very foundation and basis of order in the House is the recognition of the authority of the one who is appointed to be in authority; and whatever objections any Member may have to the unfortunate methods of procedure, still he will, if he thinks a moment, recognize the necessity of prompt obedience to whomsoever presides over the body.

Now, it is true that our debates—I do not speak of these debates, because I have not heard much of them, but, judging that they are like debates in the past to which I have listened for nearly twenty years, they are somewhat irrelevant. They seem to be a waste of time, and probably a more strict rule than has been the custom of the House with regard to relevancy would be a much better thing. Nevertheless, it would be a long time before the House would accustom itself to that new departure, and it would require very cordial action on the part of all Members to prevent the waste of time. Time is undoubtedly wasted in all these debates, and if there were a month accorded to the House, we should simply have a month more of just the same kind of debate. I speak as a matter of experience, being sorry that it is experience. That being the case, nothing can be done except in the regular way, and if the result of it is that we do not reach some parts of the bill, it is, perhaps, owing to our unfortunate constitution and habits. But what we ought to do is, perhaps, not to strive for an ideal condition of things, but to do about the best we can. That being the case, the Chair really hopes that the gentleman from Indiana will recognize the suitableness of what has been said. * * * If there be no objection, the Committee will resume its sitting.

The Committee of the Whole resumed its sitting.

1351. The Committee of the Whole having risen and reported that its proceedings had been disturbed by disorder, the Speaker restored order and the committee resumed its sitting.—On April 5, 1860,² the House resolved itself into the Committee of the Whole House on the state of the Union; and after some time spent therein the Speaker resumed the chair, when Mr. Israel

¹Thomas B. Reed, of Maine, Speaker.

²First session Thirty-sixth Congress, Journal, p. 666.

Washburn, jr., reported that the proceedings of the committee were interrupted by disorder prevailing therein.

The Speaker¹ having restored order, the House again resolved itself into Committee of the Whole House on the state of the Union.

1352. Rigid enforcement of the rule relating to disturbance in the galleries.—In the early history of the House the rule relating to order in the galleries was very rigidly enforced. In 1801² a spectator who applauded by clapping his hands was, by direction of the Speaker, taken from the gallery and kept in confinement by the Sergeant-at-Arms for two hours. The confinement of the offender was the subject of some criticism on the floor. On February 11, 1836, during a session of the Committee of the Whole, a spectator in the gallery applauded. The committee having risen, the Chairman communicated this fact to the Speaker, who gave orders to the Sergeant-at-Arms to clear the gallery. It was also proposed by an old Member³ that a warrant be issued for the arrest of the offender; but this proposition was not carried into execution. In the later history of the House applause in the galleries has been repressed, but not with such extreme strictness.⁴

1353. The Speaker having declined to order the galleries to be cleared, a motion to effect that purpose was offered from the floor and entertained.—On March 1, 1877,⁵ during proceedings of the count of the electoral vote, Mr. William J. O'Brien, of Maryland, asked that the galleries be cleared of spectators.

The Speaker not granting the request, although reenforced by the demand of other Members, Mr. Bernard G. Caulfield, of Illinois, moved that the galleries be cleared.

The Speaker⁶ entertained the motion, which was put to the House and decided in the negative.⁷

1354. The Speaker has general control of the Hall, corridors, and unappropriated rooms in the House wing of the Capitol.

Form and history of Rule I, section 3.

The rule relating to the control by the Speaker of the Hall and its surroundings is section 3 of Rule I:

He shall have general control, except as provided by rule or law, of the Hall of the House and of the corridors and passages and of the unappropriated rooms in that part of the Capitol assigned to the use of the House until further order.

¹ William Pennington, of New Jersey, Speaker.

² See Annals of Congress, second session Sixth Congress, pp. 851, 887.

³ Charles F. Mercer, of Virginia, who served in the House from 1817 to 1839.

⁴ On February 9, 1825, at the time of the election of President John Quincy Adams, there were applause and hisses from the gallery and the House suspended its business until the gallery was cleared. Second session Eighteenth Congress, Debates, p. 527)

⁵ Second session Forty-fourth Congress, Record, p. 2056.

⁶ Samuel J. Randall, of Pennsylvania, Speaker.

⁷ The rule in relation to clearing the galleries was substantially the same then as now. As printed in the Record on the above date (p. 2056), it might be inferred that the rule specifically provided that the House could order the galleries cleared. The rule did not, however, provide this in terms. (Journal p. 702.) But of course if the people in the galleries disturbed the proceedings the House might order them out as a matter of privilege.

The origin of this rule was on December 23, 1811,¹ when a rule was adopted containing this sentence relating to the Speaker's duties: "He shall have general direction of the Hall." On May 26, 1824,² Mr. John W. Taylor, of New York, from a committee appointed to apportion the rooms among the officers of the House and the standing committees, reported also a resolution that "the unappropriated rooms shall be subject to the order and disposition of the Speaker until the further order of the House."³ This rule was in existence in 1880⁴ when the general revision occurred, and its substance was incorporated in the present form of the rule. In the Forty-ninth Congress⁵ the corridors and passages were added to the charge of the Speaker, with the idea, says the report of the Committee on Rules, of restoring to the Speaker an authority which he exercised prior to the revision of 1880.

1355. The statutes require the Speaker to appoint certain visitors and trustees of public institutions.—Certain duties⁶ are prescribed for the Speaker by the Statutes. Before the termination of the last session of each Congress he shall appoint a temporary Committee on Accounts, of three Members, to exercise the duties of such committee until after the meeting and organization of the next House of Representatives.⁷ At the session of Congress next preceding the annual examinations of the Military Academy he shall appoint three Members of the House as visitors to that institution,⁸ and also at the session next preceding the annual examinations at the Naval Academy, three Members of the House as visitors⁹ to that institution also. He shall also appoint a Member of the House as consulting trustee for two years of the Reform School of the District of Columbia,¹⁰ two Members of the House as directors for the term of a single Congress, with eligibility for reappointment, of the Columbia Hospital for Women,¹¹ two Members for a like term with like eligibility for reappointment as directors of the Columbia Institu-

¹ See Reports, first session Twelfth Congress, No. 38. The revision of 1811 was quite extensive, and the Committee on Rules who reported it were Messrs. Burwell Bassett (Va.), Timothy Pitkin (Conn.), Nathaniel Macon (N. C.), Hugh Nelson (Va.), William W. Bibb (Ga.), Josiah Quincy (Mass.), and William Findley (Pa.).

² See Annals of Congress, first session Eighteenth Congress, p. 2764.

³ On January 14, 1876, Speaker Kerr was, by unanimous consent, relieved of "the duty required of him by the rules to regulate the assignment of the committee rooms," and the duty was transferred to the Committee on Accounts for the remainder of the Congress. (First session Forty-fourth Congress, Journal, p. 188.) On January 20, 1817, rooms were allotted to committees by a joint committee of both Houses. (Second session Fourteenth Congress, Annals, pp. 611, 639, Journal, p. 238.) Again, on May 21, 1824, a select committee of the House was appointed to assign rooms. (First session Eighteenth Congress, Journal, pp. 558, 559.)

⁴ Cong. Record, second session Forty-sixth Congress, p. 204.

⁵ Cong. Record, first session Forty-ninth Congress, pp. 169, 293.

⁶ In early years of the House various duties were at times prescribed for the Speaker. Thus in 1820 he made the expenditures for refurnishing the Hall of the House. (First session Sixteenth Congress, Journal, p. 530.) In later times such duties have devolved on other officers.

⁷ Supplement Revised Statutes, vol. 2, pp. 413, 414; 28 Statutes at Large, p. 768.

⁸ Revised Statutes, section 1327.

⁹ Supplement Revised Statutes, Vol. I, p. 217.

¹⁰ Supplement Revised Statutes, Vol. I, p. 104.

¹¹ Statutes at Large, vol. 17, p. 360.

tion for the Instruction of the Deaf and Dumb.¹ On every alternate fourth Wednesday of December he shall appoint three Members of the House as Regents of the Smithsonian Institution.² Annually he appoints two citizens of the District of Columbia as members of the Memorial Association of the District of Columbia.³

1356. Mr. Speaker Clay announced to the House his resignation of the Speakership, but his resignation as a Member appears only from the credentials of his successor.—On March 26, 1814,⁴ the Speaker laid before the House a letter addressed to him, inclosing the certificate of the election of Joseph H. Hawkins, to serve in this House, as one of the Members of the State of Kentucky, in the place of Henry Clay, resigned.

On January 19, 1814,⁵ Mr. Clay, who was Speaker, resigned that office, “the distinguished station of this House, with which I have been honored by your kindness,” as he described it. But he did not at the same time, in terms at least, resign his seat. Nor does an inspection of the Journal show that at any time a notice of his resignation was laid before the House until the presentation of the credentials of his successor, on March 26.

1357. Resolutions censuring the conduct of the Speaker being presented unexpectedly, he was excused from deciding a point of order in relation thereto.—On May 31, 1882,⁶ Mr. Robert M. McLane, of Maryland, presented a preamble and resolution reciting the proceedings of the House on the prior day, and the refusal of the Speaker to entertain certain motions and appeals, and concluding with this resolution:

Resolved, That the said decisions and rulings of the Speaker and his refusal to allow appeals therefrom were arbitrary, and are hereby condemned and censured by the House.

Mr. Thomas B. Reed, of Maine, moved that the preamble and resolutions be laid on the table.

A point of order being made that the resolutions did not present a question of privilege, the Speaker⁷ said in reference to them:

The Chair desires to state that the gentleman from Maryland advised the Chair that he had certain resolutions which he wished to offer; * * * but had the present occupant of the chair had any information that they had a personal application to himself, he would have taken occasion to leave the chair. In this situation, and having made the rulings to which reference is made in these resolutions, the Chair would rather now not rule upon the point of order, but allow the motion of the gentleman from Maine to be submitted to the House.

The preamble and resolutions were then laid on the table, yeas 143, nays 88.⁸

¹ Revised Statutes, section 4863.

² Revised Statutes, section 5581.

³ 27 Statutes at Large, p. 396.

⁴ Second session Thirteenth Congress, Journal, p. 366 (Gales & Seaton ed.).

⁵ Journal, p. 240.

⁶ First session Forty-seventh Congress, Journal, p. 1384; Record, p. 4398.

⁷ J. Warren Keifer, of Ohio, Speaker.

⁸ On January 18, 1882 (first session Forty-seventh Congress, Record, p. 491), Mr. Speaker Keifer, because the point of order arose over a proposition to take the appointment of committees from the Speaker, submitted it to the House, and the House decided it.

1358. The Speaker, having remained in the chair while a question relating to himself was pending, was excused from deciding a question of order.—On February 20, 1801,¹ a motion was made and seconded that the House do come to the following resolution:

Resolved, That the Speaker of this House in directing the Sergeant-at-Arms to order and expel from the gallery of this House Samuel Harrison Smith, a citizen of the United States, has assumed a power not given him by the rules of this House, and deprived the said Samuel Harrison Smith of a right which can only be forfeited by disorderly behavior.

It was resolved unanimously that the Speaker² be excused from deciding whether the said motion was in order or not.

The question being taken, “Is this motion in order?” it passed in the negative, yeas, 49, nays 54.

1359. The Speaker leaves the chair during the transaction of any business concerning himself, even the reference of a paper.—On December 13, 1843,³ the Speaker⁴ having left the chair and substituted Mr. Linn Boyd, of Kentucky, as Speaker pro tempore, it was, on motion of Mr. Lucius Q. C. Elmer, of New Jersey,

Ordered, That all the documents in the possession of the Clerk of this House relating to the case of John M. Botts, who contests the right of John W. Jones to a seat as a Member of this House; and to the case of William L. Goggin, who contests the right of Thomas W. Gilmer to a seat as a Member of this House, be referred to the Committee of Elections.

1360. The Speaker’s seat being contested, he requested that the House relieve him of the appointment of the Committee on Elections; and the request was granted.

The Speaker, by unanimous consent, addressed the House on a subject relating to his election.

A matter concerning himself being before the House, the Speaker called a Member to the chair.

A Member called to the chair by the Speaker was permitted to appoint a committee by vote of the House.

On December 7, 1843,⁵ the Speaker⁶ by general consent, stated that a memorial having this day been presented by John M. Botts, of the State of Virginia, contesting the right of the Speaker to a seat in the House, it appeared to him proper that he should ask the House that, in any order which might hereafter be taken for the appointment of the standing committees, he might be relieved from that portion of the duty, which might otherwise devolve upon him, of appointing a committee of elections, which would have to pass on his own case. He was impelled to this course both from a sense of justice to his opponent and because of the delicacy of the position in which he was himself placed.

¹Second session Sixth Congress, Journal, pp. 194–199 (old ed.), 810 (Gales & Seaton ed.); Annals, p. 1042.

²Theodore Sedgwick, of Massachusetts, Speaker.

³First session Twenty-eighth Congress, Journal, p. 50; Globe, p. 33.

⁴John W. Jones, of Virginia, Speaker; the same whose seat was contested.

⁵First session Twenty-eighth Congress, Journal, p. 40; Globe, p. 18.

⁶John W. Jones, of Virginia, Speaker.

The Speaker then left the chair and substituted Mr. Samuel Beardsley, of New York, as Speaker pro tempore.

On motion of Mr. William Parmenter, of Massachusetts, it was then

Resolved, That the Speaker be authorized to appoint the standing committees named in the seventy-sixth rule of the House of the Twenty-seventh Congress, except the Committee of Elections.

Mr. George W. Hopkins, of Virginia, then moved that the House proceed viva voce to elect a committee of elections to consist of nine members.

On motion of Mr. Charles H. Carroll, of New York, this motion was amended to provide that the committee be appointed by the Speaker pro tempore, and as amended, the motion was agreed to.

Mr. Beardsley thereupon appointed the committee.¹

1361. The seat of the Speaker being contested, the Committee on Elections were appointed by resolution of the House.—On December 12, 1887,² the Speaker³ called Mr. Charles F. Crisp, of Georgia, to the chair, and from the floor requested that he be relieved of the duty of appointing the Committee on Elections, in view of the pending contest for his seat in the House.

Thereupon Mr. William S. Holman, of Indiana, offered the following resolution:

Resolved, That at 1 o'clock p. m. to-morrow the House will proceed to elect, by resolution or otherwise, fifteen Members who shall constitute the Committee on Elections for the present Congress.

Mr. Henry G. Turner, of Georgia, proposed the following substitute:

That at 1 o'clock p. m. to-morrow there shall be selected by the House of Representatives a select committee of fifteen Members, to whom shall be referred the election contest of Thoebe *v.* Carlisle.

After debate the substitute was disagreed to, and the original resolution was agreed to.

On the succeeding day, at the appointed time, Mr. Joseph G. Cannon, of Illinois, a member of the minority, offered a resolution providing that certain Members therein should constitute the Committee on Elections. Mr. Cannon stated that the majority had named the first nine and the last six were named by the minority.

The resolution was agreed to.

From January 17 to 23 the Speaker was away from the House, detained by illness, and during that time the report in the contest was made, and acted on, the House deciding that Mr. Carlisle was entitled to the seat.

1362. Charges being made by a Member against the official conduct of Mr. Speaker Clay, he appealed to the House for an investigation, which was granted.

In asking an investigation of his conduct Mr. Speaker Clay addressed the House from the chair, but immediately left it when the House was to act.

The Speaker having appealed to the House for an investigation, the House ordered his address to be entered on the Journal.

¹Mr. Beardsley appears to have belonged to the same political party with the Speaker, that of the majority of the House. (See *Globe*, p. 1.)

²First session Fiftieth Congress, *Journal*, pp. 44, 49, 438, 442, 504; *Record*, pp. 42, 51, 519, 629.

³John G. Carlisle, of Kentucky, Speaker.

In 1825 the House ordered that the select committee to investigate the conduct of the Speaker should be chosen by ballot.

A Member making charges which result in an investigation, the committee usually call upon him first to present the facts within his knowledge.

On February 3, 1825,¹ the Speaker,² rising in his place, made a statement concerning insinuations³ against himself, implicating his conduct with regard to the approaching election of a President by the House. These charges were made in the public prints under the authority of a Member of the House, and were therefore entitled to grave attention. It might be worthy of consideration whether the character and dignity of the House itself did not require a full investigation and an impartial decision. For if he were base enough to betray the solemn trust which the Constitution had confided to him and by yielding to personal views and considerations compromise the highest interests of his country, the House would be scandalized by his continuance to occupy the chair, and he merited instantaneous expulsion. Without, however, presuming to indicate what the House might conceive it ought to do, on account of its own purity and honor, he hoped that he should be allowed respectfully to solicit in behalf of himself an inquiry into the truth of the charges to which he referred. Standing in the relations to the House, which both the Member from Pennsylvania and himself did, it appeared to him that here was the proper place to institute the inquiry, in order that, if guilty, here the proper punishment might be applied, and if innocent, here his character and conduct might be vindicated. If the House should think proper to raise a committee he trusted that some other than the ordinary mode pursued by the practice and rules of the House would be adopted to appoint the committee.

The Speaker then called Mr. John W. Taylor, of New York, to the chair.⁴

Thereupon Mr. John Forsyth, of Georgia, proposed the following:

Ordered, That the Speaker's communication be entered on the Journal.

Considerable debate arose as to the manner of the presentation. Mr. Charles F. Mercer, of Virginia, thought the better way to have brought the subject before the House would have been for the Speaker to have addressed a letter to the Speaker pro tempore, and that letter might be referred. There seemed to be difficulty about entering an oral address of the Speaker in the Journal. But Mr. Forsyth thought there was no difficulty, and that this address, like the addresses of the Speaker when entering and leaving the speakership,⁵ both of which were oral, and both of which

¹Second session Eighteenth Congress, Journal, p. 198; Debates, pp. 440-461.

²Henry Clay, of Kentucky, Speaker.

³Insinuations of a corrupt bargain to support Mr. Adams as President in return for an appointment as Secretary of State.

⁴The Journal has no mention of this, but the Debates record it; and it would seem to be the course demanded by propriety.

⁵These addresses are entered on the Journals as a matter of course, without vote of the House. The remarks of the first Speaker, Mr. Muhlenburg, on taking the chair in 1789, are referred to but not given in full in the Journal; but his farewell remarks at the end of the Congress, in response to the vote of thanks, appear. The address of the second Speaker, Mr. Trumbull, on taking the chair, appears in full, and such is yet the general, though not invariable custom.

were always entered on the Journals, might by the Clerk and Speaker be entered on the Journal without trouble.

The House finally agreed to the order, and the appeal of the Speaker was spread in full on the Journal.

Mr. Forsyth then moved to refer the Speaker's communication to a select committee, and on February 4,¹ after debate, this motion was agreed to, yeas 125, nays 167.

The objection to the reference to a committee was made principally on the alleged ground that no act of the House could result from it; but in reply it was urged that the penalty of expulsion could be visited for a breach of privilege.

It was then—

Ordered, That the committee consist of seven Members, and that it be appointed by ballot.

On February 6,² the committee were chosen by ballot, a second ballot being necessary to complete the number. The members were Messrs. Philip P. Barbour, of Virginia; Daniel Webster, of Massachusetts; Louis McLane, of Delaware; John W. Taylor, of New York; John Forsyth, of Georgia; Romulus M. Saunders, of North Carolina, and Christopher Rankin, of Mississippi.

On February 9,³ the committee reported that they had informed Hon. George Kremer that they would be ready at a particular time to receive evidence touching the charges made by him. In reply Mr. Kremer sent to them a communication, in which he declined to appear before the committee alleging that he could not do so without appearing either as an accuser or a witness, both of which he protested against. In this posture of affairs, the committee could take no further steps. It was of course competent for the House to invest them with the power to send for persons and papers, and by that means enable them to make an investigation. But not knowing any reasons for such an investigation, of their own knowledge, they felt it only their duty to lay before the House the letter of Mr. Kremer, which they added to their report.

1363. A charge by a Member that the Journal of the House had been mutilated by the Speaker was made a question of privilege.

Charges being made against the Speaker, he called a member of the minority party to the chair during their consideration.

Instance wherein a bill was originated in Committee of the Whole House on the state of the Union.

In a rare instance the House committed a bill directly to the Committee of the Whole before sending it to a standing or select committee (footnote).

On March 26, 1850⁴ Mr. Preston King, of New York, rose to a question of privilege, which he reduced to writing, as follows, viz:

I charge that the Journal of the House has been mutilated by erasing a motion that I did make, and substituting, by interlineation, one that I did not make, in the Journal of the 13th instant. My motion was to close debate on the California bill; these words are changed, and "message" substituted.

¹Journal, pp. 201–206; Debates, pp. 463–486.

²Journal, p. 208.

³Debates, p. 522.

⁴First session Thirty-first Congress, Journal, p. 713.

The said charge having been submitted to the consideration of the House, the Speaker¹ called Mr. Robert C. Winthrop, of Massachusetts, to perform the duties of the Chair.²

After debate,³ and after two propositions had been submitted and considered, Mr. Isaac E. Holmes, of South Carolina, moved that a committee of nine be appointed by the gentleman now presiding over the House, to investigate the charges made against the honorable Speaker by the Hon. Preston King, a Member of this House.

The Speaker (Mr. Cobb), after unanimous consent of the House had been given, made from the floor an explanation of the occurrence. The California message had been committed to the Committee of the Whole House on the state of the Union, but the California bill, to which Mr. King referred, had never appeared in the House, but had originated in the Committee of the Whole during the consideration of the message and was still in the committee. The Speaker explained that Mr. King offered the resolution to close debate on the bill as well as on the message; but when the Speaker came to read the journal before its admission to the House for approval he found that such a resolution to close debate was not privileged, except as it referred to a matter committed to the Committee of the Whole by the House. The bill had not been so committed,⁴ and the House had no parliamentary knowledge of it. The Journal as corrected was read to the House. The alteration of the Journal was, he contended, proper, since the resolution had been entertained as a privileged proposition and the alteration had only been made to make it conform to the privileged form.

This motion having been agreed to, the Speaker pro tempore appointed the committee, Mr. Holmes being made chairman.

The special committee, on March 29, 1850⁵ made a report exonerating the Speaker. The House unanimously approved the report.

1364. A newspaper having made certain charges against the official character of the Speaker, he called a Member to the chair and moved an investigation, which was voted.

A select committee being authorized to investigate the conduct of the Speaker, they were appointed by the Member called to the chair as Speaker pro tempore.

The report of a select committee on the conduct of the Speaker was voted on by the House, although it contained no order or resolution; and was spread on the Journal without direction of the House.

On February 27, 1879,⁶ the Speaker⁷ called Mr. John G. Carlisle, of Kentucky, a member of the majority, to the chair, and as a question of privilege presented to

¹ Howell Cobb, of Georgia, Speaker.

² Mr. Winthrop was a member of the minority party (Whig) in the House; the Speaker a member of the majority party (Democratic).

³ Globe, p. 595.

⁴ In rare instances the House has committed a bill directly to the Committee of the Whole before sending it to a standing committee. (See the bill H. R. 243 in index of Journal for first session Forty-second Congress.)

⁵ Journal, pp. 738–739.

⁶ Third session Forty-fifth Congress, Journal, pp. 541, 672; Record, pp. 1986, 2396.

⁷ Samuel J. Randall, of Pennsylvania, Speaker.

the House an extract from a newspaper, purporting to make, on the authority of a certain special agent of the Treasury Department, whose name was given, a charge that the Speaker had used his influence to the advantage of a paper mill in which he was a stockholder by continuing a profitable contract with the Government. The Speaker denied the charge, and offered a resolution providing that a select committee of five be appointed to investigate the matter.

This resolution was agreed to unanimously, and Mr. Carlisle, as Speaker pro tempore, appointed the committee, the chairman and two others from the majority side of the House, and two from the minority side.

On March 3 the committee made an unanimous report, exonerating the Speaker. This report, apparently without order of the House, was inserted in full in the Journal. The report was also voted on by the House and agreed to by the House, although it was a simple statement, without any proposition attached, such as a resolution.

1365. The Speaker of the House being the Vice-President-elect, called a Member to the chair during discussion of a question relating to the electoral count.

A Member called to the chair to preside temporarily was given special authority by the House to appoint a committee.

On February 10, 1869, the counting of the electoral votes showed Ulysses S. Grant, of Illinois, chosen President of the United States, and Schuyler Colfax, of Indiana, Vice-President. It had been ordered that a committee should be appointed on the part of the House to join a similar committee of the Senate, to notify the President-elect and Vice President-elect of their election. There had also arisen a question of privilege relating to the electoral count, and the Speaker (who was also the Vice-President-elect) had left the chair to participate in the debate. On the succeeding day, February 11,¹ the Speaker announced his intention to designate Mr. Henry L. Dawes, of Massachusetts, as Speaker pro tempore² during the consideration of the question of privilege, which had come over as unfinished business from the day before.

Before leaving the chair he asked the House to grant authority to the Speaker pro tempore to appoint the committee of notification.

This authority was granted without objection, and Mr. Dawes, having assumed the chair, made the appointment.

1366. During consideration of a resolution to censure a Member for disrespect for the Speaker, the Member likewise assailed the Speaker pro tempore, whereupon the Speaker resumed the chair, while the House acted on the latest breach of privilege.

Pending consideration of a resolution to censure a Member, the Speaker informed the Member that he should retire.

¹Third Session Fortieth Congress, Journal, p. 324; Globe, p. 1094.

²The Journal says that the Speaker, "by unanimous consent, named Mr. Dawes to perform the duties of the Chair." This must mean the appointment of the committee, since the rule already gave the power of designation.

On July 11, 1832,¹ the House was considering an appeal from a decision of the Chair in relation to a resolution censuring Mr. William Stanbery, of Ohio, for words spoken in debate.

Mr. Stanbery, having the floor in the debate on the appeal, said:

I will make one motion that is in order: I make a motion that you [the Speaker pro tempore] leave the chair.

On demand of Mr. Augustin S. Clayton, of Georgia, the words were taken down and read.

Thereupon Mr. James K. Polk, of Tennessee, offered this resolution:

Resolved, That the words spoken in this House this morning by William Stanbery, a Member from Ohio, and which words have been taken down by the Clerk of the House, and his conduct in the face of the House, were disorderly, and deserve the censure of the House.

The speaker pro tempore,² leaving the chair from motives of delicacy, the Speaker³ took the chair, and decided that the words of Mr. Stanbery were disorderly.

After further debate, participated in by Mr. Stanbery, who insisted that what he had said was parliamentary, the Speaker said that the words having been taken down and admitted, and a resolution of censure having been moved, it was the duty of the Member from Ohio to Withdraw.

After further debate, request was made of Mr. Polk that he withdraw his resolution in order that the House might bring to a conclusion the pending appeal, and the original resolution censuring Mr. Stanbery.

Mr. Polk accordingly withdrew his resolution, and the original resolution of censure was agreed to. The original resolution of censure was for words spoken disrespectfully of the Speaker.

1367. The Speaker may of right speak from the chair on questions of order and be first heard.

Except on questions of order the Speaker may speak from the chair only by leave of the House and on questions of fact.

On occasions comparatively rare, Speakers have called Members to the chair and participated in debate, usually without asking consent or the House.

According to a former custom,, now fallen into disuse, the Speakers participated freely in debate in Committee of the Whole.

The Speaker sits while rendering decisions on points of order or when participating in debate thereon.

Section XVII of Jefferson's Manual has this provision:

But if the Speaker rise to speak, the Member standing up ought to sit down, that he may be first heard. (Town., col. 205; Hale Parl., 133; Mem. in Hakew., 30, 31.) Nevertheless, though the Speaker may of right speak to matters of order,⁴ and be first heard, he is restrained from speaking on any other

¹ First session Twenty-second Congress, Journal, p. 1134; Debates, pp. 3897-3901.

² Clement C. Clay, of Alabama, Speaker pro tempore.

³ Andrew Stevenson, of Virginia, Speaker.

⁴ The Speaker, according to the practice of the House for a long time, sits while rendering decisions or while speaking on points of order.

subject, except where the House have occasion for facts within his knowledge; then he may, with their leave, state the matter of fact.¹

1368. The seat of the Speaker as a Member being contested, consent of the House was obtained to permit him to speak on the report, although he had called a Member to the chair.

A contestant for a seat being heard on the floor in his own behalf is subject to all the rules of debate applying to the Member.

¹This rule was formerly construed to prevent the Speaker from speaking from a place on the floor when a Speaker pro tempore was presiding. It did not apply to Committee of the whole. In later years, in the rare instances when Speakers have left the chair and debated, they have done so without obtaining leave of the House, in explicit terms at least. On April 9, 1864, (first session Thirty-eighth Congress). Journal, p. 505; Globe, p. 1503) Mr. Speaker Colfax left the chair to move the expulsion of Mr. Alexander Long, of Ohio; again, on February 10, 1869 (third session Fortieth Congress, Journal, p. 322; Globe, p. 1066), Mr. Colfax left the chair. On March 16, 1871 (first session Forty-second Congress, Globe, p. 124), Mr. Speaker Blaine left the chair to reply to Mr. Butler, of Massachusetts (the Journal in this case makes no reference to the action, the Globe indicates that no request for the consent of the House was made, while Mr. Blaine—Globe, p. 125—apologized for the proceeding which he justified by the early precedents); on February 4, 1872 (third session Forty-second Congress, Globe, pp. 1092,1115), Mr. Speaker Blaine left the chair without consent to propose and advocate a private bill granting a pension to a daughter of President Taylor, widow of an army officer; and on December 2, 1872, the same Speaker (third session Forty-second Congress, Journal, p. 8; Globe, p. 11) left the chair to move the Credit Mobilier investigation, the Journal indicating that the consent of the House may have been obtained; and on February 4, 1875 (second session Forty-third Congress, Record, p. 899), he debated a proposed amendment to the rules. Of the more recent Speakers, Mr. Crisp, on March 29, 1894 (second session Fifty-third Congress, Record, p. 3335), took the floor without express leave of the House.

On April 19, 1878 (second session Forty-fifth Congress, Record, p. 2665), Mr. Speaker Randall called Mr. Robert B. Vance, of North Carolina, to the chair as Speaker pro tempore, and then from the floor made a personal explanation; on April 9, 1879 (first session Forty-sixth Congress, Record, p. 336), Mr. Speaker Randall participated in debate in the House on a report from the Committee on Rules, and on May 1 (Journal, p. 224; Record, p. 1018) the same Speaker left the chair without consent of the House to present a report from the Committee on Rules. Again, on February 4, 1880 (second session Forty-sixth Congress, Record, p. 1079), Mr. Speaker Randall, without asking consent, left the chair to debate in a case of personal explanation into which his name had been brought by a Member. On June 14, 1906 (first session Fifty-ninth Congress, Record, pp. 8528, 8529), Mr. Speaker Cannon, without asking consent of the House, left the chair to reply to remarks reflecting on his conduct made by a Delegate in debate.

On January 5, 1826, on the subject of a proposed rule relating to the duties of the Speaker in the presentation of memorials, Mr. Speaker Taylor, from the chair, spoke at some length on his understanding of the duty of the Chair (first session Nineteenth Congress, Debates, pp. 880–883).

On January 10, 1896, Mr. Speaker Reed participated briefly from the chair in debate on the theory of the quorum present as related to the rules (first session Fifty-fourth Congress, Record, p. 579).

In the modern practice of the House the Speakers quite frequently vote in Committee of the Whole, but rarely participate in the debate. On March 27, 1906 (first session Fifty-ninth Congress, Record, p. 4355), Mr. Speaker Cannon interposed briefly in reply to a criticism of his conduct by a Member in the debate; but for a quarter of a century such participation in debate had been rare. Mr. Speaker Randall, however, was a frequent participant in debates in Committee of the Whole. (Congressional Record, second session Forty-sixth Congress, p. 1705; third session Forty-sixth Congress, pp. 303, 1525.) In the earlier history of Congress a Speaker (Mr. Dayton) participated in debate in Committee of the Whole to the extent of being called to order by the chairman for improper utterances. (Annals of Congress, first session Fifth Congress, p. 1004.) In fact, the early Speakers frequently debated in Committee of the Whole. Thus Mr. Clay spoke on nine measures in one session. (First session Twelfth Congress. See Annals.)

Also, on February 14, 1826, in Committee of the Whole, Mr. Speaker Taylor spoke on an appeal from the decision of the Chairman, and expressed the opinion that the decision was wrong. (First session Nineteenth Congress, Debates, p. 1358.)

On June 6, 1844,¹ the Speaker² having left the chair and substituted Mr. John B. Weller, of Ohio, as Speaker pro tempore, the House proceeded to the consideration of the report of the Committee of Elections upon the memorial of John M. Botts, who contested the right of John W. Jones to a seat as a Member of this House (the consideration of the report having been, on the 31st of May ultimo, postponed until this day), the question being on agreeing to the resolution accompanying the report, which was read, as follows:

Resolved, That John W. Jones is entitled to his seat in this House as a Representative from the Sixth Congressional district in Virginia.

On motion of Mr. George W. Hopkins, of Virginia (by unanimous consent)—

Ordered, That the Speaker of this House, whose right to a seat as a Member of this House is contested, have leave to speak upon this resolution, notwithstanding that clause of the Manual which restrains the Speaker from addressing the House except upon questions of order.

Mr. Garrett Davis, of Kentucky, submitted the inquiry whether Mr. Botts, in debating the resolution, would be subject to the provisions of the rule which declares that “no Member shall occupy more than one hour in debate on any question in the House or in committee.”

The Speaker pro tempore decided that, although the word “Member” is used in this rule, it is also in many other rules relative to order and debate, and that any person not a Member of this House who is permitted to appear at the bar and address the House must necessarily be governed by all the rules of debate which are applicable to Members, subject to the rule limiting a speech to one hour.

From this decision Mr. Davis appealed. This appeal was laid on the table by a vote of 102 to 76.

1369. A Member having criticized the past conduct of the Speaker, the House consented that the latter should explain from the chair.—On January 22, 1836,³ Mr. Henry A. Wise, of Virginia, having the floor in debate, criticized the conduct of the chairman of the Committee of Ways and Means in the preceding Congress, and called upon him to make an explanation.

The former chairman of the Ways and Means Committee being at this time the Speaker of the House,⁴ and occupying the chair at the time Mr. Wise made the demand, said that, while considering the proceeding out of order, he had not arrested it, as he was personally referred to. He would make a statement if the House would permit.

The consent of the House being given, the Speaker, evidently without leaving the chair, made an explanation.

1370. The Speaker has spoken briefly from the chair on a question of privilege relating to himself.—On March 15, 1902,⁵ Mr. E. S. Minor, of Wisconsin, rising to a question of privilege, denied the truth of a newspaper report that

¹ First session Twenty-eighth Congress, Journal, p. 1012; Globe, p. 648.

² John W. Jones, of Virginia, Speaker.

³ First session Twenty-fourth Congress, Debates, pp. 2293, 2294.

⁴ James K. Polk, of Tennessee, Speaker.

⁵ First session Fifty-seventh Congress, Record, pp. 2876, 2877.

he had, in his duty as a Representative, been threatened with coercion by the Speaker.

At the conclusion of Mr. Minor's remarks, the Speaker¹ said:

The Chair thinks proper to say, in view of the fact that he is referred to in the article read, that so far as the article is concerned and its statements, the averments of the gentleman from Wisconsin are absolutely true. There is not one word or shadow of truth in any statement made in that article.

1371. Instance wherein the Speaker left the chair to reply to a speech reflecting on his conduct.—On June 14, 1906,² the House was considering the conference report on the bill (H. R. 12707) to enable the people of Oklahoma and Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, when Mr. Marcus A. Smith, of Arizona, in the course of debate said:

The less said about the way this original bill has been pressed the better for the history of this Congress, and I refrain from going into that part of it. There is a law in Arizona that if one legislator trades with another on the legislation before that body he is guilty of a very high misdemeanor, and if the governor shall attempt in that benighted land to influence legislation by promises of veto or the withholding of veto to secure other legislation he goes to the penitentiary under the laws of that land.

At the close of Mr. Smith's remarks the Speaker³ called Mr. John Dalzell, of Pennsylvania, to the chair, and going upon the floor and addressing the House, in the course of his remarks said:

That remark could not have had but one motive and one meaning, and that meaning is that some one in the House has sought to affect legislation in the House as a matter of traffic in order to secure action upon this matter in the Senate or in the House. That imputation implied, so far as it reflects upon the Speaker of this House and, so far as I know or believe, upon any other Member of this House, is unworthy of the gentleman that uttered it and without foundation in fact. If it were necessary to furnish proof of this statement, I look about me here on my own side of the House on Members with whom I disagreed touching the progress of this bill from time to time, and upon that side of the House, and I pause and invite any Member present who has the least intimation, knowledge, or even belief that the statement implied in the insinuation of the gentleman is true to so state.

1372. By leave of the House the Speaker was permitted to make a statement from the chair as to proceedings in the recent joint meeting to count the electoral vote.—On February 10, 1869,⁴ after the completion of the electoral count and after the Senate had retired, Mr. Benjamin F. Butler, of Massachusetts, rising to a question of privilege, introduced a resolution relating to certain proceedings in the joint convention.

The resolution having been held to be in order for consideration, the Speaker⁵ asked leave of the House to make a statement in relation to what occurred in joint convention.

There being no objection, the Speaker, from his place, made a statement.

¹ David B. Henderson, of Iowa, Speaker.

² First session Fifty-ninth Congress, Record, pp. 8528, 8529.

³ Joseph G. Cannon, of Illinois, Speaker.

⁴ Third session Fortieth Congress, Globe, p. 1064.

⁵ Schuyler Colfax, of Indiana, Speaker.

1373. The Speaker sometimes makes a brief explanation from the chair without asking the assent of the House.—On December 18, 1873,¹ Mr. Speaker Blaine, from the chair, explained in debate a proposed rule justifying himself in this action by the fact that he was a member of the Committee on Rules reporting the rule.

1374. On December 10, 1880,² Mr. Speaker Randall, from the chair, intervened in a case where a member was making a personal explanation to explain the position of the Chair in the matter.

1375. In very rare cases the Speaker takes the floor to make a motion.—On April 9, 1864,³ Mr. Speaker Colfax came down from the chair to move a resolution to expel T. Alexander Long, of Ohio; and during the debate which followed there was some criticism of this action of the presiding officer. Mr. Colfax justified his course by citing the fact that during the Congress of 1812 and 1813 Mr. Speaker Clay came down from the chair fifteen times to make speeches on the floor.⁴

1376. On March 16, 1854,⁵ Mr. Speaker Boyd, by unanimous consent, gave notice of his intention, at the proper time, to submit an amendment in the nature of a substitute for the bill of the House (H. R. 1) to encourage agriculture, commerce, manufactures, and a other branches of industry, by granting to every man who is the head of a family, and a citizen of the United States, a homestead of 160 acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period herein specified, and to graduate and reduce the price of the public lands; which was ordered to be printed.

¹ First session Forty-second Congress, Record, p. 312.

² Third session Forty-sixth Congress, Record, p. 80.

³ First session Thirty-eighth Congress, Globe, pp. 1505, 1626, 1627.

⁴ Mr. Speaker Clay spoke frequently in Committee of the Whole, and it seems evident that Mr. Speaker Colfax confused this with participation in debate during sessions of the House itself.

⁵ First session, Thirty-third Congress, Journal, p. 518; Globe, p. 646.