Chapter CVII.

THE COMMITTEE OF THE WHOLE.[1]

1. **Rule for forming committee. Section 4704.**
2. **Origin and development of. Section 4705.**
3. **Nature and powers of. Sections 4706–4715.[2]**
4. **Certain motions not in order in. Sections 4716–4721.**
5. **Yeas and nays not taken in. Sections 4722–4724.**
6. **After voting to go into committee no motions in order. Sections 4725–4728.**
7. **Order of business in. Sections 4729–4734.**
8. **Unfinished business in. Sections 4735, 4736.**
9. **Rules of proceeding in. Section 4737.[3]**
10. **Reading of bills, Sections 4738–4741.**
11. **Amendment under five-minute rule. Sections 4742–4751.**
12. **Rising and reporting. Sections 4752–4766.**
13. **The simple motion to rise. Sections 4767–4773.**
14. **Various motions for disposition of a bill. Sections 4774–4782.**
15. **Questions of order. Sections 4783, 4784.[4]**
16. **Informal rising.Sections 4785–4791.[5]**

4704. In forming a Committee of the Whole, the Speaker leaves the chair, after appointing a Chairman to preside.

The Chairman of the Committee of the Whole may cause the galleries or lobby to be cleared in case of disturbance or disorderly conduct therein.

Present form and history of section 1 of Rule XXIII.

---

[1] In early practice given power to take testimony. (Sec. 1804 of Vol. III.) Subjects once considered in, irrespective of appropriations or revenue. (Sec. 1984 of Vol. III.) House sometimes attends impeachment trials in. (Secs. 2027, 2374 of Vol. III.) Motions to go into, to consider revenue and appropriation bills. (Secs. 3072–3085 of this volume.) Motions to go into, after call of committees. (Secs. 3134–3141 of this volume.) Relations to special orders. (Secs. 3214–3230 of this volume.) Conference reports not considered in. (Secs. 6559–6561 of Vol. V.) Relations to Congressional Record. (Secs. 6986–6988 of Vol. V.) Rule of admission to floor applies to. (Sec. 7285 of Vol. V.)

[2] In early years matters originated in. (Secs. 1507, 1541 of Vol. II.) Articles of impeachment considered in. (Secs. 2415, 2420 of Vol. III.)

[3] As to debate in. (Chapter CXV, secs. 5203–5211 of Vol. V.) Failure of quorum in. (Secs. 2966–2979 of this volume.)

[4] See also sections 6927–6937 of Vol. V. Speaker sometimes takes the chair to restore order. (Secs. 1348–1351 of Vol. II.) Extreme disorder in. (Secs. 1649–1653, 1657 of Vol. II.) Questions of privilege in. (Secs. 2540–2544 of Vol. III.)

[5] Reception of messages while sitting. (Sec. 6590 of Vol. V.)

Section 1 of Rule XXIII provides:

In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a Chairman [1] to preside, who shall, in case of disturbance or disorderly conduct in the galleries or lobby, have power to cause the same to be cleared.

This form of the rule was adopted in the revision of 1880.[2] It was derived from two old rules, each dating from 1794: [3]

RULE 105. In forming a Committee of the Whole House, the Speaker shall leave his chair, and a Chairman, to preside in committee, shall be appointed by the Speaker.

RULE 9. In case of any disturbance or disorderly conduct in the galleries or lobby, the Speaker (or Chairman of the Committee of the Whole House) shall have power to order the same to be cleared.

Rule 105 dates in reality from April 7, 1789,[4] and was modified in 1794 by the addition of the words "by the Speaker." Until those words were added the Chairman was nominated from the floor and elected. The inconvenience of the practice [5] led to its abandonment.[6]

4705. The origin and development of the Committees of the Whole.

Distinction between the Committee of the Whole House on the state of the Union and the Committee of the Whole House.

The rules and practice of the House of Representatives contemplate two Committees of the Whole, the "Committee of the Whole House" and the "Committee of the Whole House on the state of the Union." In the former are considered bills of a private nature, and its business is kept on the Private Calendar. To the latter go public bills requiring an appropriation of money or property of the Government, and its business is kept on the Union Calendar.[7]

The Committee of the Whole is a very ancient parliamentary institution; [8] but the two Committees of the Whole of the House, each with its own individuality, functions, and jurisdiction, are the results of development in the last century. The Continental Congress used the Committee of the Whole frequently, considering its important business and giving private audiences to foreign ministers therein.[9] In the early days of the struggle for independence it resolved itself into a "Committee of the Whole to take into consideration the state of America." [10] The Federal Con-

[1] The Chairman of the Committee of the Whole has power to administer oaths to witnesses in any case under its examination. (R. S., sec. 101.) Act of May 3, 1798, second session Fifth Congress, Journal, pp. 203, 250; Annals, p. 1069. The law was proposed to obviate the inconvenience that had been experienced in the examination of witnesses, notably in the contempt case arising out of the affray between Messrs. Lyon and Griswold, which had been considered in Committee of the Whole a few weeks before. (See sec. 1642 of Vol. II of this work.) The House has not, for many years, recurred to this early practice of conducting examinations in Committee of the Whole.

[2] Second session Forty-sixth Congress, Record, pp. 205, 1208.

[3] Third and Fourth Congresses, Journal, p. 92. (Gales and Seaton ed.)

[4] First session First Congress, Journal, p. 10.

[5] Constitution, Manual, Rules, edition of 1859, p. 190.

[6] In the Continental Congress the Chairman of the Committee of the Whole was elected by ballot whenever the House went into committee. (See Journal of Continental Congress, January 29, 1783.)

[7] See section 3115 of this volume.

[8] See Reed's Parliamentary Rules, section 86.

[9] Continental Congress, Journal, February 13, 1779.

[10] Continental Congress, Journal, May 15, 1775.

vention, called to frame the Constitution, met May 14, 1787, and adjourned from day to day until the delegates arrived. On May 29 it was—

Resolved, That the House will meet to-morrow to resolve itself into a Committee of the Whole House to consider of the state of the American Union.

Such a motion was agreed to thereafter from time to time during the work of preparing the Constitution.[1] When the Constitution was framed it provided in section 3 of Article II that the President should "from time to time give to the Congress information of the state of the Union." When, in 1789, the First Congress met and the Committee on Rules reported a system of rules for the House,[2] it was established that it should be a "standing order of the day, throughout the session, for the House to resolve itself into a Committee of the Whole House on the state of the Union."[3] The rules also contemplated the reference of bills to "a Committee of the Whole House." Thus the two kinds of Committees of the Whole were recognized at that time. The use of the article "a" instead of "the" indicates what was the fact, that there was then no individuality and permanence to these committees.

A Committee of the Whole was often known and designated by some important bill which had been referred to it. Thus, on February 8, 1816,[4] a revenue bill was reported by the Ways and Means Committee and referred to a Committee of the Whole House, and on March 15 the appropriation bill for the support of the Government was committed "to the Committee of the Whole on the report of the Committee of Ways and Means upon the subject of revenue." This usage is further illustrated on February 25, 1818,[5] when Mr. Speaker Clay ruled that a vote discharging a Committee of the Whole from the consideration of the bankruptcy bill in effect dissolved that Committee of the Whole, with the result that a bill relating to the organization of the courts of the United States, which had been referred to the Committee of the Whole on the bankruptcy bill, was by that dissolution brought before the House. In 1817[6] the practice of referring several bills to a single Committee of the Whole had resulted in delays, and a rule was adopted that no more than three bills should be referred to the same Committee of the Whole, and such bills should be analagous in their nature. When the rules were revised, in 1860, this rule was dropped, Mr. Israel Washburn, jr., of Maine, who presented the report, stating that the Committee on Rules "were unable to understand what the rule meant, and saw no use in retaining it."[7]

Mr. Washburn's statement affords a remarkable illustration of how a practice of the House may subvert a rule so thoroughly that the rule may in the course of time become an enigma. On April 18, 1822,[8] Mr. Charles Rich, of Vermont, proposed a rule to provide that, exclusive of "the Committee of the Whole on the state of the Union," there should be three Committees of the Whole House: One on bills

[1] See Bulletin No. 3, Department of State, p. 55 (published January, 1894).

[2] This committee included several who had served in the Continental Congress.

[3] First session First Congress, Journal, pp. 9 and 10.

[4] First session Fourteenth Congress, Journal, pp. 298, 299, 492.

[5] First session Fifteenth Congress, Journal, p. 277; Annals, p. 1028.

[6] First session Fifteenth Congress, Journal, p. 88; Annals, p. 514.

[7] First session Thirty-sixth Congress, Globe, p. 1181.

[8] First session Seventeenth Congress, Journal, pp. 469, 477; Annals, p. 1617.

of a public or general nature, one on private or local bills, and one for private matters unfavorably reported from a committee. The rule still further provided that reports of committees referred to the Committee of the Whole should be assigned to the appropriate one by the Speaker and be entered on the Calendar for the next succeeding day. In Committee of the Whole the subjects should be announced in their order on the Calendar, and any number might be considered at the sitting of the Committee of the Whole. The House, on April 22, declined to consider this rule, which was intended to supplant the rule that no more than three bills should be referred to the same Committee of the Whole. On January 24, 1824,[1] Mr. Rich renewed his proposition. He said that in earlier days a general Committee of the Whole was appointed to which many subjects were often referred. This committee being overburdened, many matters failed. Hence the rule that not more than three matters should be referred to the same Committee of the Whole. That had improved matters, but he believed this method would be better. The proposition does not seem to have been acted on; but in spite of this neglect to make a formal rule a practice similar to that proposed in 1822 and 1824 grew up, and in 1860 had been so long established that the most experienced Members of the House could remember no other.

As the many Committees of the Whole, each created temporarily for the consideration of one, two, or three bills, gradually became, as the practice changed, two committees, each with an individuality and calendar of its own, so, also, there grew up a new and, in some respects, more marked distinction between the Committees of the Whole House and those of the Whole House on the state of the Union.

Originally matters were brought up in the Committee of the Whole House on the state of the Union without a reference of them to that committee by the House. Thus, on April 8, 1789, Mr. James Madison, of Virginia, brought up the subject of the first tariff law, and, after debate, the Committee of the Whole House on the state of the Union reported resolutions to the House giving it as the opinion of the committee that a select committee should be appointed to prepare a bill to regulate the duties, etc.[2] In the same way the subject of organizing the Executive Departments of the Government was first introduced by Mr. Elias Boudinot, of New Jersey, who rose in Committee of the Whole House on the state of the Union and proposed the subject.[3] As late as 1850 a bill was originated in Committee of the Whole House on the state of the Union, but jurisdiction had been conferred by the reference of a message of the President. For many years neither Committee of the Whole has considered a subject or originated a bill not referred to it; and as early as 1833[4] we find discussion of the general interests of the nation in Committee of the Whole House on the state of the Union referred to as a usage of the past.[5]

[1] First session Eighteenth Congress, Annals, p. 1179.

[2] First session First Congress, Annals, April 11, 1789.

[3] First session First Congress, Annals, May 19, 1789.

[4] Second session Twenty-second Congress, Debates, p. 1088.

[5] Distinctions should be made between the early discussions which began with nothing before the committee and ended in a recommendation for legislation, and the general discussion in Committee of the Whole House on the state of the Union at the present time, which are made without reference to the subject of the pending measure and do not result in formulated action.

So it is evident that in the First Congress, and for several subsequent Congresses, the Committee of the Whole House on the state of the Union was an arrangement for consultation chiefly. Whenever the House referred a matter they generally sent it to a Committee of the Whole House. Even the addresses of the Presidents went to a Committee of the Whole House until 1801. In that year President Jefferson, instead of addressing the Congress, sent a message,[1] and this was referred to the Committee of the Whole House on the state of the Union.[2] This has been the practice since with the annual messages of the President. Formerly, also, special messages of great importance were sometimes referred at once to this committee instead of to a standing committee.[3]

But the committees of the Whole House continued for many years to receive the public as well as the private bills. The "orders of the day" for Monday, December 2, 1822,[4] shows that the Committee of the Whole House on the state of the Union received resolutions relating to appropriation of land for educational purposes, proposed amendments to the Constitution, reports from Cabinet officers and committees of the House, and a few bills for public purposes. On February 17, 1836,[5] we find a proposition to refer the joint resolution for erecting a monument to Nathan Hale to the Committee of the Whole House on the state of the Union antagonized by Mr. Samuel F. Vinton, of Ohio, who deprecated the growing practice of sending "ordinary matters" to the Committee of the Whole House on the state of the Union. He proposed to refer it to a Committee of the Whole House.

This idea that the Committee of the Whole House on the state of the Union should receive what may be called the greater matters of legislation has gradually resulted in the usage now crystallized in rule[6]—that private bills shall go to the Committee of the Whole House, while the Committee of the Whole House on the state of the Union receives public bills. But in the early usage the Committee of the Whole House received the greater proportion of the public bills, as well as all the private bills. Excepting one bill in 1822,[7] both revenue and appropriation bills went to the Committee of the Whole House until 1828, when bills of both classes were referred to the Committee of the Whole House on the state of the Union.[3] But all the public bills did not at once follow the revenue and appropriation bills; and as late as 1838 a bill relating to repairs of vessels of the Navy went to the Committee of the Whole House,[9] which had not yet become devoted exclusively to private business.

Under the later usage and rule of the House the Committee of the Whole House on the state of the Union considers only those public bills which involve the, expenditure of money or authorize appropriation of money or property. But it

[1] First session Seventh Congress, Journal, p. 7, for President Jefferson's letter giving his reasons for sending a message.

[2] First session Seventh Congress, Journal, p. 11; Annals, pp. 313, 326.

[3] First session Thirty-fourth Congress, Journal, pp. 532, 544, 659, 1430.

[4] Reports of Committees on Rules, Fourteenth to Forty-ninth Congresses (McKee's Compilation).

[5] First session Twenty-fourth Congress, Debates, p. 2557.

[6] See rule as to Calendars (sec. 3115 of this volume).

[7] Second session Seventeenth Congress, Journal, p. 172.

[8] First session Twentieth Congress, Journal, pp. 232, 233, 236.

[9] Second session Twenty-fifth Congress, Journal, pp. 484, 485.

is evident that as late as 1844[1] important matters were referred to the committee without regard to this distinction.

Formerly the reports from the Committee of the Whole House on the state of the Union recognized the relations of this committee to the state of the Union generally.

4706. The Committee of the Whole has been held to be but a committee of the House.—On February 14, 1826,[2] in a debate in Committee of the Whole on a point of order, Mr. Speaker Taylor said that the Committee of the Whole was but a committee of the House, though a large one.

4707. Only in exceptional and early cases has the Committee of the Whole originated legislative propositions.—On February 24, 1847,[3] the Committee of the Whole House on the state of the Union rose and the Chairman reported that the committee having, according to order, had the state of the Union generally under consideration, particularly the bill (No. 638) to establish certain post routes, had directed him to report the same to the House with amendments. And the committee had also directed him to report an original bill (No. 691) to amend the act entitled "An act to reduce the rate of postage," etc.

The record of debates shows that Mr. George W. Hopkins, of Virginia, proposed in the Committee of the Whole to report the original bill. It was objected that the Committee of the Whole might not originate a bill, but Mr. Hopkins contended that one committee bad as much right to report and prepare a bill for the House as another, and the bill was strictly appropriate to a committee sitting on a post-office bill. The Chairman[4] ruled the bill in order on the ground of a former precedent.

4708. On December 29, 1851,[5] Chairman George W. Jones, of Tennessee, in Committee of the Whole House on the state of the Union, ruled out of order an original resolution, presented first in Committee of the Whole that day, to provide for welcoming Louis Kossuth. Mr. Jones made his decision on the ground that the Committee of the Whole could originate nothing itself. The committee overruled him, and proceeded to the consideration of the resolution for several days, but did not succeed in getting action on it in the committee. Mr. Jones, at each rising, reported that the committee had had the state of the Union under consideration, and had come to no resolution thereon. This report was questioned on the ground that he ought to have referred to the Kossuth resolution, but the Speaker[6] sustained the Chairman.

4709. The House may refer a subject to a Committee of the Whole as well as to a standing committee.—On December 10, 1833,[7] the House committed to the Committee of the Whole House on the state of the Union the report of the Secretary of the Treasury received by the House on December 4, and relating to the removal of deposits of money from the Bank of the United States.

---

[1] First session Twenty-eighth Congress, Journal, p. 353; Globe, p. 235.

[2] First session Nineteenth Congress, Debates, p. 1358.

[3] Second session Twenty-ninth Congress, Journal, p. 421; Globe, p. 504.

[4] James B. Bowlin, of Missouri, Chairman.

[5] First session Thirty-second Congress, Globe, pp. 158, 168.

[6] Linn Boyd, of Kentucky, Speaker.

[7] First session Twenty-third Congress, Journal, pp. 26, 31, 53, 87.

On December 11, Mr. James K. Polk, of Tennessee, moved to reconsider this vote, stating that the subject needed a more careful investigation than the Committee of the Whole could give it.

On December 17 the motion to reconsider was agreed to; and Mr. Polk at once moved that the report be referred to the Committee on Ways and Means.[1] On February 18, 1834,[2] the motion was agreed to.[3]

4710. A Committee of the Whole may not authorize or appoint a committee.—On April 11, 1789,[4] the House resolved itself into Committee of the Whole House on the state of the Union.

During a discussion of the subject of duties on imports, Mr. George Clymer, of Pennsylvania, proposed the appointment of a subcommittee to collate the material and bring them before the House.

The Chairman[5] was of the opinion that a motion of the kind just mentioned would be out of order, because a committee could not appoint another committee. The House appointed all committees.

4711. The Committee of the Whole may not grant authority to a standing committee to amend its report, or order the reprint of a bill.—On January 7, 1897,[6] the Pacific Railroad funding bill (H. R. 8189) was under consideration in Committee of the Whole House on the state of the Union, when Mr. H. Henry Powers, of Vermont, requested leave to make certain changes in the bill as reported by the Committee on Pacific Railroads, and to have the bill as changed reprinted.

The Chairman[7] ruled that the Committee of the Whole could not make the order requested. The reprinting of a bill could only be ordered by the House.

4712. The Committee of the Whole has no authority to modify an order of the House.—On December 16, 1899,[8] the bill (H. R. No. 1) "to define and fix the standard of value," etc., was under consideration in Committee of the Whole House on the state of the Union, under the terms of the following special order:[9]

Resolved, That on Monday, December 11, immediately after the reading of the Journal, the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. No. 1, entitled "A bill to define and fix the standard of value, to maintain the parity of all forms of moneys issued or coined by the United States, and for other purposes;" general debate thereon shall continue to not later than 5 o'clock p. m. of Friday, the 15th day of December, and thereafter debate under the five-minute rule until 5 o'clock p. m. of Saturday, the 16th day of December, at which time the committee shall rise and report the bill to the House, with any amendments adopted by the com-

[1] Debates, p. 2170.

[2] Journal, p. 345.

[3] In modem practice the House rarely by motion and vote refers anything except the annual message of the President to the Committee of the Whole. Ordinary legislation is referred to the Committee of the Whole by rule.

[4] First session First Congress, Annals, pp. 121, 122.

[5] John Page, of Virginia, Chairman.

[6] Second session Fifty-fourth Congress, Record, p. 576.

[7] Sereno E. Payne, of New York, Chairman.

[8] First session Fifty-sixth Congress, Record, p. 555.

[9] This order was adopted December 8, 1899, first session Fifty-sixth Congress, Record, pp. 160–163; Journal, p. 69.

mittee, and a vote shall be taken on the bill and amendments, if any, without intervening motion, to final passage, immediately after the reading of the Journal on Monday, the 18th day of December.

And during said debate the House shall on each day adjourn not later than 5 o'clock p. m.

The hour having arrived for the committee to rise and report the bill, Mr. Joseph W. Bailey, of Texas, asked unanimous consent to offer an amendment for the free and unlimited coinage of silver at the ratio of 16 to 1.

The Chairman [1] held that the Committee of the Whole had no power to modify or change an order of the House.

4713. In Committee of the Whole a rule of procedure prescribed by the House may not be set aside.—On January 25, 1901,[2] the House was in Committee of the Whole House considering business on the Private Calendar, under the rule making in order bills granting pensions and removing charges of desertion and political disabilities.[3]

A question arising as to the consideration of a bill (H. R. 5931, for the relief of Henry L. McCalla) not strictly within the terms of the rule, Mr. Eugene F. Loud, of California, made the point of order that the Committee of the Whole House were operating under a mandatory rule of the House of Representatives, which the committee might not set aside. Therefore the Chairman was not permitted to entertain a request that the bill be taken up.

The Chairman [4] held that this was so and that the bill was not in order.

4714. A Committee of the Whole sometimes reports a bill with the recommendation that it be recommitted to a standing committee with certain instructions.—On July 14, 1890,[5] the Committee of the Whole House on the state of the Union reported the bill (H. R. 8243) relating to the construction of the Baltimore and Potomac Railroad in the District of Columbia, with the recommendation that it be recommitted to the Committee on the District of Columbia, with instructions to report a substitute for it. This substitute was specified in the report from the Committee of the Whole.

The Speaker [6] at once put the question on agreeing to the recommendation of the Committee of the Whole, and, the motion being agreed to, the bill was recommitted with the specified instructions.

4715. The authority of the Committee of the Whole to recommend instructions to the managers of a conference is doubtful.—On April 23, 1897,[7] the Senate amendments to the Indian appropriation bill were under consideration in Committee of the Whole House on the state of the Union. The committee having voted to recommend nonconcurrence in an amendment relating to the gilsonite mineral lands, Mr. John F. Lacey, of Iowa, moved the following:

The Committee of the Whole recommend that the conference committee be instructed to insist upon a provision for leasing the gilsonite mineral lands, with such limitations and restrictions as will

[1] William P. Hepburn, of Iowa, Chairman.

[2] Second session Fifty-sixth Congress, Record, p. 1491.

[3] See section 3281 of this volume.

[4] Adin B. Capron, of Rhode Island, Chairman.

[5] First session Fifty-first Congress, Record, p. 7263.

[6] Thomas B. Reed, of Maine, Speaker.

[7] First session Fifty-fifth Congress, Record, pp. 833, 840.

prevent the control of the said mineral by trusts or combinations of any kind, such leases to be for limited amounts and for limited periods upon a royalty to the Government.

Mr. William H. King, of Utah, raised the point of order against recommending instructions to a committee of conference that had not been appointed.

The Chairman [1] said:

This is simply a motion to recommend to the House certain instructions. The House would be competent to instruct even before a conference committee had been appointed.

The recommendation having been adopted and reported to the House, the Speaker [2] said:

The Chair desires to say with regard to this question of instructing the conference committee that it is, perhaps, a question whether the committee have a right to make such a recommendation as that, but it can be made by the indorsement of the individual Member.

Thereupon the instructions were moved by Mr. Lacey individually.

4716. The motions to reconsider, for the previous question, and to adjourn are not in order in Committee of the Whole.—Jefferson's Manual has these provisions in relation to certain motions not in order in Committee of the Whole:

In Section XXVI:

When a vote is once passed in a committee, it can not be altered but by the House, their votes being binding on themselves.[3] (1607, June 4.)

In Section XII:

No previous question [4] can be put in a committee, nor can this committee adjourn as others may.

4717. The motion to reconsider is not in order in Committee of the Whole.—On February 8, 1901,[5] a bill (H. R. 13049) granting a pension to Elizabeth Fury, was under consideration in Committee of the Whole House, an amendment had been agreed to, and the bill was laid aside with a favorable recommendation.

Mr. George W. Steele, of Indiana, having obtained unanimous consent to recur to the bill, moved to reconsider the action of the committee in agreeing to the amendment.

---

[1] Sereno E. Payne, of New York, Chairman.

[2] Thomas B. Reed, of Maine, Speaker.

[3] It has long been the practice of the House that a motion to reconsider may not be entertained in Committee of the Whole, and the Manual and Digest has referred to a precedent of the first session of the Twenty-seventh Congress (Globe, p. 305), although there seems at that time to have been no actual ruling by the Chair. On August 7, 1841, the House was in Committee of the Whole on the state of the Union, Mr. Joseph L. Tillinghast, of Rhode Island, in the chair. After the failure of a motion to take up for consideration Senate bill No. 1, to repeal the independent treasury act, it was moved and voted that the committee take up the Senate bill to provide for a uniform system of bankruptcy. After the bill had been read, Mr. George N. Briggs, of Massachusetts, moved to reconsider the vote by which the bill was taken up. Mr. James W. Williams, of Maryland, submitted to the Chair that the committee had no power to reconsider a vote. After some debate, Mr. Francis W. Pickens, of South Carolina, declaring that he had never heard of such a thing as the reconsideration of a vote in committee, Mr. Briggs withdrew the motion to reconsider and moved to lay aside the bill, the Chairman deciding that the latter motion was in order.

[4] This referred to the previous question of the early days of the House, which was essentially different from the previous question as developed by the modern practice. (See secs. 5443–5446 of Vol. V of this work.) But is held to apply to the present motion.

[5] Second session Fifty-sixth Congress, Record, p. 2171.

The Chairman [1] said:

There can be no reconsideration in Committee of the Whole.

4718. On April 23, 1902,[2] the House in Committee of the Whole House on the state of the Union was considering the bill (H. R. 9206) relating to oleomargarine and other dairy products, and the third amendment of the Senate was considered, and the Committee of the Whole voted to recommend concurrence.

Thereupon, Mr. James R. Mann, of Illinois, moved to reconsider the vote.

Mr. E. Stevens Henry, of Connecticut, made the point of order that the motion to reconsider was not in order in Committee of the Whole.

The Chairman [3] sustained the point of order.

4719. The motion to lay on the table is not in order in Committee of the Whole.—On February 3, 1852,[4] in Committee of the Whole House on the state of the Union, an appeal was taken from a decision of the Chair.

Mr. Orin Fowler, of Massachusetts, moved to lay the appeal on the table.

The Chairman [5] ruled this motion not in order in Committee of the Whole.

4720. On March 10, 1902,[6] while the Committee of the Whole House on the state of the Union was considering the bill (H. R. 11728) relating to free rural delivery service, Mr. Ebenezer J. Hill, of Connecticut, moved to lay two pending amendments on the table.

The Chairman [7] held that the motion was not in order in Committee of the Whole.

4721. The simple motion to recommit is not in order in Committee of the Whole.—On January 4, 1828,[8] the bill "for the relief of Marigny D'Auterieve" was under consideration in Committee of the Whole House, when Mr. Thomas R. Mitchell, of South Carolina, moved that the bill be recommitted.

The Chairman [9] decided that such a motion could not be received until the Committee of the Whole had risen and reported.

4722. The yeas and nays may not be taken in Committee of the Whole.

Instance wherein the former theory that the quorum was to be determined by those voting was set forth in 1840.

On March 24, 1840,[10] the House was in Committee of the Whole on the state of the Union, considering the Treasury-note bill. A quorum having failed to vote on a motion to rise, Mr. George C. Dromgoole, of Virginia, inquired if it was not in order to have a count of the Members who were within the bar, as he thought that a quorum was present.

---

[1] John F. Lacey, of Iowa, Chairman.

[2] First session Fifty-seventh Congress, Record, p. 4594.

[3] Marlin E. Olmsted, of Pennsylvania, Chairman.

[4] First session Thirty-second Congress, Globe, p, 451.

[5] Edson B. Olds, of Ohio, Chairman.

[6] First session Fifty-seventh Congress, Record, p. 2588.

[7] Frederick H. Gillett, of Massachusetts, Chairman.

[8] First session Twentieth Congress, Debates, p. 909; Journal, p. 123.

[9] Lewis Condict, of New Jersey, Chairman.

[10] First session Twenty-sixth Congress, Globe, p. 285.

The Chairman[1] said that, as a quorum had not voted, the committee must rise and report that fact to the House. The yeas and nays could not be taken in committee, and there was no way of ascertaining whether a quorum was present but by an actual count.

4723. On May 23, 1844,[2] the House was in Committee of the Whole House on the state of the Union, considering the naval appropriation bill. Mr. James McKay, of North Carolina, offered an amendment making certain appropriations to supply deficiencies in the appropriations for the naval service for the current Year.

Mr. John Quincy Adams, of Massachusetts, objected to the amendment as out of order, on the ground that all appropriations must be considered in Committee of the Whole.

The Chair said that the House was acting in Committee of the Whole.

Mr. Adams replied that no discussion was allowed, and therefore the amendment was out of order.

The Chair[3] said that the amendment was in order, and that discussion was not in order.[4]

Mr. Adams was proceeding to discuss the point of order, when he was called to order by the Chair, and asked if he appealed from the decision just made.

Mr. Adam said that he did, and called for the yeas and nays.

The Chair said that the yeas and nays could not be taken in Committee of the Whole.

4724. It is not in order for the Committee of the Whole to arrange for a yea-and-nay vote to be taken in the House.—On February 21, 1891,[5] the House was in Committee of the Whole House on the state of the Union considering the agricultural appropriation bill. There having been debate and a division on a question relating to the distribution of seeds, Mr. Edward P. Allen, of Michigan, asked unanimous consent that when the bill should be reported to the House there should be a yea-and-nay vote upon the paragraph.

There being objection, the Chairman[6] said:

There is manifest objection, and besides, the Chair will say it would remain for the House to order it.

4725. The Chairman of the Committee of the Whole has declined to consider a question of order arising in the House just before the committee began to sit.—On May 22, 1906,[7] the House was in the act of resolving itself into Committee of the Whole House on the state of the Union to consider the consular and diplomatic appropriation bill, when Mr. Augustus P. Gardner, of Massa-

---

[1] William C. Dawson, of Georgia, Chairman.

[2] First session Twenty-eighth Congress, Globe, p. 618.

[3] George C. Dromgoole, of Virginia, Chairman.

[4] This was before the development of the five-minute rule, and after general debate had been closed in Committee of the Whole all amendments had to be voted on without debate.

[5] Second session Fifty-first Congress, Record, p. 3270.

[6] Nelson Dingley, jr., of Maine, Chairman.

[7] First session Fifty-ninth Congress, Record, p. 7249.

chusetts, demanded the floor for a parliamentary inquiry, but was not recognized by the Speaker.

Mr. Gardner continued to demand recognition until after the Committee of the Whole had began its sitting, but was not recognized until the Chairman had called the committee to order and announced:

The House is in Committee of the Whole House on the state of the Union for the consideration of the diplomatic and consular appropriation bill.

Then Mr. Gardner was recognized, and proceeded to state his object in demanding recognition.

The Chairman [1] said:

The present occupant of the chair was not in the chair in the House and knows nothing of what occurred then. We are now in Committee of the Whole House on the state of the Union.

Mr. Gardner then moved that the committee rise. The Chairman recognized the motion as in order.

4726. On May 25, 1906 [2] the Speaker, after a vote, declared the House in Committee of the Whole House for consideration of bills on the Private Calendar, and the Chairman [3] took the chair and called the committee to order, announcing that the House was in Committee of the Whole House, etc.

Mr. John S. Williams, of Mississippi, rising to a question of order, said he arose—

To make the point of order that the House is not in Committee of the Whole, because it was thrown into the Committee of the Whole upon the supposition that the last division of the House showed the presence of a quorum, whereas as a matter of fact the last division of the House showed that there was no quorum present.

The Chairman said:

Undoubtedly the gentleman from Mississippi fully appreciates the fact that the present occupant of the chair has no information upon the point that he has raised. * * * The present occupant of the chair can not pass upon what took place in the House, as he was not in the chair at the time. The Clerk will report the first bill.

4727. A request for unanimous consent may not be entertained after the House has voted to go into Committee of the Whole.—On July 14, 1882,[4] the House had voted to go into Committee of the Whole House.

Mr. Waldo Hutchins, of New York, asked unanimous consent to submit a report.

The Speaker [5] declined to entertain the request, saying:

The House having decided to go into Committee of the Whole, the Chair thinks that ends for the present the session of the House. The gentleman may be recognized later in the day.

4728. The House having voted to resolve itself into Committee of the Whole, the Chair declined to entertain a motion to adjourn but did entertain an appeal from his decision.—On February 20, 1903,[6] the yeas and nays

[1] Charles Curtis, of Kansas, Chairman.

[2] First session Fifty-ninth Congress, Record, pp. 7434, 7435.

[3] Adin B. Capron, of Rhode Island, Chairman.

[4] First session Forty-seventh Congress, Record, p. 6060.

[5] J. Warren Keifer, of Ohio, Speaker.

[6] Second session Fifty-seventh Congress, Journal, p. 271; Record, pp. 2428, 2429.

had been taken on a motion to go into the Committee of the Whole House on the state of the Union to consider the bill (H. R. 16228) relating to the currency, and there appeared yeas 118, nays 89.

Mr. James D. Richardson, of Tennessee, moved to reconsider; but the Speaker pro tempore ruled the motion dilatory.

Thereupon Mr. James Hay, of Virginia, moved that the House adjourn.

The Speaker pro tempore [1] declined to put the motion, saying:

In the absence of any precedent, the Chair is of opinion that the House having determined to resolve into the Committee of the Whole House on the state of the Union, and the announcement having been partially made, the motion of the gentleman from Virginia is not in order. * * * The Chair will state that he now finds he is sustained by precedent. The Chair will call the gentleman's attention to what has been called to his attention. The Chair will state to the gentleman from Virginia that this very question was passed upon by Mr. Speaker Carlisle in the Forty-ninth Congress, and he held that the House having determined by a yea-and-nay vote to resolve itself into the Committee of the Whole House on the state of the Union, a motion to adjourn was not in order.

Mr. Hay proposed an appeal from the decision of the Chair.

Mr. Charles H. Grosvenor, of Ohio, made the point of order that, as the House had decided to resolve itself into Committee of the Whole, an appeal would not be in order.

After the debate the Speaker pro tempore said:

The House having determined by a vote of 118 to 89 to resolve itself into Committee of the Whole House on the state of the Union, the Chair proceeded to announce that the ayes had it, and was going to make the further formal announcement, when interrupted by the gentleman from Tennessee with a motion to reconsider. The point of order was made that the gentleman's motion was dilatory, and in view of what had taken place prior thereto the Chair sustained the point of order.

Now, whatever may be the theoretical view of the functions of the Speaker at that stage of the proceedings, there is no doubt at all that he still continued de facto to be exercising the functions of the Speaker; and the clerk to the Speaker's table informs the Chair that a great many Speakers—Mr. Carlisle, Mr. Keifer, and the present Speaker of the House—have entertained points of order at that stage of the proceedings.

The Chair is clearly of the opinion that the motion of the gentleman from Virginia to adjourn is out of order, and has so decided; but, having thus far exercised the function of Speaker, and passed on the question of order, it seems to him that when the appeal has been taken it must be entertained. The Chair will put the question. The question is, Shall the decision of the Chair stand as the judgment of the House?

The question being taken, there appeared yeas 110, nays 74.

So the decision of the Chair was sustained.

Thereupon, in pursuance of the former vote, the House resolved itself into Committee of the Whole House on the state of the Union.

4729. Unprivileged business on the Calendars of the Committee of the Whole is taken up in the Calendar order or in such order as may be determined in the committee.

Former method of securing precedence of revenue, general appropriation, and river and harbor bills in Committee of the Whole.

Form and history of section 4 of Rule XXIII.

Section 4 of Rule XXIII provides:

In Committees of the Whole House, business on their Calendars may be taken up in regular order, or in such order as the committee may determine, unless the bill to be considered was determined by

[1] John Dalzell, of Pennsylvania, Speaker pro tempore.

the House at the time of going into committee, but bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors shall have precedence.[1]

This rule applies both to the Union and the Private Calendars. The consideration of bills in the order that the Committee of the Whole might determine seems to have been the early method. But in 1844, in order to save much time wasted in motions to take bills up out of order, a rule was adopted that bills should be taken up in the order of reference, but that general appropriation bills and, in time of war, bills raising money or men and bills concerning a treaty of peace might be preferred, at the discretion of the committee.[2] This rule left all other bills on the Calendar to be taken up in order, without power on the part of the committee to change that order. So on July 28, 1848[3] a rule was adopted that—

In Committee of the Whole House on the state of the Union the bills shall be taken up and disposed of in their order on the Calendar; but when objection is made to the consideration of a bill a majority of the committee shall decide, without debate, whether it shall be taken up and disposed of or laid aside.

The provision of the former rule in regard to appropriation bills and war measures was continued, with the additional requirement that the question in regard to them should be put when demanded by any Member.

In the revision of 1880[4] the House adopted this form of rule:

In Committees of the Whole House, business on their Calendars shall be taken up in regular order, except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors, which shall have precedence; and when objection is made to the consideration of any bill or proposition the committee shall thereupon rise and report such objection to the House, which shall decide, without debate, whether such bill or proposition shall be considered or laid aside for the present; whereupon the committee shall resume its sitting without further order of the House.

The Committee on Rules, in their report,[5] commended this rule on the ground that it would expedite business and save the large amount of time wasted in struggles to secure precedence of a certain bill. In their opinion, a bill committed to a Committee of the Whole was given a place entitling it to precedence over business committed later, and ought not to be displaced therefrom except by the House.

In 1885 the rule was changed by substituting for "when objection is made to the consideration of any bill" the words "when objection is made to passing over any bill." This change was made to give greater control over business in committee, enabling the committee to pass over such as it might not wish to take up.[6] The rule as amended remained in the Fiftieth, Fifty-second, and Fifty-third Congresses.

In the revision of 1890,[7] the present form was adopted and has continued in the Fifty-fourth, Fifty-fifth, and succeeding Congresses.

On January 25, 1839,[8] a rule was adopted that "on the first and fourth Fridays of each month the Calendar of Private Bills shall be called over (the Chairman of the

[1] As revenue and appropriation bills are usually designated in the privileged motion to go into Committee of the Whole, as prescribed in section 9 of Rule XVI (see sec. 3072 of this volume), the latter portion of this rule is rather a survival of an old practice than of present use.

[2] First session Twenty-eighth Congress, Globe, p. 367; first session Thirtieth Congress, p. 47.

[3] First session Thirtieth Congress, Globe, p. 1006; Journal, p. 1120.

[4] Second session Forty-sixth Congress, Record, p. 1208.

[5] Second session Forty-sixth Congress, Record, p. 201.

[6] First session Forty-ninth Congress, Record, p. 170.

[7] House Report No. 23, first session Fifty-first Congress.

[8] Third session Twenty-fifth Congress, Globe, p. 146.

Committee of the Whole House commencing the call where he left off the previous day), and the bills to the passage of which no objection shall then be made shall be first considered and disposed of."

In 1860[1] the second and fourth Saturdays were added as objection days, and to avoid retaliatory objections it was provided that when a bill once objected to should be again reached it should require five Members to object to prevent its consideration. This was to prevent the waste of time caused by retaliatory objections. The rule remained thus until the revision of 1880, when the Committee on Rules reported against continuing the practice and in favor of putting all bills on an equality, it being doubtful whether one Member should have the power even temporarily of obstructing a bill recommended by a standing committee of the House.[2] Since that time the same rule has applied to both the Union and Private Calendars.

4730. The Committee of the Whole may on motion put and carried determine an order for taking up the business on its Calendar.—On March 27, 1896,[3] the House resolved itself into Committee of the Whole House for the consideration of bills on the Private Calendar.

Mr. John A. Pickler, of South Dakota, moved that business on the Private Calendar from the Committees on Claims and War Claims be passed over without prejudice, and that bills from the Committees on Invalid Pensions, Pensions, and Military Affairs be taken up for consideration in their order upon the Calendar.

Mr. James D. Richardson, of Tennessee, made a point of order that the motion was not in order.

The Chairman held:[4]

Paragraph 4 of Rule XXIII provides that after the House has gone into Committee of the Whole House the committee can then determine the order of business that shall be pursued, and the Chair holds that it is clearly within the province of the committee to determine whether it will take up the bills in the order in which they are found on the Private Calendar, or whether, by motion, as proposed by the gentleman from South Dakota, Mr. Pickler, it will proceed to take up a certain class of private bills. The language of paragraph 4 of Rule XXIII, as it seems to the Chair, is clear upon the subject. The Chair therefore holds that the written motion submitted by the gentleman from South Dakota is in order.

4731. In considering bills on the Calendar of the Committee of the Whole House, it is in order, on a motion made and carried, to take up a bill out of its order.—On May 22, 1896,[5] the bills on the Private Calendar were under consideration in Committee of the Whole House, when Mr. David G. Colson, of Kentucky, moved to take up out of its order the bill (H. R. 4841) granting a pension to Silas Adams.

Mr. Luther M. Strong, of Ohio, made the point of order that this motion was not in order.

The Chairman[6] overruled the point of order.[7]

---

[1] First session Thirty-sixth Congress, Globe, p. 1179.

[2] Second session Forty-sixth Congress, Record, p. 201.

[3] First session Fifty-fourth Congress, Record, p. 3283.

[4] Albert J. Hopkins, of Illinois, Chairman.

[5] First session Fifty-fourth Congress, Record, p. 5589.

[6] William P. Hepburn, of Iowa, Chairman.

[7] For rule governing this case, see section 4729.

4732. On February 2, 1904,[1] the House was in Committee of the Whole House considering bills on the Private Calendar, and had considered several bills in their order, when Mr. Thaddeus M. Mahon, of Pennsylvania, moved to take up "A bill (H. R. 9548) for the allowance of certain claims for stores and supplies, reported by the Court of Claims under the provisions of the act approved March 3, 1883, and commonly known as the Bowman Act."

Mr. William P. Hepburn, of Iowa, raised the question of order that the Committee of the Whole House might not in this way depart from the regular order of the Calendar.

The Chairman[2] overruled the point of order, saying—

The Chair understands that the rule so provides.

4733. Except in cases wherein the rules make specific provision therefor, a motion is not in order in the House to fix the order in which business shall be taken up on the Calendars of the Committee of the Whole.—On January 27, 1897,[3] at the Friday evening session for the consideration of bills under the special rule,[4] and before the House had resolved itself into Committee of the Whole House, Mr. H. C. Loudenslager, of New Jersey, asked unanimous consent for the consideration of this resolution:

Resolved, That bills be considered in the following order: The Clerk to call the first bill on the Calendar, Announce the number of it, the Calendar number, and the name of the Member who introduced it, and upon his failure to respond "Present," the bill to be passed without prejudice and the next bill to be called in the same way; this not to apply to Senate bills.

The Speaker pro tempore[5] said:

The Chair understands the proposition of the gentleman from New Jersey to be that this shall be adopted as a rule for this evening's session after the House resolves itself into Committee of the Whole. The Chair thinks it would not be a proper subject for action on motion, but must be adopted, if at all, by unanimous consent. If proposed as a resolution, it would have to go to the Committee on Rules but by unanimous consent it can be agreed upon in the House, so as to bind the Committee of the Whole.[6] Is there objection?

4734. When the House agrees to the privileged motion to go into Committee of the Whole to consider a particular revenue or appropriation bill, the Committee of the Whole may not consider a different bill.—On February 8, 1881,[7] the House resolved itself into Committee of the Whole by agreeing to this motion, made by Mr. John D. C. Atkins, of Tennessee:

That the House resolve itself into Committee of the Whole on the state of the Union to consider the bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes.[8]

---

[1] Second session Fifty-eighth Congress, Record, p. 1542.

[2] David J. Foster, of Vermont, Chairman.

[3] Second session Fifty-fourth Congress, Record, p. 1079.

[4] See section 3281 of this volume.

[5] John F. Lacey, of Iowa, Speaker pro tempore.

[6] This should be taken in connection with section 9 of Rule XVI, section 4 of Rule XXIII, and section 5 of Rule XXIV. See sections 3072, 4729, and 3134 of this volume.

[7] Third session Forty-sixth Congress, Record, p. 1357.

[8] This motion was made under what is now section 9 of Rule XVI (see sec. 3072 of this volume.), the Speaker (Mr. Randall) saying that it was in order under this rule to designate a particular bill.

The session of the committee having begun, Mr. John H. Reagan moved to take up the river and harbor bill, which preceded this bill on the Calendar.

On the point of order the Chairman [1] ruled:

The Chair was about to decide the point of order, and to suggest to the gentleman from Texas [Mr. Reagan] the only way, in the judgment of the Chair, in which the order of the House can be avoided.

It is undoubtedly true that the Committee of the Whole on the state of the Union bears the same relation to the House that every other committee does, and is bound just as much as any other committee is bound by any order or instruction which the House may give it. It is not in the power of the Chairman of the committee, or of the committee itself, to overrule an order which the House has made, no matter what the Chairman or the committee may think of the propriety of that order. Therefore, the House having resolved itself into Committee of the Whole on the state of the Union for the purpose of considering a particular bill, the Chairman of the committee can not lay before the committee for its consideration any other bill. If gentlemen are dissatisfied with that order of the House, a motion that the committee rise may be made and entertained; and, if agreed to, then, when in the House, the order may be made that the House may resolve itself into Committee of the Whole on the state of the Union generally, in which event the motion made by the gentleman from Texas in regard to the river and harbor appropriation bill would be in order; or it may resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the river and harbor appropriation bill or any other bill pending in the committee. The sense of the House may be taken in that way, and when its will has been expressed the committee must obey it; and this is all that the Chair decides on the point now made.

4735. In considering the bills before a Committee of the Whole the unfinished business is usually first in order.—On April 17, 1896,[2] the House was in Committee of the Whole House, and the committee had decided to take up bills in their order on the Calendar, as the rule directs.[3]

Thereupon the bill (H. R. 4510) for the reappointment of Frank M. Marshall as lieutenant on the retired list of the Army was presented as the unfinished business on which the committee was engaged when it last adjourned.

Mr. Claude A. Swanson, of Virginia, made the point of order that the committee had just determined the order in which it would take up bills, and that this bill was not therefore in order.

The Chairman [4] overruled the point of order, holding that this bill was unfinished business on the Calendar, and was first to be taken up in proceeding with bills in their order on the Calendar.[5]

4736. A bill unfinished at a session of the Committee of the Whole House on the state of the Union held under section 5 of Rule XXIV is again in order when the House goes into Committee of the Whole to consider it under that rule.—On January 29, 1900,[6] the bill (H. R. 3988) to reorganize and improve the United States Weather Bureau was under consideration in Committee of the Whole House on the state of the Union under section 5 of Rule

[1] John G. Carlisle, of Kentucky, Chairman.

[2] First session Fifty-fourth Congress, Record, p. 4101.

[3] See section 4729 of this volume.

[4] Sereno E. Payne, of New York, Chairman.

[5] Of course if the House had gone into Committee of the Whole under special order of the House to consider a particular bill, or under one of the privileged motions which provide for designating a particular bill for consideration, conditions would be presented entirely different from those on which this ruling is based.

[6] First session Fifty-sixth Congress, Record, p. 1286.

XXIV. The Committee of the Whole having risen, Messrs. Eugene F. Loud, of California, and James W. Wadsworth, of New York, as a parliamentary inquiry, asked when the bill would be in order again.

The Speaker[1] said:

When we are again in the Committee of the Whole in the morning hour. * * * The Chair think it will when the House is in Committee of the Whole and the House is pursuing the particular order that it has been this morning.

4737. The rules of proceeding in the House shall be observed in Committee of the Whole so far as they may be applicable.

Present form and history of section 8 of Rule XXIII.

Section 8 of Rule XXIII provides:

The rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable.

This is almost exactly the first clause of the old Rule 113, which dated from April 7, 1789.[2]

4738. When a bill is taken up in Committee of the Whole its reading in full may be demanded, although it has just been read in the House.—On February 8, 1897,[3] Mr. Joseph W. Babcock, of Wisconsin, called up the bill (H. R. 10133) to amend the act to increase the water supply of the city of Washington, and moved that the House resolve itself into Committee of the Whole House on the state of the Union for its consideration. The bill having been read in full the Speaker put the question and the House voted to go into Committee of the Whole.

It being suggested in Committee of the Whole that the reading of the bill be dispensed with, Mr. Alexander M. Dockery, of Missouri, objected.

The Chairman[4] then said:

The Clerk will read the bill unless its reading is dispensed with by the action of the committee.

4739. Appropriation and revenue bills are considered in Committee of the Whole by paragraphs, other bills by sections.

Points of order may be made to the whole or to a part only of a paragraph.

Construction of the law authorizing the employment of "watchmen, laborers, and other employees" in the Executive Departments.

On March 27, 1906,[5] the legislative appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when the Clerk read:

Office of assistant treasurer at Cincinnati: For assistant treasurer, $4,500; cashier, $2,250; assistant cashier, $1,800; bookkeeper, $1,800; receiving teller, $1,500; interest clerk, and five clerks, at $1,200 each; two clerks, at $1,000 each; clerk and stenographer, $720; clerk and watchman, $840; night watchman, $600; day watchman, $600; in all $23,810.

---

[1] David B. Henderson, of Iowa, Speaker.

[2] First session First Congress, Journal, p. 11.

[3] Second session Fifty-fourth Congress, Record, p. 1660.

[4] Albert J. Hopkins, of Illinois, Chairman.

[5] First session Fifty-ninth Congress, Record, pp. 4362–4366.

Mr. George W. Prince, of Illinois, made the point of order that the law specifying the employees was as follows:

There shall be appointed in the office of the assistant treasurer at Cincinnati one cashier at $2,000 a year, one clerk at $1,800, one clerk at $1,500, two clerks at $1,200 each, two clerks at $1,000 each, one messenger at $600, two watchmen, one at $720 and one at $240.

and that therefore a portion of the employees appropriated for were not authorized.

Mr. James A. Tawney, of Minnesota, urged that by the act of August 6, 1846, it was provided:

Be it enacted, etc., That the rooms prepared and provided in the new Treasury building at the seat of government for the use of the Treasurer of the United States, his assistants, and clerks, and occupied by them, and also the fireproof vaults and safes erected in said rooms for the keeping of the public moneys in the possession and under the immediate control of said Treasurer, and such other apartments as are provided in this act as places of deposit of the public money, are hereby constituted and declared to be the Treasury of the United States.

Therefore, as the Cincinnati office was declared to be the treasury, Mr. Tawney argued:

Now, if it is the Treasury of the United States, Mr. Chairman, we are certainly, under section 169 of the Revised Statutes, entitled to provide—that is, this House can provide—for as many clerks—that is, the clerks designated, or other employees—as the Department may deem necessary to carry on this branch of the public business.

Now, these subtreasuries, I repeat, being the Treasury of the United States, there would be no question, Mr. Chairman, of the right of this House to appropriate a lump sum for this service. We can appropriate a, lump sum for the carrying on of this service in every subtreasury in the United States, and it would be in order. Why? Because the Congress of the United States has authorized this service. The Congress of the United States has expressly authorized the service in each individual case, and thereby impliedly authorized the necessary appropriation for carrying on the service. If we can appropriate a lump sum for the purpose of carrying on this service, the Secretary of the Treasury, the head of the Department, would have authority to employ as many clerks as he deemed necessary for the performance of that service, and pay them such salaries as he in his judgment deemed necessary. There can be no question in regard to his authority to do this. Do you mean to tell me that an administrative officer of this Government can do that under a lump-sum appropriation which the Congress of the United States can not do? And yet to sustain the point of order made by the gentleman from Illinois would be equivalent to declaring that, although Congress may appropriate for this service in a lump sum, and the Secretary of the Treasury has the power to expend that appropriation by employing such clerks as the service, in his judgment, may demand, and pay them such salaries as he sees fit, yet the House of Representatives can not, under its rules, segregate the appropriation and designate the number of clerks and provide specifically for their salaries. The effect of such a ruling would be to say that the House of Representatives cannot exercise its constitutional function of appropriating specifically for a public service authorized by law which an administrative officer of the Government would have authority to provide for. Such a construction would be equivalent to saying that the House of Representatives, that must originate all appropriations, was not the power to provide specifically for a service that Congress has itself expressly authorized, which would be a reduction ad absurdum.

After further debate the Chairman[1] held:

As the Chair understands it, the gentleman from Illinois invokes against this paragraph the provision of the second clause of Rule XXI of this House that—

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto."

[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

In opposition to the point of order it is urged that section 169 of the Revised Statutes applied. That section reads as follows:

"Each head of a Department is authorized to employ in his Department such numbers of clerks of the several classes recognized by law and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees at such rates of compensation, respectively, as may be appropriated for by Congress from year to year."

It does not seem to the Chair that the fact stated that a year or two after the passage of that statute a general appropriation bill was passed appropriating a lump sum for one of the Departments would call for such a construction of section 169 as has been suggested, for section 169 itself distinctly says that the employees shall receive "such rates of compensation as may be appropriated for by Congress," not leaving it to the heads of Departments to determine. Now, it is suggested that this subtreasury at Cincinnati is, by reason of a provision in an act of 1846, which has been cited, a part of an Executive Department of the United States, namely, the Treasury Department, within the meaning of section 169.

The Chair does not find it necessary to pass upon that point at this time, for a reason which will be stated. The highest grade specifically mentioned in section 169 of the Revised Statutes is clerk of the fourth class, and the salary is fixed in the same statute. If the effect to be given to the term "other employees" were entirely an open question, the present occupant of the chair would be inclined to give much weight to the argument of the gentlemen from Minnesota were it not for the fact that this precise question is found to have been decided in the first session of the Fifty-seventh Congress and the term held to apply only to employees below the grade, at least not above the grade, of clerks as classified in the act of which section 169 forms part.

The Chair, while recognizing the susceptibility of that construction to argument on either side, feels bound by the ruling then made and acquiesced in.

The Chair does not find it necessary to decide at this time whether or not the subtreasury at Cincinnati is a department or to be treated as part of the Treasury Department within the meaning of section 169, for it appears that in section 3612 of the Revised Statutes the salary of the cashier is specifically fixed at $2,000 a year.

The paragraph complained of appropriates $2,250, an increase of $250 above the salary provided by law for that officer. Some other items have been specified as also in violation of the rule. It is not necessary to pass upon them. Ordinarily a bill is read in the House by sections, but the custom has arisen—growing largely out of convenience—of reading appropriation bills in Committee of the Whole by paragraphs. It is a very old custom, founded almost upon necessity, certainly upon strong reasons of convenience, as may be seen from the fact that the first section of this bill covers 161 pages and embraces hundreds of paragraphs. This consideration of the bill by paragraphs, if not directly authorized, is clearly recognized in clause 6 of Rule XXIII.

It has often been ruled that if a point of order be made against an amendment and part of it found out of order the whole amendment must be ruled out. In one or two instances it has been similarly ruled that if a paragraph in a pending bill be objected to and part of it found subject to the point, the whole paragraph falls, and, it seems to the present occupant of the chair, with good reason. If one item is clearly shown to be in violation of the rule, it can hardly be in the province of the Chair to go through and scrutinize the entire paragraph and see what items, if any, are entitled to stay in the bill. If there are such, it would be in order to put them in again by amendment, without the obnoxious matter. Of course, where a point of order is limited to a specific item in a paragraph that item only is affected by the ruling. But this point is aimed at the whole paragraph. Finding that it contains at least one item in violation of the rule, the Chair feels constrained, for the reasons stated, to sustain the point of order against the entire paragraph.

4740. On February 7, 1883,[1] during the consideration of the bill (H. R. 7313) to impose duties on foreign imports, etc., in Committee of the Whole House on the state of the Union under the five-minute rule, Mr. John A. Anderson, of Kansas, proposed a substitute amendment which was in fact a new schedule.

Mr. William D. Kelley, of Pennsylvania, made a point of order against the proposed amendment.

[1] Second session Forty-seventh Congress, Record, pp. 2227–2332.

After debate the Chairman [1] said:

The Chair will state in reference to this matter that in the Digest of the Rules and Practice in committee it is provided that general appropriation, tariff, and tax bills shall be considered by clauses. That has been the universal practice of the committee, and the Chair is informed that that was the old rule.

The Committee of the Whole are now considering lines 616 to 621, inclusive, as a paragraph. Now, any substitute for or any amendment to that paragraph would clearly be in order.

The gentleman from Kansas offers a proposition which is not in the nature of an amendment to the paragraph at all. It is not an amendment to nor a substitute for the paragraph, but is an independent proposition. The Chair can not be blind to the fact that the amendment in substance is a substitute for the entire schedule. And without passing on the fact whether such a substitute will be in order or not when this schedule is completed, the Chair is clearly of the opinion that it is not under the guise of an amendment in order at this time to be voted on. The committee has the right in the first instance to perfect the original text of the bill before any substitute is voted on. The Chair therefore sustains the point of order.[2]

4741. A Senate bill with a proposed committee amendment in the nature of a substitute being under consideration in Committee of the Whole, the bill was first read by sections for amendment, and then the substitute was perfected.—On June 6, 1902,[2] the Committee of the Whole House on the state of the Union was considering the bill (S. 3653) for the protection of the President of the United States, and for other purposes. This bill had been reported from the Committee on the Judiciary with the recommendation that it be amended by striking out all after the enacting clause and inserting a new text.

Mr. Edgar D. Crumpacker, of Indiana, having made a parliamentary inquiry as to the method of considering the bill, the Chairman [4] said:

The Chair will state, in the first instance, that the Senate bill must be read by sections for amendment; that, however, can be waived by unanimous consent. Then amendments will be competent to the sections of the Senate bill. When that is disposed of the substitute offered by the House will be read, which is one amendment, and that amendment will be pending, and amendments may be offered to the amendment that is pending.

Other inquiries being made, the Chairman said:

The amendment reported by the Committee on the Judiciary is one amendment—to strike out all after the enacting clause and insert a substitute for the entire bill. Now, the rule is that we must perfect the original bill before the substitute is voted upon. * * * The gentleman from Missouri himself offers an amendment to perfect the original bill, which he has the right to do, just as it would be entirely competent to move to strike out any one of these sections as read, or to add words or to strike out words, or to insert a new section. When the end of the bill is reached, then the amendment proposed by the committee will be in order.

4742. When, in considering a bill by paragraphs or sections, the Committee of the Whole has passed a particular paragraph or section it is not in order to return thereto.—On February 19, 1853,[5] the House was in Committee of the Whole on the state of the Union, considering the civil and diplomatic appropriation bill.

---

[1] Julius C. Burrows, of Michigan, Chairman.

[2] Later, on February 17, a motion was made to close debate on an entire section, comprising many paragraphs not yet read. This precipitated along debate on the subject, but the Speaker did not rule, as the bill was abandoned. (Second session Forty-seventh Congress, Record, pp. 2877–2884.)

[3] First session Fifty-seventh Congress, Record, pp. 6419, 6420.

[4] Charles H. Grosvenor, of Ohio, Chairman.

[5] Second session Thirty-second Congress, Globe, p. 730.

The committee had reached that section of the bill headed "Miscellaneous," when Mr. John S. Caskie, of Virginia, moved an amendment to provide an additional appropriation for the erection of a custom-house building at Richmond, Va.[1]

Mr. George S. Houston, of Alabama, made the point of order that the amendment was not in order.

Mr. Caskie contended that his amendment could not be declared out of order except on the ground that they had passed the part headed "Custom-houses." That, however, was a mere arbitrary division for convenience sake, made perhaps in printing the bill. But, he submitted, that division could not rule out an amendment clearly in order to the bill, particularly when they had reached the head of "Miscellaneous items."

The Chairman[2] stated that the effect of the amendment, if entertained, would be to recur to a clause[3] of the bill which had been passed. This would be violating a rule which prevented a recurrence to a section of the bill already passed. The Chair therefore decided the amendment to be out of order.

An appeal being taken, the Chair was sustained.

4743. On February 26, 1859,[4] the House was in Committee of the Whole House on the state of the Union, considering the naval appropriation bill.

When the bill had been gone through with for amendments, Mr. John U. Pettit, of Indiana, moved the following as an additional section:

> No money appropriated by this act shall be used or applied with respect to the fitting, sending out, or maintaining any hostile expedition against the Republic of Paraguay until the same shall be particularly directed by law.

The Chairman[5] said:

> The committee has gone through the bill by clauses. It would not now be in order to go back to amend the first clause, for the pay of persons in the Navy, or any other clause of the bill. The Chair is, therefore, of opinion that it is not in order to amend the entire provisions of the bill by an additional section at the end. * * * It would, perhaps, have been in order if it had been offered at the end of the section to which it is intended to apply; but the committee has passed all these sections, and the Chair thinks it is not now in order to amend them.

Mr. Galusha A. Grow, of Pennsylvania, in appealing from the decision of the Chair, made the point that the bill was but a single section, and therefore that the proviso was in order.

The Chairman said that appropriation bills were considered by clauses, as though they were different sections, and that when one was passed it was not in order to go back. * * * The Chair thought it not in order when a clause had been passed to go back and amend it, and that the object could not be attained by putting an amendment at the end of the bill to apply to the whole bill.

---

[1] For the rule relating to reading the bill for amendment under the five-minute rule, see section 5221 of Vol. V of this work.

[2] James L. Orr, of South Carolina, Chairman.

[3] The word "paragraph" is now generally used to describe the divisions on which consideration is based. Revenue and appropriation bills are considered by paragraphs, other bills by sections. See section 4739.

[4] Second session Thirty-fifth Congress, Globe, p. 1422.

[5] George W. Jones, of Tennessee, Chairman.

Mr. Israel Washburn, jr., of Maine, asked what rule there was to prevent the addition of a second section to the bill, upon a subject which was entirely germane to the bill.

The Chair replied that it made no difference about clauses or sections. The rule provided that no proposition to amend, different from the subject under consideration, should be in order. The clause immediately under consideration was one proposing to make an appropriation for the completion of sloops of war.

On the appeal the decision of the Chair was sustained, 67 yeas to 60 nays.

4744. In Committee of the Whole amendments are not in order until general debate has been closed.—On January 18, 1901,[1] a Friday, the bill (H. R. 1605) "for the relief of The William Cramp & Sons Ship and Engine Building Company, of Philadelphia, Pa.," was under consideration in Committee of the Whole House.

During general debate Mr. Charles H. Grosvenor moved an amendment.

The Chairman[2] said:

> That amendment is not in order until general debate is closed. * * * General debate must be closed by order of the House.

Thereupon, on motion of Mr. Grosvenor, the committee rose and the House limited general debate.

4745. In Committee of the Whole, no Member desiring to participate in general debate, the reading of the bill for amendment begins.—On January 20, 1901,[3] the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the agricultural appropriation bill. The bill having been read, no Member addressed the Chair for recognition to debate the bill.

The Chairman[4] said:

> Does any gentleman wish to address the committee?

No one arising, the Chairman directed the Clerk to read the bill by paragraphs for amendment. Thus general debate was closed.

4746. In considering a bill for amendment under the five-minute rule it is in order to return to a paragraph already passed only by unanimous consent.—On March 31, 1904,[5] the Committee of the Whole House on the state of the Union had completed the reading of the sundry civil appropriation bill for amendment under the five-minute rule, when Mr. William Sulzer, of New York, moved to strike out the last four lines on page 9.

The Chairman[6] said:

> The Chair would suggest to the gentleman from New York that the rule is perfectly clear that he must first ask unanimous consent to return to page 9.

---

[1] Second session Fifty-sixth Congress, Record, p. 1197.

[2] James A. Hemenway, of Indiana, Chairman.

[3] Second session Fifty-sixth Congress, Record, p. 1643.

[4] Sereno E. Payne, of New York, Chairman.

[5] Second session Fifty-eighth Congress, Record, p. 4072.

[6] Theodore E. Burton, of Ohio, Chairman.

4747. On February 26, 1904,[1] the naval appropriation bill was under consideration in Committee of the Whole House on the state of the Union; when Mr. Edward J. Livernash, of California, proposed as a new section an amendment relating to and limiting the provisions of a paragraph which had already been passed.

Mr. George E. Foss, of Illinois, made a point of order as to the amendment.

After debate the Chairman[2] held:

The Chair is of opinion that this amendment relates to, qualifies, and seeks to amend a part of the bill upon which the committee has already passed, and that to sustain this amendment as in order would practically open all the provisions of the bill to amendment. Therefore the Chair sustains the point of order that the amendment is not in order.

4748. The reading of a bill for amendment being concluded in Committee of the Whole, and a motion to rise being negatived, a motion to return to a particular portion of the bill was offered and admitted.

Instance wherein a decision of a Chairman of the Committee of the Whole was overruled.

On February 27, 1905,[3] the sundry civil appropriation bill was under consideration in Committee of the Whole House on the state of the Union, and the reading by paragraphs for amendment had been completed, when Mr. Theodore E. Burton, of Ohio, asked unanimous consent to return to page 3.

Mr. James A. Hemenway, of Indiana, moved that the committee rise, and insisted on the motion, thus displacing the request of Mr. Burton.

On a vote by tellers the motion to rise was disagreed to, ayes 51, nays 97.

Mr. Burton thereupon renewed his request to return to page 3, but there was objection.

Mr. Burton moved to recur to the portion of the bill already described.

Mr. Hemenway made the point of order that the motion to return to an item upon a bill after having been passed and read was not in order.

After debate the Chairman[4] said:

It is true that this matter was called to the attention of the Chair yesterday, and the Chair looked for a direct ruling upon this point and failed to find one where the precise point was raised. But during a service in the House of better than fifteen years of the present occupant of the Chair he does not recollect a single instance where a motion made to return to a paragraph after passing it was held in order.

Wherever that has been done, it has always been by unanimous consent; and although there is no special rule that so directly holds, that course should be followed. It does seem to the Chair that the orderly procedure is the ordinary procedure which dictates that there is but one course to follow, and that is when the reading of the bill has been begun that that must be continued to the end, and that that course can be deviated from only by unanimous consent of the committee. And the indicated ruling of the Chair seems very appropriate, because it does not end the matter; it is not final. Any gentleman thereafter has recourse in the House to bring up the matter which he desires disposed of when the bill is reported to the House itself.

Even if the previous question were demanded, a negative vote would afford an opportunity to consider the proposition. Therefore, holding that opinion, the Chair sustains the point of order made by the gentleman from Indiana.

---

[1] Second session Fifty-eighth Congress, Record, p. 2447.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] Third session Fifty-eighth Congress, Record, pp. 3576, 3577.

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

Mr. Burton having appealed from the decision of the Chair, on the question of sustaining the Chair there appeared on a vote by tellers, ayes 71, noes 89. So the decision was overruled by the committee.

4749. An amendment to insert in a bill a new section having been presented and debated before an opportunity was given to amend fully the section last read, the Chairman held that it was in order to recur to the latter section.—On January 17, 1899,[1] the naval personnel bill (H. R. 10403) was under consideration in Committee of the Whole House on the state of the Union, and was being read for amendment under the five-minute rule. Section 18 of the bill had been read, and one amendment had been made to it, when Mr. Amos J. Cummings, of New York, a member of the Naval Affairs Committee, was recognized and offered an amendment to insert after section 18 a new section.

This proposed new section having been presented and debate on it having begun, Mr. John J. Jenkins, of Wisconsin, asked the privilege of offering an amendment to section 18. Objection having been made, the Chairman[8] held:

The Chair was just about to state to the gentleman in charge of the bill that the amendment of the gentleman from New York relates to an entirely distinct section. The gentleman from Wisconsin was on his feet at the time the gentleman from New York offered his amendment, and the Chair recognized the gentleman from New York, because he is a member of the committee, and under the practice of the Committee of the Whole would be entitled to recognition before the gentleman from Wisconsin, who is not a member of the committee, as the Chair understands. Now, the amendment offered by the gentle man from New York relating to another section, the Chair will now recognize the gentleman from Wisconsin in his own right to offer an amendment that relates to section 18.

4750. During consideration of a bin by sections for amendment the Chair may direct a return to a section where, by error, no action has been had on a pending amendment.—On June 13, 1902,[3] the Committee of the Whole House on the state of the Union was considering the bill (S. 3057) for the reclamation of arid lands by irrigation, when the Clerk read an amendment proposed by the committee in the form of a new section, numbered 9.

Then, before a vote was taken on agreeing to this amendment, the Clerk read the next section.

Then the Chairman was proceeding to put the vote on the amendment, section 9.

Mr. George W. Ray, of New York, made the point of order that the section 9 amendment had been passed, and that it was in order to return to it only by unanimous consent.

The Chairman[4] said:

The Chair was under the impression that it was a regular section of the bill, and having been read, was adopted. The Chair is now informed that it was a committee amendment. The Chair does not think the gentleman from New York can take advantage of a wrong impression of the Chair as to the character of the provision. * * * This amendment is a committee amendment submitted by the committee, and the Chair thinks that it was his duty to put the amendment without attention being called to it. But under the impression that it was a part of the bill, and was agreed to when read, the Chairman directed the Clerk to read section 10. The question now is on agreeing to the committee

[1] Third session Fifty-fifth Congress, Record, p. 719.

[2] Albert J. Hopkins, of Illinois, Chairman.

[3] First session Fifty-seventh Congress, Record, p. 6767.

[4] James A. Tawney, of Minnesota, Chairman.

amendment. * * * The Chair holds that it having been passed by an error of the Chair, and under a misunderstanding or misapprehension, the committee can go back—can return to the amendment and vote upon it.

4751. In Committee of the Whole, under the five-minute rule, the right to explain or oppose an amendment has precedence over a motion to amend it.—On March 30, 1906,[1] the legislative appropriation bill was under consideration in Committee of the Whole House on the state of the Union, under the five-minute rule, and Mr. James L. Slayden, of Texas, had debated an amendment proposed by him to the paragraph providing for the Bureau of Standards.

Thereupon Mr. Choice B. Randell, of Texas, proposed an amendment to the amendment, and sought recognition for debate.

The Chairman[2] said:

The Chair would feel bound first to recognize somebody desiring to be heard against the amendment, after which it would be in order for the gentleman to make his amendment.

The amendment of Mr. Slayden having been disposed of, Mr. John W. Gaines, of Tennessee, offered another amendment to the same paragraph, and debated it five minutes.

At the expiration of the five minutes, Mr. Gaines proposed to amend his own amendment by striking out the last two words, and by reason thereof sought recognition for another five minutes.

The Chairman said:

The Chair will read for general information of all Members:

"When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment."

Now, if any gentleman desires the floor to be heard against the amendment the gentleman from Tennessee has offered, it is the duty of the Chair to recognize him before he can recognize any one to offer an amendment to the amendment.

4752. In Committee of the Whole a motion to amend a bill has precedence over a motion to rise and report it.

The reading of a bill for amendment in Committee of the Whole was provided by a former rule and is continued by usage.

On February 10, 1881,[3] the House was in Committee of the Whole House on the state of the Union, considering the river and harbor appropriation bill. Before the general debate had been closed Mr. John H. Reagan, of Texas, moved that the committee rise and report the bill to the House with the recommendation that it do pass.

Mr. Samuel S. Cox, of New York, made the point of order that the bill had not been considered by paragraphs.

Mr. Thomas Updegraff, of Iowa, also announced that he wished to propose an amendment.

---

[1] First session Fifty-ninth Congress, Record, pp. 4500–4504.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] Third session Forty-sixth Congress, Record, pp. 1434, 1435.

After debate, the Chairman[1] held:

There is no express rule, but the practice of this House which has existed for many years has been to allow amendments to be offered in Committee of the Whole. The old rule, Rule 107, as the gentleman will see by reference to the old edition of the rules, expressly provides that in Committee of the Whole the bill shall be read through by paragraphs or sections for debate and amendment. That clause of the rule is not contained in the new revision. But the revision contains in subdivision 5 of Rule XXIII[2] this clause:

"When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon."

Now, the Chair thinks it is very clear that after the House has by an order closed general debate it would not be in the power of the Chair to entertain a motion that the Committee rise and report a bill without giving every gentleman an opportunity to offer and discuss amendments. But the Chair was inclined to think that, inasmuch as in this instance the House had not yet closed general debate, and no amendment had been offered, and no gentleman had asked for the reading of the bill by clauses, he could have entertained the motion, and he would undoubtedly have entertained the motion on that view of the case if the gentleman from Iowa [Mr. Updegraff] had not announced that he rose in his place with an amendment in his hand and said that he desired to offer it. Now, the Chair does not see how this Committee can prevent Members from offering amendments. The Committee can vote them down.

Mr. Reagan having appealed, the Chairman, in stating the appeal, said:

The Chair will state distinctly what he decided. The Chair decided that in Committee of the Whole House on the state of the Union a motion to amend a bill has preference over a motion that the Committee rise and report the bill to the House. That is all the Chair has decided, and from that decision the gentleman from Texas [Mr. Reagan] has appealed.

The decision of the Chair was sustained, 152 yeas to 6 nays.

4753. On February 19, 1853,[3] the civil and diplomatic appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when the second and last section of the bill was considered and stricken out.

Thereupon Mr. Edward Stanly, of North Carolina, offered an amendment in the form of an additional section of the bill.

Mr. George W. Jones, of Tennessee, made the point of order that the bill had been considered and disposed of and that there was nothing left on which to attach an amendment. He therefore moved that the Committee rise and report the bill.

The Chairman[4] said:

The Chair decides that that motion can not be put so long as any gentleman desires to offer an amendment. * * * The gentleman from Tennessee submits that inasmuch as the Committee have passed the first section of the bill, and stricken out the second, there is nothing left to amend, and that therefore no amendment whatever is in order. The Chair decides that according to the uniform practice in the Committee, so far as he recollects, and according to his understanding of the rules, amendments are in order at the end of the bill.

An appeal being taken, the decision of the Chair was sustained.

4754. On January 18, 1901,[5] the bill (H. R. 1605) "for the relief of the William Cramp & Sons Ship and Engine Building Company of Philadelphia," was

[1] John G. Carlisle, of Kentucky, Chairman.

[2] See section 5221 of Vol. V of this work.

[3] Second session Thirty-second Congress, Globe, p. 738.

[4] James L. Orr, of South Carolina, Chairman.

[5] Second session Fifty-sixth Congress, Record, pp. 1200–1202.

under consideration in Committee of the Whole House, general debate having been limited to one minute by order of the House.

General debate being closed, Mr. Charles H. Grosvenor, of Ohio, moved that the Committee do now rise and report the bill back to the House with a favorable recommendation.

The Chairman [1] held that the bill would have to be read by sections for amendment.

The reading of the bill being concluded, Mr. Charles H. Grosvenor, of Ohio, immediately moved that the Committee rise and report the bill to the House with a favorable recommendation.

Mr. Edward Robb, of Missouri, a member of the committee reporting the bill, asked recognition to offer an amendment to the section just read, the last and only section of the bill.

Mr. Grosvenor insisting on his motion, the Chairman held that Mr. Robb's motion was entitled to precedence, and that Mr. Grosvenor's motion was not in order while the Committee of the Whole chose to amend. And later, the question arising again, the Chairman reaffirmed his position, saying that the reading of a bill for amendment, as provided by the rules, implied the right to amend, and that as long as amendments, not dilatory in character, were offered to perfect sections of a bill, they were necessarily in order under the rule.

4755. On March 11, 1898,[2] the House was in Committee of the Whole House, considering the bill (H. R. 4936) for the payment of certain Bowman Act claims. Before the reading of the bill for amendments had been concluded Air. Thaddeus M. Mahon, of Pennsylvania, moved that the Committee rise and report the bill to the House with the recommendation that it do pass.

Mr. George W. Steele, of Indiana, made the point of order that the bill had not been read the second time, and could not thus be taken out of Committee.

The Chairman [3] sustained the point of order.

4756. On February 26, 1904,[4] the naval appropriation bill was under consideration in Committee of the Whole House on the state of the Union, and the reading by paragraphs had been concluded.

Mr. George E. Foss, of Illinois, moved that the Committee rise and report the bill with a favorable recommendation.

Mr. John F. Rixey, of Virginia, proposed an amendment as an additional section.

The Chairman [5] ruled that the motion to amend had precedence of the motion to rise and report.

4757. On June 13, 1902,[6] the Committee of the Whole House on the state of the Union was considering the bill (S. 3057) for the reclamation of and lands by irrigation. The bill had been read through for amendment, and the pending question

[1] James A. Hemenway, of Indiana, Chairman.

[2] Second session Fifty-fifth Congress, Record, p. 2737.

[3] Sereno E. Payne, of New York, Chairman.

[4] Second session Fifty-eighth Congress, Record, p. 2440.

[5] Marlin E. Olmstead, of Pennsylvania, Chairman.

[6] First session Fifty-seventh Congress, Record, pp. 6777, 6778.

was on the adoption of an amendment in the nature of a substitute, when Mr. Frank W. Mondell, of Wyoming, moved that the Committee rise and report the bill.

The Chairman [1] said that the vote must first be taken on the substitute.

Mr. George W. Ray, of New York, having raised a question of order, the Chairman said:

> The Chair will state that the simple motion that the Committee rise would be in order; but the gentleman from Wyoming made a motion that the Committee rise and report the bill, with the sundry amendments, favorably to the House, and that is not in order pending a vote upon the substitute. The question is on the substitute offered by the gentleman from Indiana [Mr. Robinson.]

4758. On April 1, 1828,[2] the tariff bill having been considered, and all amendments having been acted on, the only question natural to come before the committee was whether or not they should rise and report the bill.

Mr. Peleg Sprague, of Maine, without making this motion, proceeded to debate the merits of the bill.

Mr. James Buchanan, of Pennsylvania, made a point of order as to whether it was permissible to debate the bill without any motion, or even upon the motion that the committee should rise and report.

A long discussion followed, after which Mr. Sprague was allowed to proceed on moving an amendment to strike out the increased duty on hemp, etc.[3]

4759. A bill may not be laid aside with a favorable recommendation in Committee of the Whole until the reading for amendment is completed.—On January 20, 1899,[4] the bill (H. R. 3754) for the relief of William Cramp & Sons was under consideration in Committee of the Whole House. After some time spent in general debate, but before the reading of the bill for amendments had begun, Mr. Charles N. Brumm, of Pennsylvania, moved that the bill be laid aside with a favorable recommendation.

Mr. Alexander M. Dockery, of Missouri, made the point of order that the motion was not in order at this time.

The Chairman [5] held:

> The motion that the bill be laid aside with a favorable recommendation is not in order at this stage. * * * If no one desires to take the floor for further debate, the bill will be read.

4760. On May 30, 1822,[6] a tariff bill being under consideration in Committee of the Whole House on the state of the Union, and the consideration for amendment not having begun, the Chairman held it to be in order to move to lay it aside to take up another bill.

But he held also that a motion to amend had precedence, so a Member moved to amend by striking out the first section, and the debate proceeded.

---

[1] James A. Tawney, of Minnesota, Chairman.

[2] First session Twentieth Congress, Debates, pp. 2053, 2054, 2055.

[3] On the next day, Mr. Sprague continuing the debate, the Chairman seems to have held that the whole subject was open to discussion on the motion that the committee rise and report the bill, but this is evidently an error, since subsequent proceedings show the debate to have been on Mr. Sprague's amendment.

[4] Third session Fifty-third Congress, Record, p. 867.

[5] Sereno E. Payne, of New York, Chairman.

[6] First session Twenty-second Congress, Debates, p. 3188.

At this time the general debate does not seem to have had a fixed time before the consideration for amendment.

4761. A motion that the Committee of the Whole report a bill with the recommendation that it be referred may not be made until it has been read for amendments.—On January 2, 1852,[1] a resolution of welcome to Louis Kossuth was under consideration in Committee of the Whole House on the state of the Union, and general debate had been limited by order of the House.

General debate having terminated and the offering and debate of amendments having begun, Mr. William A. Richardson, of Illinois, proposed a motion that the Committee rise and report the resolution with a recommendation that it be referred to the Committee on Foreign Affairs.

The Chairman[2] said:

All debate is terminated by the latter branch of the one hundred and thirty-sixth rule. This rule provides:

"That the House may at any time, by a vote of a majority of the Members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union; and also to provide for the discharge of the Committee of the Whole House, and the Committee of the Whole House on the state of the Union, from the further consideration of any bill referred to it, after acting without debate on all amendments pending, and that may be offered."

This rule provides that the House itself may discharge the Committee of the Whole upon the state of the Union from the consideration of any proposition committed to it without debate after voting on all amendments which have been offered or may be offered. The committee, by this vote and decision, have determined that the debate on this resolution should terminate. Then, in the opinion of the Chair it can not be reported to the House until all the amendments pending and which may be offered shall be voted on. The Chair overrules the motion of the gentleman from Illinois.

Mr. Richardson having appealed, the decision of the Chair was sustained, ayes 78, noes 44.[3]

4762. On January 14, 1901,[4] the bill (H. R. 13189) "making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" was under consideration in Committee of the Whole House on the state of the Union.

The reading by paragraphs for amendment had begun, when Mr. F. W. Cushman, of Washington, moved that the bill be reported back to the House with the recommendation that it be recommitted to the Committee on Rivers and Harbors.

Mr. John W. Maddox, of Georgia, made the point of order that the motion was not in order.

The Chairman[5] held:

In relation to this matter the Chair is of the opinion that the admission of the motion to report the bill with a recommendation of recommittal would be in violation of the spirit of the rules and precedents governing the consideration of bills in the Committee of the Whole. The Committee of the Whole is expected to complete consideration of a bill before it is reported to the House; and it is well understood that a motion to report a bill with a favorable recommendation is not in order until the consideration by sections or paragraphs for amendment has been completed.

---

[1] First session Thirty-second Congress, Globe, p. 194.

[2] George W. Jones, of Tennessee, Chairman.

[3] On February 25 (Globe, p. 635), Chairman Edson B. Olds, of Ohio, affirmed this decision.

[4] Second session Fifty-sixth Congress, Record, p. 996.

[5] Albert S. Hopkins, of Illinois, Chairman.

To admit the motion proposed by the gentleman from Washington would afford a means of taking a bill from the Committee of the Whole before it had been fully considered. By the motion to strike out the enacting clause the rules provide the only proper means for such an action, and the carefully guarded provisions of that rule satisfy the Chair that the framers of the rules intended it to be the only method whereby the Committee of the whole might escape the mandate of the House to consider a bill referred to it. The Chair is aware of the fact that in the Fifty-first Congress a motion like that made by the gentleman from Washington was admitted; but in that case there was a question as to the validity of the bill itself, whether it had been rightfully reported in the first instance from a standing committee. A question of privilege was raised; and the motion to recommend end recommittal was a part of that question. No such question is involved in the present case, and the Chair sustains the point of order.

4763. The motion to lay a bill aside in Committee of the Whole is not debatable.—On April 5, 1860,[1] in Committee of the Whole House on the state of the Union, Chairman Israel Washburn, Jr., of Maine, held that a motion to lay aside a bill was a motion relating to priority of business, and therefore not debatable.

4764. On March 28, 1902[2] while the Committee of the Whole House was considering the bill (H. R. 3379) to correct the military record of Calvin A. Rice, Mr. Frank W. Mondell, of Wyoming, moved that the bill be laid aside with a favorable recommendation.

Mr. Mondell was proceeding to debate the motion, when the Chairman[3] ruled further debate out of order, the motion to lay aside having been made.

4765. A bill which is under consideration in Committee of the Whole may not be laid aside, except to be reported to the House.

The Committee of the Whole having voted to consider a particular bill, and consideration having begun, a motion to reconsider or change that vote is not in order.

A motion that a bill be reported with a recommendation to postpone is in order in Committee of the Whole.

A motion to report a bill from the Committee of the Whole with a recommendation that it do pass has precedence of a motion recommending postponement.

On January 21, 1898,[4] the House was in Committee of the Whole House. The bill (S. 629) to confer jurisdiction on the Court of Claims in the case of the Book Agents of the Methodist Episcopal Church South against the United States was before the committee. Its consideration had began on the previous Friday, and it came up as unfinished business in the committee.

Mr. Samuel B. Cooper, of Texas, moved to lay aside the bill and to substitute therefor the House bill (No. 4829) relating to the same subject.

Mr. John Dalzell, of Pennsylvania, having made a point of order, the Chairman[5] ruled:

The Committee of the Whole may undoubtedly take up any bill, or change the order, but on Friday it voted to take up this particular bill and entered upon consideration of it. Now, the Committee of the Whole can not reconsider its order. A motion to reconsider is not in order. It can not

[1] First session Thirty-sixth Congress, Globe, p. 1563.

[2] First session Fifty-seventh Congress, Record, p. 3372.

[3] Adin B. Capron, of Rhode Island, Chairman.

[4] Second session Fifty-fifth Congress, Record, p. 843.

[5] Sereno E. Payne, of New York, Chairman.

change the order until the order is executed. The Chair thinks there is no power to do it, except by unanimous consent of the committee. The Chair must sustain the point of order.

Mr. James D. Richardson, of Tennessee, moved that the bill be reported to the House with the recommendation that it be postponed until Friday next.

Mr. Dalzell having made the point of order that the motion was not admissible, the Chairman ruled that the motion was in order.

Mr. Dalzell moved that the bill be laid aside, with the recommendation that it do pass.

Mr. John S. Williams, of Mississippi, made the point of order that there was a motion pending.

The Chairman ruled that the motion of the gentleman from Pennsylvania [Mr. Dalzell] was entitled to preference, for the reason that if adopted it would dispose of the bill finally, as far as the Committee of the Whole was concerned.

4766. In Committee of the Whole the motion to rise and report has precedence of a motion to take up another bill.

In Committee of the Whole the motion to rise and report is not debatable.

On July 5, 1838,[1] the House was in Committee of the Whole House on the state of the Union, and had completed the consideration of several bills.

Mr. Charles F. Mercer, of Virginia, had moved to take up a certain bill, when Mr. Churchill C. Cambreleng, of New York, moved that the committee rise and report the bills already acted on.

Mr. Mercer insisted that his own motion should be put, and that the motion to rise was debatable.

The Chairman[2] overruled him. Thereupon Mr. Mercer took an appeal, and after debate the decision of the Chair was sustained by the committee.

4767. A motion that the Committee of the Whole rise is not debatable.—On February 15, 1901,[3] Mr. Sereno E. Payne, of New York, moved that the Committee of the Whole House rise.

Mr. John S. Williams, of Mississippi, rising to a parliamentary inquiry, asked if that motion was debatable.

The Chairman[4] replied that it was not.

4768. On February 16, 1831,[5] the House was in Committee of the Whole House on the state of the Union considering the bill (H. R. 567) for the relief of certain surviving officers and soldiers of the Revolution.

A question of order being raised as to whether or not a motion that the committee rise was debatable, the Chairman[6] decided that it was not debatable.

4769. A motion that the Committee of the Whole rise is not in order while a Member has the floor in debate.—On February 15, 1901,[7] the bill

[1] Second session Twenty-fifth Congress, Journal, p. 1246; Globe, p. 497.

[2] Zadok Casey, of Illinois, Chairman.

[3] Second session Fifty-sixth Congress, Record, p. 2492.

[4] James A. Hemenway, of Indiana, Chairman.

[5] Second session Twenty-first Congress, Debates, p. 726.

[6] Robert P. Letcher, of Kentucky, Chairman.

[7] Second session Fifty-sixth Congress, Record, p. 2491.

(H. R. 4303) for the relief of the heirs of Aaron Van Camp and Virginius P. Chapin was under consideration in committee of the Whole House, and Mr. Joseph G. Cannon, of Illinois, held the floor in debate.

Mr. Joseph V. Graff, of Illinois, rising to a parliamentary inquiry, asked if it was proper at this time to make a motion that the committee rise.

The Chairman[1] replied that it would be in order if the gentleman having the floor should yield for that purpose.

4770. In Committee of the Whole the simple motion that the committee rise has precedence of the motion to amend.—On June 6, 1902,[2] the Committee of the Whole House on the state of the Union were considering the bill (S. 3653) for the protection of the President of the United States and for other purposes, when Mr. Malcolm R. Patterson, of Tennessee, sought recognition to propose an amendment.

Mr. George W. Ray, of New York, moved that the committee rise.

Mr. Patterson having claimed the right to offer his amendment, the Chairman[3] said:

> The gentleman from New York at the same time moved that the committee do now rise. That is a preferential motion, and if the gentleman will withhold his amendment he will be recognized in the morning.

4771. In Committee of the Whole a motion that the committee rise may not be made until a demand for tellers on the pending question has been disposed of.—On March 2, 1904,[4] the District of Columbia appropriation bill was under consideration in Committee of the Whole House on the state of the Union, and a rising vote had been taken and declared on an amendment.

Thereupon Mr. James T. McCleary, of Minnesota, moved that the committee rise.

The Chairman put the question.

Thereupon Mr. McCleary gave notice that he would demand tellers on the vote on the amendment.

Mr. James R. Mann, of Illinois, made the point of order that a demand for tellers might not be made after the motion to rise.

Thereupon Mr. Elmer J. Burkett, of Nebraska, demanded tellers.

Pending that Mr. McCleary insisted on his motion that the committee rise.

The Chairman[5] held that the motion to rise might not be made until the demand for tellers had been disposed of.

4772. On March 2, 1906,[6] the Committee of the Whole House on the state of the Union had considered various bills on the Private Calendar when a motion was made to lay aside, with a recommendation that it lie on the table, the bill (H. R. 850) for the relief of the estate of Samuel Lee. On a division there appeared ayes 61, noes 56.

---

[1] James A. Hemenway, of Indiana, Chairman.

[2] First session Fifty-seventh Congress, Record, p. 6426.

[3] Charles H. Grosvenor, of Ohio, Chairman.

[4] Second session Fifty-eighth Congress, Record, pp. 2709, 2710.

[5] George P. Lawrence, of Massachusetts, Chairman.

[6] First session Fifty-ninth Congress, Record, p. 3301.

Mr. James M. Miller, of Kansas, called for tellers, and, pending that call, proposed to move that the committee rise.

Mr. John S. Williams, of Mississippi, made a point of order.

The Chairman [1] held:

In the Committee of the Whole a motion that the committee rise may not be made until a demand for tellers on the pending question has been disposed of.

4773. Tellers having been ordered and appointed, it is not in order to move that the Committee of the Whole rise until the vote has been announced.—On May 26, 1890,[2] on a vote in Committee of the Whole House on the state of the Union, tellers were ordered and appointed.

Thereupon Mr. Louis E. Atkinson, of Pennsylvania, asked, as a parliamentary inquiry, if it would be in order to move that the committee rise.

The Chairman [3] said:

The demand for tellers has been made. The division has been ordered, and the Chair thinks that it would not be in order to move that the committee do now rise.

The tellers having reported, the motion that the committee rise was then entertained.

4774. Bills in Committee of the Whole may be reported with the recommendation that they be postponed or referred, and the latter recommendation has precedence over the recommendation that the bill do pass.

The motion in Committee of the Whole that a bill be laid aside with a favorable recommendation is not amendable, but may be displaced by a preferential motion.

In Committee of the Whole the motion that a bill be laid aside with a favorable recommendation is not debatable.

On April 23, 1906,[4] the House was considering the bill (H. R. 15961) "to quiet title to certain lots in the District of Columbia," in Committee of the Whole House on the state of the Union, when Mr. Joseph W. Babcock, of Wisconsin, moved to lay aside the bill with a favorable recommendation.

Thereupon Mr. John J. Fitzgerald, of New York, moved to amend his motion by striking out the language "with a favorable recommendation" and substituting this language: "with the recommendation that the Committee on the District of Columbia shall report a bill conferring jurisdiction upon the supreme court of the District of Columbia to hear and determine the questions of title involved in this matter."

The Chairman [5] said:

The gentleman from New York moves that the motion of the gentleman from Wisconsin that the bill be laid aside with a favorable recommendation be amended so that the bill be laid aside with the recommendation that it be referred back to the committee with instructions, and the Chair would

---

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

[2] First session Fifty-first Congress, Record, p. 5315.

[3] Julius C. Burrows, of Michigan, Chairman.

[4] First session Fifty-ninth Congress, Record, p. 5748.

[5] Charles E. Littlefield, of Maine, Chairman.

hold that that motion is out of order, but he would entertain a motion of the gentleman from New York, taking precedence of the motion of the gentleman from Wisconsin, to lay it aside with the recommendation that it be referred to the committee with instructions. Now the gentleman from New York moves that this bill be reported with the recommendation that it be referred to the Committee on the District of Columbia, with instructions.

Mr. Fitzgerald having made the motion suggested by the Chair, debate was proceeding when the Chairman said:

The Chair will state that debate upon the pending motion is, in the opinion of the Chair, proceeding by unanimous consent; that when action is taken upon the motion that the bill be laid aside with a favorable recommendation it is ordinarily after debate has been entirely exhausted upon the proposition, and the Chair is of opinion the motion of the gentleman from New York is in practically that parliamentary situation, and debate is now proceeding by unanimous consent.

After debate the motion proposed by Mr. Fitzgerald was disagreed to.

4775. In Committee of the Whole the motion to report a bill with the recommendation that it be referred takes precedence of the motion to report it with the recommendation that it do pass.—On January 22, 1896,[1] the House was considering in Committee of the Whole House on the state of the Union the joint resolution (S. R. 50) relating to plans for the public building at Chicago, Ill.

Mr. William Lorimer, of Illinois, moved that the committee rise and report the bill as amended back to the House, with the recommendation that it do pass.

Mr. Charles F. Crisp, of Georgia, moved that the committee rise and report the bill back with the recommendation that it be referred to the Committee on Public Buildings and Grounds.

Mr. Joseph G. Cannon, of Illinois, having raised a question as to the precedence of the motions, the Chairman[2] held that the latter motion had precedence.

4776. In Committee of the Whole the motion to report with a favorable recommendation has precedence of the motion to report with an unfavorable recommendation.

In Committee of the Whole a negative decision on a motion to report a bill with a favorable recommendation is not equivalent to a decision to report unfavorably.

On February 14, 1896,[3] in Committee of the Whole House, Mr. W. Jasper Talbert, of South Carolina, moved that the bill under consideration be laid aside with an unfavorable recommendation—i. e., that it do not pass, after the Chairman had put the question on the motion that the bill be laid aside with the recommendation that it do pass.

Mr. John A. Pickler, of South Dakota, having raised a question as to the precedence of the motions, the Chairman[2] held that the motion to lay aside the bill with a favorable recommendation had precedence.

On March 2, 1896,[4] in Committee of the Whole, the motion to report the pending bill favorably to the House was negatived.

---

[1] First session Fifty-fourth Congress, Record, p. 889.

[2] Sereno E. Payne, of New York, Chairman.

[3] First session Fifty-fourth Congress, Record, p. 1742.

[4] First session Fifty-fourth Congress, Record, p. 2341.

Thereupon the Chairman[1] entertained the motion that the bill be reported unfavorably.[2]

4777. In Committee of the Whole a motion to report a bill with the recommendation that it lie on the table has precedence of motions recommending postponement or recommittal.—On April 15, 1898,[3] the bill (H. R. 706) for the relief of the Erie Railroad Company was under consideration in Committee of the Whole House.

Mr. Charles N. Brumm, of Pennsylvania, made the motion that the bill be reported with the recommendation that it be postponed for two weeks.

Mr. Eugene F. Loud, of California, moved that the bill be laid aside with the recommendation that it do lie on the table.

Mr. Thomas McEwan, jr., of New Jersey, moved that it be laid aside with the recommendation that it be recommitted to the Committee on Claims.

The Chairman[4] ruled:

The gentleman from California moves that the committee report the bill to the House with the recommendation that it lie on the table. Now, that motion would take precedence of the motion made by the gentleman from New Jersey and the motion of the gentleman from Pennsylvania to postpone for a couple of weeks. The Chair thinks that the vote, in any event, would be first on the motion of the gentleman from California.

4778. Before general debate has been closed in Committee of the Whole it is not in order to move to report the bill with the recommendation that it be laid on the table.—On January 27, 1902,[5] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 2041) to aid in establishing homes in the States and Territories for teaching articulate speech, etc., to deaf children.

Before general debate had been closed Mr. Willard D. Vandiver, of Missouri, moved that the bill be reported to the House with the recommendation that it be laid on the table.

The Chairman[6] said:

General debate not being closed, it would not be in order except by consent.

4779. The motion to report a bill with a favorable recommendation being decided in the negative in Committee of the Whole, the bill remains in its place on the Calendar.—On March 30, 1900,[7] the Committee of the Whole House was considering the bill (H. R. 909) conferring on the Court of Claims jurisdiction with respect to certain claims, and the motion that the bill be reported with a favorable recommendation was decided in the negative.

---

[1] Nelson Dingley, of Maine, Chairman.

[2] The practice has been long established that the negative of the motion to report favorably is not equivalent to the affirmative of the motion to report adversely. (Second session Forty-sixth Congress, Journal, p. 421; Record, p. 745.)

[3] Second session Fifty-fifth Congress, Record, pp. 3923, 3924.

[4] Sereno E. Payne, of New York, Chairman.

[5] First session Fifty-seventh Congress, Record, p. 1038.

[6] Adin B. Capron, of Rhode Island, Chairman.

[7] First session Fifty-sixth Congress, Record, p. 3539.

Mr. Joseph G. Cannon, of Illinois, rising to a parliamentary inquiry, asked:

A majority of the Committee of the Whole having refused to report the bill back with a favorable recommendation, where does that leave the bill?

The Chairman [1] said:

It leaves the bill on the Calendar, in its place.

4780. On January 25, 1901,[2] the House was in Committee of the Whole House considering bills on the Private Calendar, and the pending question was on laying aside with a favorable recommendation the bill (H. R. 9271) to remove the charge of desertion against Charles Schaupp, etc.

This motion was determined in the negative, whereupon Mr. Charles L. Bartlett, of Georgia, rising to a parliamentary inquiry, asked as to the status of the bill.

The Chairman [3] said:

The Chair will rule that it goes to the Calendar unless some further action is taken by the committee.

4781. On March 2, 1906,[4] in Committee of the Whole House for the consideration of business on the Private Calendar several bills were considered and laid aside with favorable recommendation, and the bill (H. R. 850) making an appropriation to pay the estate of Samuel Lee on account of the latter's alleged election and service in Congress was considered, and a motion that it be laid aside with a favorable recommendation was disagreed to, ayes 57, noes 62.

Then Mr. James R. Mann, of Illinois, moved that the bill be reported with a recommendation that it do lie on the table.

This motion was disagreed to, ayes 63, noes 64.

Mr. James M. Miller, of Kansas, moved that the committee rise and report the bills to the House.

Mr. Mann, rising to a parliamentary inquiry, asked if the bill H. R. 850 would be included in this motion.

The Chairman said: [5]

The bill goes back on the Calendar, and will not be reported among the bills acted upon by the committee. The question is on the motion to rise and report the bills.

4782. As to the motions in order when a bill again comes up in Committee of the Whole after the committee has refused to report it either favorably or unfavorably.

Reading of a bill for amendments being concluded in Committee of the Whole motions ordering it to be reported are not debatable.

The reading of a bill for amendment in Committee of the Whole being concluded, a motion to strike out the enacting clause is not in order.

Bills in Committee of the Whole may be reported with the recommendation that they be postponed or referred, and the latter recommendation has precedence over the recommendation that the bill do pass.

---

[1] James A. Hemenway, of Indiana, Chairman.

[2] Second session Fifty-sixth Congress, Record, p. 1479.

[3] Adin B. Capron, of Rhode Island, Chairman.

[4] First session Fifty-ninth Congress, Record, p. 3302.

[5] Philip P. Campbell, of Kansas, chairman.

On May 18, 1906,[1] the bill (H. R. 850) making appropriation to pay the estate of Samuel Lee, deceased, in full for any claim for pay and allowances made by reason of election of said Lee to the Forty-seventh Congress and his services therein, came up in regular order for consideration in Committee of the Whole House.

On March 2[2] this bill had been debated and amended, and a motion to lay it aside with a favorable recommendation had been decided in the negative. Thereupon a motion had been made that the bill be laid aside with the recommendation that it do lie on the table. This also was decided in the negative; and the bill, by direction of the Chairman, went back to its place on the Calendar.

When the bill came up this day (May 18) Mr. Charles L. Bartlett, of Georgia, proposed a motion that it be reported to the House with the recommendation that it lie on the table.

The Chairman[3] held that the motion was not in order, and later explained his ruling as follows:

A few moments ago the gentleman from Georgia made a motion that this bill be reported with a recommendation that it lie on the table. The Chair, without being fully advised as to former proceedings, ruled that the motion was out of order, and has taken time to ascertain exactly what was done on the former occasion. The fact appears to be that the last thing which was done in Committee of the Whole, when the bill was before the Committee on the former occasion, was to vote down a motion that it be reported to the House with the recommendation that it do lie on the table. It seems, therefore, to the Chair that there having been, so far as this bill is concerned, no business intervening, the similar motion made by the gentleman from Georgia was correctly ruled not in order. The question is on laying the bill aside with a favorable recommendation.[4]

Mr. James M. Miller, of Kansas, was proceeding as if to debate the bill, when the Chairman said:

The Chair will state to the gentleman from Kansas [Mr. Miller] that the Chair is informed that when this bill was heretofore under consideration in the Committee of the Whole House general debate was closed, and is therefore not now in order.

Mr. Miller then moved that the bill be laid aside with a favorable recommendation.

Mr. Bartlett thereupon moved that the bill be laid aside with the recommendation that it be postponed indefinitely.

The Chairman entertained the motion as a preferential motion.

Mr. Bartlett's motion was disagreed to.

Mr. John S. Williams, of Mississippi, thereupon proposed a motion that the bill be reported with the recommendation that it be recommitted to the Committee on Claims.

The Chairman said:

The Chair is of the opinion that that motion has preference over the motion of the gentleman from Kansas [Mr. Miller]. The gentleman from Kansas moved that the bill be reported to the House with

[1] First session Fifty-ninth Congress, Record, pp. 7089–7091.

[2] Record, pp 3301, 3302.

[3] Marlin E. Olmsted, of Pennsylvania, Chairman.

[4] A query arises as to what would be the procedure had the last vote on March 2 been a negative vote on the motion to lay aside with a favorable recommendation. Would the motion be entertained over again, or would the Chair require some other motion—such as a motion to lay aside with an unfavorable recommendation—to intervene before again permitting the motion to lay aside with a favorable recommendation?

a favorable recommendation. The gentleman from Mississippi moves that it be reported with the recommendation that it be recommitted to the Committee on Claims. The Chair is of the opinion that the motion of the gentleman from Mississippi is the preferential motion, and that the question now is upon the motion of the gentleman from Mississippi, that the bill be reported to the House with the recommendation that it be recommitted to the Committee on Claims.

Mr. Williams's motion was disagreed to.

Then the question recurred on the motion of Mr. Miller, that the bill be laid aside with a favorable recommendation, when Mr. Williams proposed to move that the enacting clause of the bill be stricken out.

The Chairman said:

The Chair is of the opinion that the stage of amendment has passed, and that the motion of the gentleman is not in order. The Chair thinks nothing is in order except the motion of the gentleman from Kansas to lay the bill aside to be reported to the House with a favorable recommendation.

Thereupon Mr. Henry M. Goldfogle, of New York, proposed to debate the motion of Mr. Miller.

The Chairman held that the motion was not debatable.

Mr. Miller's motion was agreed to.

Thereupon, on motion of Mr. Miller, the Committee rose and reported.

4783. In an exceptional case, when an appeal was taken from a decision of a chairman in Committee of the Whole, the Committee rose and reported the question of order for the decision of the House.—On May 12, 1876,[1] the Post-Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when a point of order was made against an amendment submitted by Mr. Charles Foster, of Ohio. The Chairman[2] having decided the point of order, an appeal was taken. Thereupon the Chairman said:

An appeal from the decision of the Chair can not be taken in the Committee of the Whole. In practice this has frequently been done; but the leading authorities on parliamentary law do not recognize this practice as regular. The better way to settle the question is for the Committee to rise, in order to report the point of order to the House, and ask its instruction in reference to the matter in question.[3]

Thereupon the Committee of the Whole rose, the Speaker resumed the chair, and the Chairman reported, stating the point of order, his ruling thereon, the appeal, his further ruling that an appeal could not be taken in Committee of the Whole, and that the Committee had risen to obtain the direction of the House thereon.

The Speaker pro tempore[4] thereupon ruled that the point of order was well taken and that the amendment was properly ruled out.

Upon appeal this decision was sustained by the House.

4784. A bill being alleged to be improperly before the Committee of the Whole, a motion to report it with recommendations was held in order before it had been considered for amendment.

---

[1] First session Forty-fourth Congress, Journal, p. 945; Record, p. 3049.

[2] William M. Springer, of Illinois, Chairman.

[3] The practice of the House has for many years been almost invariably against this position. As early as 1850 appeals were without question decided in Committee of the Whole (see secs. 6927–4937 of Vol. V of this work), and such is the present practice.

[4] Samuel S. Cox, of New York, Speaker pro tempore.

A committee having reported a private bill grouping together a series of claims, each belonging to the jurisdiction of the committee, it was held that no point of order could be sustained when the bill came up in Committee of the Whole.

A bill having been reported from the Committee of the Whole with instructions which were ruled out of order as proposing a change of the rules, the bill was held thereby to stand recommitted to the Committee of the Whole.

On March 28, 1890,[1] the bill (H. R. 7616) "for the allowance of certain claims for stores and supplies taken and used by the United States Army, as reported by the Court of Claims under the provisions of the act of March 3, 1883, known as the Bowman Act," was taken up in Committee of the Whole House.

Points of order being raised and discussed, the consideration of the bill had not actually begun on a succeeding Friday, April 4, when Mr. Ormsby B. Thomas, of Wisconsin, offered this resolution:

Whereas House bill 7616 is alleged to be composed of a large number of items, many of which have not been referred to the Committee on War Claims by bill or otherwise, by the House of Representatives of the Fifty-first Congress: Therefore—

Resolved, That the Committee of the Whole House report said bill to the House with the recommendation that it be referred to the Committee on Rules to investigate the status of said bill in connection with the practice of the House, and as early as practicable to make such recommendations in the premises as they may deem proper for the consideration of the House, including any change of rules deemed by them necessary for just action on the part of the House as to this and similar bills.

Mr. John H. Rogers, of Arkansas, made the point of order that it was not in order to submit a motion to refer before consideration of the bill had begun, before general debate had begun, and before an opportunity to amend had been allowed.

After debate, the Chairman[2] said:

The point of order * * * is that the resolution * * * can not be entertained until this bill has been considered by the Committee of the Whole, paragraph by paragraph, and amendments offered if desired. * * * In other words, until the committee has entered into the merits of the question. The Chair holds that the resolution offered by the gentleman from Wisconsin is a privileged motion, and as such takes precedence of everything except a motion to rise. The Chair is not prepared to hold that he will not consider, or allow this Committee to consider, a privileged motion or resolution as soon as presented, and in support of his ruling what is there said under the head of "questions of privilege."

"Whenever the Speaker is of the opinion that a question of privilege is involved in a proposition he must entertain it in preference to any other business, such opinion, of course, being subject to an appeal; and when a proposition is submitted which relates to the privileges of the House it is his duty to entertain it, at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege."

Now, a point of order is addressed to the Chair, and it is for the Chair to consider and pass upon it; but a question of privilege is a very different and a far higher question, and the Chair, considering that this resolution is such, felt it his duty to entertain it, notwithstanding the fact that in so doing it interfered with the question of order raised by the gentleman from Iowa [Mr. Kerr]. For these reasons the Chair overrules the point of order made by the gentleman from Arkansas.

On April 18, 1890,[3] the resolution offered by Mr. Thomas was decided in the negative.

---

[1] First session Fifty-first Congress, Record, pp. 2749, 3021, 3023, 3032.

[2] Edward P. Allen, of Michigan, Chairman.

[3] Record, p. 3491.

Thereupon Mr. Daniel Kerr, of Iowa, made the point of order that the Committee on War Claims had no right to report many of the claims, the same not having been referred to the committee, and further that the committee had no right to report more than one claim in a single bill.

The Chairman held that this question could not be raised in Committee of the Whole.

Mr. Thomas, of Wisconsin, then presented a resolution [1] providing that the bill be reported back with the recommendation that it be recommitted to the Committee on War Claims with instructions.

Mr. Rogers made the point of order that this motion to recommend recommittal would not be in order until the consideration of the bill had been concluded in Committee of the Whole.

The Chairman overruled the point of order.

The resolution was agreed to, and was reported back to the House.

When reported, points of order were made against it that it proposed to change the rules of the House.

The Speaker [2] sustained the points of order, and the bill went back to the Committee of the Whole.

The point urged in Committee of the Whole by Mr. Rogers was not made in the House.

4785. The hour previously fixed for the adjournment of the House arriving while the Committee of the Whole is still in session, the chairman may direct the committee to rise and make his report as though the committee had risen on motion in the regular way.—On March 20, 1896,[3] at the close of a Friday evening session, the hour of 10.30 p.m. arrived while the Committee of the Whole House was still in session.

Thereupon the Chairman [4] announced:

> The hour fixed by the rule for adjournment being at hand, the committee will rise.

Thereupon, without motion, the committee rose, the Speaker pro tempore took the chair, and the Chairman reported as though the committee had risen regularly on motion.

The report being made, the Speaker pro tempore declared the House adjourned, also without motion or vote.

4786. A message being announced while the Committee of the Whole is in session, the committee rises informally and the Speaker takes the chair to receive it.—Section XII of Jefferson's Manual has this provision:

> If a message is announced during a committee, the Speaker takes the chair and receives it, because the committee can not.[5]

---

[1] Record, pp. 3491, 3504, 3505.

[2] Thomas B. Reed, of Maine, Speaker.

[3] First session Fifty-fourth Congress, Record, p. 3062.

[4] William P. Hepburn, of Iowa, Chairman.

[5] This is called the informal rising of the committee. The mace, which is taken down when the committee begins to sit, is put up again, and the House is in session. The message having been received, the Speaker announces that the committee will resume its session, and the Chairman of the Committee of the Whole at once resumes the chair. The mace is again taken down.

4787. At an informal rising of the Committee of the Whole a message from the President of the United States may be laid before the House only by unanimous consent.—On June 13, 1902,[1] the Committee of the Whole House on the state of the Union rose informally to receive messages from the President of the United States.

The messages having been communicated to the House, the Speaker[2] said:

If there is no objection, the Chair will lay the messages before the House.

Mr. Oscar W. Underwood, of Alabama, objected.

Thereupon the Speaker said:

Objection being made, the Committee of the Whole will resume its sitting.

4788. Sometimes on the informal rising of the Committee of the Whole, the House, by unanimous consent, transacts business, such as the presentation of enrolled bills, the swearing in of a Member, or consideration of a message.—On February 26, 1859,[3] the Committee of the Whole informally rose, and Mr. James Pike, of New Hampshire, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled certain bills.

Thereupon the Speaker[4] signed the same; and the committee then resumed its session.[5]

4789. On May 5, 1880,[6] the Committee of the Whole informally rose to receive a message from the Senate. The message having been read, Mr. Martin Maginnis, of Montana, asked the House to concur in a verbal amendment to one of the bills just received from the Senate.

The Speaker[7] said:

The rising of the committee is informal. That request can not now be entertained.

4790. On May 14, 1896,[8] the Committee of the Whole informally rose to receive a message from the Senate, one of the announcements of which was that the Senate had passed with amendments a bill (H. R. 7977) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, asked a conference with the House of Representatives on the bill and amendments, and had appointed Mr. Frye, Mr. Quay, and Mr. Vest as the conferees on the part of the Senate.

As soon as the reading of the message was concluded, Mr. Binger Hermann, of Oregon, asked unanimous consent that the Senate amendments to this bill be

---

[1] First session Fifty-seventh Congress, Record, p. 6746.

[2] David B. Henderson, of Iowa, Speaker.

[3] Second session Thirty-fifth Congress, Globe, p. 1417.

[4] James L. Orr, of South Carolina, Speaker.

[5] It is quite common for the committee to rise informally for this purpose. (See Record, first session Fifty-first Congress, p. 10350; first session Fifty-fifth Congress, p. 507; and first session Fifty-first Congress, p. 7774. In the latter case conferees also were appointed.)

[6] Second session Forty-sixth Congress, Record, p. 3028.

[7] Samuel J. Randall, of Pennsylvania, Speaker.

[8] First session Fifty-fourth Congress, Record, pp. 5249, 5270, 5532.

nonconcurred in and that the conference asked by the Senate be agreed to. There being no objection, it was so ordered.

Later in the day Mr. William P. Hepburn, of Iowa, made the point of order that this action was not proper and not in accordance with the rules, and proposed a motion to reconsider the action.

On May 21, the Speaker,[1] having had the point of order under consideration, said in connection with a subsequent consideration of the same bill:

> The Chair ought to state, in regard to the question brought up in connection with this matter a few days ago, that so far as the Chair has been able to find there is no objection, in point of parliamentary law, to asking unanimous consent that the action that was taken should be taken under the circumstances.[2] The Chair thought, also, that the question of reconsideration could not be raised, because at the time it was presented the order was partially executed.

4791. On March 31, 1897,[3] while the tariff bill was under consideration in Committee of the Whole House on the state of the Union, the committee rose informally and the Speaker[1] administered the oath to Mr. William H. King, Representative from Utah.

---

[1] Thomas B. Reed, of Maine, Speaker.

[2] See also Record, first session Fifty-first Congress, p. 8293; first session Fifty-fourth Congress, pp. 1985, 1986; second session Fifty-fourth Congress, pp. 942, 943, and second session Fifty-fifth Congress, June 27, 1898.

[3] First session Fifty-fifth Congress, Record, p. 547.