

Chapter LXXXIII.

THE JOURNAL AND ITS APPROVAL.

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2726. The Constitution requires the House to keep and publish a Journal, excepting from publication such parts as require secrecy.

Votes by yeas and nays and veto messages of the President are required by the Constitution to be spread on the Journal.

The Constitution of the United States, in section 5 of Article I, provides:

Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the Members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal.⁶

Also in section 7 of Article I:

Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States. If he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal and proceed to reconsider it.

¹Printed and distributed by the Clerk. Section 251 of Volume I. Office of journal clerk and its requirements. Section 2644 of Volume III.

²Preparation and reading is not prevented by death of Clerk. Section 237 of Volume I. Amendment of Congressional Record secondary to. Section 6989 of Volume V.

³Administration of oath to Member-elect before. Sections 171, 172 of Volume I.

⁴See also section 3091 of this volume.

⁵Clerk declines to entertain a protest at organization. Section 80 of Volume I. Summary of precedents as to entry of protests. Sections 2597, 2783 of this volume.

⁶Field v. Clark, 143 U. S., 649.

2727. The Journal and not the Congressional Record is the official record of the proceedings of the House.—On the legislative day of February 13, 1885,¹ but in reality on the calendar day of February 14, Mr. Henry G. Turner, of Georgia, as a question of order stated that upon the motion of Mr. Albert S. Willis, of Kentucky, to lay on the table the appeal of Mr. Thomas B. Reed, of Maine, from the decision of the Chair that the motion of Mr. Willis, made on the 12th instant, to limit debate on the pending section and all amendments thereto in the Committee of the Whole House on the state of the Union on the bill of the House, H.R. 8130 (river and harbor bill), it appeared by the record that the yeas were 97 and the nays 103, and that consequently the said appeal was not laid on the table, and moved the correction of the Journal accordingly.

The Speaker pro tempore² held the said question to be not one of order at this time and also that the official record of the proceedings of the House was its Journal, and that the publication in the Record was no evidence of the incorrectness of the Journal.

On motion of Mr. Turner, the Record was corrected to correspond with the roll call as it appeared in the Journal.

2728. The House in early days fixed the title of the Journal.—On January 8, 1790,³ the Journal having been read by the Clerk, Mr. Elias Boudinot, of New Jersey, moved to correct the title by striking out all the words after declaring it merely the Journal of the House of Representatives.

After debate, the following form of title was agreed to:

Journal of the House of Representatives of the United States.

At a session of the Congress of the United States, begun and held at the city of New York, on Monday, the 4th day of January, 1790, being the second session of the First Congress, held under the present Constitution of Government of the United States, being the day appointed by law for the meeting of the present session.

At the next session the form was somewhat modified.⁴

At the beginning of the Second Congress the form of title became—

Journal of the House of Representatives of the United States.

CONGRESS OF THE UNITED STATES.

Begun and held at the city of Philadelphia, in the State of Pennsylvania, on Monday, the 24th of October, 1791, being the first session of the Second Congress held under the Constitution of Government of the United States.⁵

On December 7, 1829, the title to the Journal appears for the first time with this added clause—

and in the fifty-fourth year of the independence of the said States.

Neither the Journal nor debates explain this addition.⁶

¹ Second session Forty-eighth Congress, Journal, p. 554.

² John H. Bagley, jr., of New York, Speaker pro tempore.

³ Second session First Congress, Annals, p. 1077; Journal, p. 133 (Gales & Seaton ed.).

⁴ Journal, p. 329 (Gales & Seaton ed.).

⁵ First session Second Congress, Journal, p. 433 (Gales & Seaton ed.).

⁶ First session Twenty-first Congress, Journal, p. 3; Debates, p. 470.

The clause disappears at the beginning of the Journal of the second session of the Twenty-first Congress, but appears at the beginning of the Journal for the first session of the Twenty-second Congress. The clause again disappears in the Journal of the first session of the Twenty-third Congress.

In the Journal for the first session of the Twenty-fourth Congress, in the introductory paragraph, the phrase “and in the sixtieth year of the Independence of said States” appears. This phrase does not appear in the introductory paragraph of the Journal of the second session of that Congress.

The present title of the Journal is:

Journal of the House of Representatives—Congress of the United States—Begun and held at the Capitol, in the city of Washington, in the District of Columbia, on Monday the fourth day of December, in the year of our Lord nineteen hundred and five, being the first session of the Fifty-ninth Congress, held under the Constitution of the United States, and in the one hundred and thirtieth year of the Independence of said States.¹

2729. The title of the Journal indicates whether or not the Congress was convened by law.—The title of the Journal, in cases where the Congress is convened by law, indicates that fact. Thus on March 4, 1867,² the Journal speaks of the session as “held in pursuance of the act of January 22, 1867,” and on March 4, 1869,³ as “held in pursuance of the Constitution and laws of the United States,” the Congress being convened in accordance with the law of January 22, 1867.

2730. The written Journal of the House has been preserved, either in the original draft or in a copy.

A discussion of the nature and functions of the Journal.

During the debate on Thomas H. Benton’s expunging resolutions in the Senate in 1836, application was made to the Clerk of the House for a statement as to the usages of the House in regard to its Journals. Clerk Walter S. Franklin transmitted statements to Mr. Isaac Hill, a Senator, who presented them to the Senate in debate on May 27, 1836.⁴

Clerk Franklin, in his communication, says that “the original rough manuscript Journal⁵ of the House of Representatives of the United States (those read on the mornings) have not been preserved to a period anterior to the commencement of the first session Eighteenth Congress (1823–24). The Clerk also adds the following letter, addressed to himself by Mr. S. Burch, evidently an employee of the Clerk’s office, and under date of April 6, 1836:

I entered this office a youth, under John Beckley, who was the first Clerk of the House of Representatives under the present Constitution of the United States, and who died in the year, 1807.

During the recess of Congress he put me at what was termed “recording the Journal” of the preceding session, which was to write it off from the printed copy into a large bound volume. I inquired of him why it was that it was copied when there were so many printed copies? He answered that the printed copies would probably in time disappear from use, etc.; the large manuscript volume would not.

The “rough Journal,” as it was then termed and is still termed, being the original rough draught read in the House on the morning after the day of which it narrates the proceedings was not and had

¹First session Fifty-ninth Congress, Journal, p. 3.

²First session Fortieth Congress, Journal, p. 3.

³First session Forty-first Congress, Journal, p. 3.

⁴First session Twenty-fourth Congress, Debates, p. 1594.

⁵In 1889 we find the House amending the manuscript Journal of a previous date, as well as the printed copy. So the manuscript Journal was conceived of as an existing record. (Second session Fiftieth Congress, Record, p. 191.)

not from the beginning been preserved. I inquired the reason, and was answered that the printed copy was the official copy, as it was printed under the official order of the House; and as errors, which were sometimes discovered in the rough Journal, were corrected in the proofs of the printed copy the printed copy was the most correct, and that therefore there was no use in lumbering the office with the "rough Journal" after it had been printed.

Two of Mr. Beckley's immediate successors in office, Mr. Magruder and Mr. Dougherty, viewed the matter as Mr. Beckley viewed it. I know the fact from having called their attention to the subject. I often reflected upon the subject; and it appeared to me to be proper that the "rough Journal" should be preserved, although I could not see any purpose whatever to be answered by doing so. I often conversed with the clerks of the office upon the subject; but, as we were only subordinates, the practice was not changed until the first session of the Eighteenth Congress (1823-24), when I determined, without consulting my superior, that the "rough Journal" should no longer be thrown away, but be preserved and bound in volumes, and it has been regularly preserved and bound since.¹

2731. It is the uniform practice of the House to approve its Journal for each legislative day.—On March 24, 1880,² in the course of proceedings relating to the approval of the Journal, the Speaker³ said:

The Chair desires to say that by the Constitution of the United States this House is required to keep a journal of its proceedings. In accordance with the rule adopted in 1789 (the practice under which has been unbroken) the House each morning approves the Journal of the proceedings of the prior day's session. The Chair puts the question in this form: "If there be no objection, the Journal of the prior day's proceedings will stand approved." That has been the practice under the old rule; and the new rule is in language on this point the same as the rule adopted in 1789. The first clause of Rule XXIV⁴ * * * states distinctly that the Journal shall be approved. The Chair thinks it is in accord with the uniform practice in all legislative bodies that the Journal shall be approved.

2732. The Journal may neither be read nor approved until a quorum has appeared.—On April 9, 1842,⁵ at 11 o'clock, the hour to which the House stood adjourned, the Speaker took the chair and directed the Journal of yesterday to be read. Mr. William Russell, of Ohio, objected to the reading of the Journal on the ground that a quorum had not appeared. The Speaker decided that it was in order to read the Journal in the absence of a quorum. From this decision Mr. Russell took an appeal to the House. On a motion to lay the appeal on the table, there were 96 ayes to 18 noes, a total of 114; not a quorum.

The Speaker⁶ here stated that his decision had been made hastily and without referring to the rules; that during the call of the yeas and nays he had looked into

¹For an interesting discussion of the nature and functions of the Journal required under the Constitution, with precedents in English parliamentary history, as well as in colonial and later times in America, see the debates over Mr. Benton's expunging resolutions in the Senate at this time, *Debates*, First session Twenty-fourth Congress, pp. 877-933, 1593-1598, 1884-1897. Mr. Benton's resolution to expunge from the Senate Journal the resolution censuring President Jackson was, agreed to January 16, 1837. (Second session Twenty-fourth Congress, *Debates*, p. 504.)

In the earlier history of the House the Journal was published at frequent intervals and placed on the seats of Members. (See *Globe* of December 12, 1848, second session Thirtieth Congress, p. 32.)

On February 7, 1872, the House discontinued the old custom of furnishing the Journal to Members in sheets. (Second session Forty-second Congress, *Globe*, p. 881; *Journal*, p. 286.)

The Journal at present is published at the end of each session.

²Second session Forty-sixth Congress, *Record*, p. 1837.

³Samuel J. Randall, of Pennsylvania, Speaker.

⁴See section 3056 of this volume. The rule rather assumes than directs that the Journal is to be approved.

⁵Second session Twenty-seventh Congress, *Journal*. p. 678; *Globe*, p. 405.

⁶John White, of Kentucky, Speaker.

the subject and found that his decision was erroneous, the first rule¹ providing that upon the appearance of a quorum he shall cause the Journal of the preceding day to be read; he therefore recalled his decision.² And thereupon Mr. Russell withdrew his appeal.

2733. If a question as to a quorum is raised before the reading of the Journal, a quorum should be ascertained to be present before the reading should begin.

Illustration of former method of ascertaining presence of a quorum.

On October 19, 1888,³ immediately after the reading of the Journal, Mr. John M. Farquhar, of New York, objected to its approval because there appeared to be no quorum present, and also called attention to the fact that on the preceding day the Journal had been approved, although he had then made the point that a quorum was not present.

The Speaker⁴ said:

The first rule of the House provides that the Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting, immediately call the Members to order, and, on the appearance of a quorum, cause the Journal of the proceedings of the last day's sitting to be read, having previously examined and approved the same. The Chair thinks that if the point is made before the Journal is read that there is no quorum present in the House, it is the duty of the Chair to cause the roll of the Members to be called for the purpose of ascertaining the fact; because there is only one case provided for by the rules in which the Chair itself may ascertain by a count whether or not a quorum is present, and that is where the previous question has been ordered upon a measure. The rule provides that in such a case there shall be no call of the roll ordered until the Speaker shall have ascertained by a count that there is no quorum actually present.⁶ The rule also provides that the Journal shall have been previously examined and approved by the Speaker,⁶ but the Chair thinks that is merely a preliminary examination and approval, and that the proceedings of the House and the question as to whether or not they are correctly or incorrectly recorded by the officers of the House must always be under the control of the body itself. If this were not the case, the reading of the Journal would be an entirely useless proceeding.

In this case the Chair does not understand that the gentleman from New York, Mr. Farquhar, made the point of order before the Journal was read, but he makes the point now that the approval of the Journal, when objected to, can not be made by the House in the absence of a quorum; and the Chair thinks that point well taken, because the approval of the Journal is the transaction of business; it is a proceeding which affects the regularity and validity of the proceedings of the previous day. But until a vote is taken and the fact that no quorum is present is disclosed, or until the roll is called and discloses that fact, the Chair, of course, can not say officially that there is not a quorum present in the House.

There may be no quorum actually on the floor at the present moment, and yet a quorum might appear upon a vote. The question therefore is, Will the House now approve the Journal of the proceedings of yesterday? and, in order to prevent any difficulty or misunderstanding hereafter, the Chair thinks the House ought also to approve or disapprove the Journal of the proceedings of the day before yesterday.

¹ Now Rule I, section 1 (see sec. 1310 of vol. II of this work).

² In 1889 Mr. Speaker Carlisle ruled that the Journal might not be read in the absence of a quorum. Second session Fiftieth Congress, Journal, p. 193; Record, p. 629.

³ First session Fiftieth Congress, Journal, p. 2945; Record, p. 9607.

⁴ John G. Carlisle, of Kentucky, Speaker.

⁵ This was the practice of the House formerly. In the earlier days the Speaker seems to have counted the House, and such is the present practice. (See Congressional Globe, first session Thirty-fifth Congress, pp. 2164, 2211.)

⁶ See section 1310 of vol. II of this work.

2734. The only Journal which may be read to the House is one that has been examined and corrected by the Speaker under the rule.

Discussion of the scope of the Speaker's power to correct the Journal before it is read.

On January 12, 1821,¹ the Journal of the preceding day was read by the Clerk, the first entry being in the words following:

Mr. Lowndes presented three memorials of the senate and house of representatives of Missouri, one praying, etc.

Mr. Thomas W. Cobb, of Georgia, called attention to the fact that by the terms of the memorial it purported to be from the senate and house of representatives of "the State of" Missouri. Therefore he moved to amend the Journal by inserting in the proper place the words "the State of."

It was urged that the usage was to record memorials in the Journal as what they purported to be, and if the principle was to be introduced that petitioners must prove that they were what they claimed to be there would be endless difficulties for the House. Mr. John Randolph urged that it was essential that the Journal should record the truth.

The question being taken on Mr. Cobb's motion, there were 76 yeas and 76 nays. The Speaker having voted with the nays, the motion was lost.

Mr. Severn E. Parker, of Virginia, then moved to amend by inserting the words "Territory of" before the word "Missouri."

In the course of the debate, Mr. Thomas Butler, of Louisiana, called attention to the fact that as originally written the Journal had used the word "State," but that subsequently the word had been erased, so that in some parts of the description of the contents of the memorial the sense of the sentences was even destroyed.

Thereupon the Speaker² said, from the chair, that it was the practice for the Journal to be written by the Clerk. The rules of the House made it the duty of the Speaker to "examine and correct the Journal before it is read." If, being so examined, and corrected by the Speaker, it should not, in the opinion of any Member, be correct, it was competent for any Member to move to amend it and for the House, should such be its pleasure, to direct it to be amended. In the present instance the presiding officer had thought proper so to correct the Journal that it should not be taken either to affirm or deny that Missouri was a State, that being a question on which the House was greatly divided in opinion.

The debate continuing, Mr. John Rhea, of Tennessee, urged that the Speaker had a power over the Journal analogous to that which a court had over the presentment of a jury—he might alter it in form but not in substance. Then Mr. Rhea called for the reading of the Journal as it was before the changes were made by the Speaker.

The Speaker held that it was not in order to read any journal as the Journal of the House but that one which had been corrected by its presiding officer.

¹Second session Sixteenth Congress, Journal, pp. 125–130, 133, 134 (Gales and Seaton ed.); Annals, pp. 841–856, 859–862.

²John W. Taylor, of New York, Speaker.

The Speaker having again affirmed this ruling, Mr. Cobb appealed.

The question of the appeal having been stated by the Chair, Mr. William Lowndes, of South Carolina, said that if it were determined that the Journal should be read as first written, the principle would apply to the whole detail of composing the Journal, and thence to the minutest particulars of it, which would show that the Journal, as presented to the House in form, was the only journal of which the House properly had cognizance. He therefore urged Mr. Cobb to withdraw his appeal, which Mr. Cobb at once did.

The motion of Mr. Parker was then disagreed to, yeas 4, nays 150. Mr. Henry R. Warfield, of Maryland, moved to reconsider the vote by which the House had disagreed to the first proposed amendment, and this motion to reconsider was disagreed to, yeas 71, nays 77.

On January 13, Mr. Robert R. Reid, of Georgia, submitted the following resolutions:

Resolved, That it is the duty of the Speaker, under the rules of the House, to examine and correct the Journals of the House.

Resolved, That the House possesses the right to inquire into, and decide upon, the propriety of any correction which may be made by the Speaker.

Resolved, That the erasures made by the Speaker in the Journal of the 11th of January are alterations and not corrections, inasmuch as the Journal, in its original form, corresponds with the fact intended to be described, viz, that a petition from the senate and house of representatives of the State of Missouri was presented by a Member from the State of South Carolina.

The House declined to consider the resolutions, yeas 47, nays 96.

2735. The Speaker's right to examine and correct the Journal after it is made up by the Clerk has always been affirmed.—It is a well-understood fact that it is a part of the duty of the Speaker to supervise the making up of the Journal, the duty being prescribed by the rule which provides that the Journal shall have been examined and corrected by the Speaker before it is read to the House.¹ On March 29, 1850,² the select committee appointed to examine the charge that Mr. Speaker Cobb had mutilated the Journal, found that changes had been made in it by his direction, before it was read to the House, but that this was not a mutilation, but a proper correction of it under the authority of the Speaker in the discharge of the duty imposed on him by the rule.

2736. On July 29, 1841,³ Mr. Hopkins L. Turney, of Tennessee, moved that the Journal of the preceding day be amended in certain particulars, so as to correspond to what he asserted to be the minutes as kept by the Clerk.

The Speaker,⁴ after some debate had taken place, stated to the House that he had made the correction in the Journal himself, under the rules of the House, which gave him the power, and that the Clerk's minutes were incorrect.

¹Section 1 of Rule I (see sec. 1310 of Vol. II of this work), which provides that the Speaker shall "cause the Journal of the proceedings of the last day's sitting to be read, having previously examined and approved the same."

²First session Thirty-first Congress, Journal, p. 739; Globe, p. 619.

³First session Twenty-seventh Congress, Journal, p. 257; Globe, p. 227.

⁴John White, of Kentucky, Speaker.

2737. On December 8, 1876,¹ Mr. Speaker Randall stated that the rule whereby the Speaker corrected the Journal before it was read had become practically a dead letter.

At the present time the Journal is submitted each morning to be examined by the Speaker or the Clerk at the Speaker's Table acting for the Speaker.

2738. The preliminary right of the Speaker to correct the Journal should be exercised before it is read to the House.—It seems evident, from an incident arising on September 21, 1893, that the preliminary examination of the Journal by the Speaker should be before the Journal has been read to the House. On that day the Speaker, Mr. Crisp, did not have the opportunity to make the preliminary examination, and when the Journal was read there appeared a statement as to a ruling of the Speaker which the Speaker declared to be inaccurate. Mr. Thomas B. Reed, of Maine, made the point that the Journal, having been read, might be corrected only by the House, and that the Speaker's preliminary right of correction had expired. The Speaker, while not ruling expressly, submitted the amendments which he considered necessary to the House, and they were agreed to unanimously.²

2739. The reading of the Journal must be in full whenever demanded by a Member.

There is no rule requiring the names of those not voting on a call of the yeas and nays to be entered on the Journal.

On August 27, 1890,³ during the reading of the Journal of the proceedings of the previous day, Mr. William E. Mason, of Illinois, made the point of order that the the Clerk was not reading the detailed statement of the several yea and nay votes.

The Speaker⁴ said:

The gentleman has a right to have the names read if he insists upon it.

The Clerk having proceeded with the reading, Mr. Mason made the point of order that the names of those not voting on the yea and nay votes were not being read.

The Speaker said:

The Chair desires to say with regard to this list that although the rules do not require it the names of those not voting have been made a part of the Journal by custom. They form a part of the Journal in the present instance, and must be read if the gentleman from Illinois insists upon it.

Mr. James D. Richardson, of Tennessee, made the further point of order that the Clerk was reading the names on the said yea and nay votes from the Congressional Record, instead of from the Journal.

The Speaker having stated that the Reading Clerk was, as a matter of convenience, reading the names from the Congressional Record, held that the Journal was correctly and properly made up and was being read in the usual way, and directed the Clerk to read from the original tally list, which was done.

¹ Second session Forty-fourth Congress, Record, p. 113.

² First session Fifty-third Congress, Record, pp. 1650, 1668.

³ First session Fifty-first Congress, Journal, p. 994; Record, p. 9230.

⁴ Thomas B. Reed, of Maine, Speaker.

Again, on September 10, 1890,¹ the Clerk proceeded to read the Journal of the proceedings of the previous day's sitting, during which Mr. James D. Richardson, of Tennessee, and Mr. Charles T. O'Ferrall, of Virginia, demanded the reading of the Journal in full, also including the names of the absentees.

The Speaker² pro tempore held that there was no rule or other requirement that the names of Members not voting should be entered on the Journal or read, and that the constitutional provisions that "the yeas and nays of the Members, etc., shall, at the desire of one-fifth of the Members present, be entered on the Journal," had been complied with, and that the Journal was being read in the usual way.

2740. On January 23, 1891,³ the Journal of the proceedings of the previous day's sitting, except so much thereof as referred to executive documents, reports of committees, and the introduction and reference of bills and petitions, having been read, and the question being on its approval,

The Speaker⁴ stated that without objection the same would stand approved as read; and there being no objection, it was so ordered.

Then,

Mr. Clifton R. Breckinridge, of Arkansas, demanded the reading in full of the said portion of the said Journal so omitted.

The Speaker thereupon directed the Clerk to read the omitted portion of the said Journal in full, and the same having been so read, and the question being on its approval as read, the same was approved.

2741. On the demand of any Member the reading of the Journal must be in full.—On February 26, 1903,⁵ Mr. James D. Richardson, of Tennessee, insisted that the Journal should be read in full, including the portion which records the presentation of reports and the introduction of bills and resolutions.

The Speaker⁶ said:

It is quite true that these addenda at the close of the Journal have not been read in practice, but the Chair thinks that they are such part of the Journal that they will have to be read if the reading is demanded.

2742. The Journal of the last day of a session that has adjourned without day is not read on the first day of the succeeding session.—On December 4, 1876,⁷ the first day of the session, Mr. Abram S. Hewitt, of New York, moved to suspend the rules and adopt a resolution to provide for an investigation of the recent Presidential election in Louisiana, Florida, and South Carolina.

Mr. George G. Hoskins, of New York, made the point of order that a motion to suspend the rules was not in order until after there had been a morning hour for the call of States and Territories for bills on leave and resolutions.⁸

¹First session Fifty-first Congress, Journal, p. 1028; Record, p. 9946.

²Julius C. Burrows, of Michigan, Speaker pro tempore.

³Second session Fifty-first Congress, Journal, p. 174; Record, p. 1785.

⁴Thomas B. Reed, of Maine, Speaker.

⁵Second session Fifty-seventh Congress, Record, p. 2709.

⁶David B. Henderson, of Iowa, Speaker.

⁷Second session Forty-fourth Congress, Journal, pp. 18–22; Record, pp. 13 and 14.

⁸Bills and resolutions are now introduced by filing them at the Clerk's desk. (See sections 3364–3366 of this volume.)

The Speaker overruled the point of order, on the ground that the morning hour was the hour immediately after the reading of the Journal, and there being no Journal to read there could be no morning hour.

Mr. John A. Kasson, of Iowa, appealed from this decision of the Chair, and made the further point of order that the regular order of business was the reading of the Journal of the preceding day's session.

The Speaker¹ overruled the said point of order, on the ground that the last session of Congress adjourned without day, and that therefore there could be no Journal to read this morning of the proceedings of the session of the previous day.²

From this decision of the Chair Mr. Kasson appealed. The appeal was laid on the table by a vote of 145 yeas to 73 nays.³

2743. It has been held that the Journal of the last day of a session may not be amended on the first day of the succeeding session, but this principle has not been followed uniformly.—On December 4, 1876,⁴ Mr. Speaker Randall stated that the Journal of the last day of the previous session could not be corrected on this the first day of the succeeding session.

2744. On December 12, 1888,⁵ the House corrected the original Journal of May 21, 1888, a legislative day of the preceding session. The motion was admitted as privileged, and is recorded in the Journal.

2745. On the last legislative day of a session the Journal is sometimes read and approved as far as completed, but the practice is very unusual.—On the calendar day of March 3, 1901,⁶ a Sunday, but the legislative day of Friday, March 1, the recess having expired, the House reassembled at 2 o'clock p. m., and was called to order by the Speaker.

The Clerk read the Journal from the last approval up to the last recess, which was approved.

2746. In a single instance, at the close of a session, the Journal was dated on the calendar rather than the legislative day in order to conform to the Senate records.—At the close of a session, on the legislative day of July 2, but the calendar day of July 4, Mr. Speaker Colfax said that, to avoid a discrepancy of dates between the business of the two Houses, he would order that the business be entered on the Journal as of July 4. There was no objection to this, and it was so ordered. On Saturday, July 2, the House had not adjourned, but taken a recess. This had prolonged the legislative day of July 2 through Monday, the 4th. The Senate having adjourned on Saturday had thereby made the legislative day of July 4.⁷

¹ Samuel J. Randall, of Pennsylvania, Speaker.

² In a rare instance the Journal of the last day of a session was read and approved as far as completed on that day. Second session Fifty-sixth Congress.

³ It is also not the custom to read the last day's Journal on that day, so that Journal is in fact never read or approved.

⁴ Second session Forty-fourth Congress, Record, p. 16.

⁵ Second session Fiftieth Congress, Journal, p. 72; Record, p. 191.

⁶ Second session Fifty-sixth Congress, Record, p. 3564.

⁷ First session Thirty-eighth Congress, Journal, p. 1028; Globe, p. 3535. This is exceptional, however, as usually the House Journal is dated as of the legislative day. In 1901 the legislative day of March 1 continued until the expiration of the Congress at noon of the calendar day of March 4, and the entire Journal for the legislative day is dated "March 1." (Second session Fifty-seventh Congress, Journal, p. 333.) Usually, however, the final Journal bears date of March 2 or 3 at the end of a Congress.

2747. The reading of the Journal is dispensed with only by unanimous consent or a suspension of the rules.—On March 1, 1877,¹ near the close of the session and Congress, the reading of the Journal of the previous day's proceedings had been commenced, omitting, as usual, the resolutions and reports in full, when Mr. William M. Springer, of Illinois, made the point of order that business could not be proceeded with until the Journal had been read in fun and approved.

The Speaker² overruled the point of order, on the ground that it could not be made until after the reading of the Journal had been concluded, when it would be subject to correction, and also on the ground that the reading of the Journal could be dispensed with by unanimous consent or by a suspension of the rules.

After the reading of the Journal, as far as prepared, had been concluded, the motion was made and carried to suspend the rule requiring the reading of the Journal, and the further reading was dispensed with.

2748. On January 30, 1872,³ Mr. Speaker Blaine declared that the reading of the Journal could be dispensed with only by unanimous consent.

2749. In the reading of the Journal, by general consent, certain parts, such as the names of those voting in the affirmative and negative on the questions taken by the yeas and nays, are omitted. But on important occasions the reading of the Journal throughout is sometimes insisted on. Such an instance occurred on March 22, 1842,⁴ the Journal stating, "The Journal of yesterday having been read throughout."

2750. On March 25, 1880,⁵ Mr. Speaker Randall said: "The Chair has always objected to the dispensing with the reading of the Journal when proposed. It is the right of any Member on the floor to object to dispensing with the reading of the Journal, and when no Member asserts that right the Chair usually interposes his own objection."

2761. The transaction of business is not in order before the reading of the Journal, even for the purpose of amending the title of a bill which has passed on the preceding day.—On February 2, 1894,⁶ Mr. Elijah A. Morse, of Massachusetts, arose immediately after the prayer by the Chaplain and before the reading of the Journal and submitted the question of order whether it was in order for him to now move to amend the title of the bill (H. R. 4864) to reduce taxation, to provide revenue for the Government, and for other purposes, passed by the House on the preceding day.

The Speaker⁷ I held that it was not now in order to move an amendment to the title of the bill.⁸

¹Second session Forty-fourth Congress, Journal, p. 588; Record, p. 2030.

²Samuel J. Randall, of Pennsylvania, Speaker.

³Second session Forty-second Congress, Globe, p. 707.

⁴Second session Twenty-seventh Congress, Journal, p. 581; Globe, p. 348. During the Fifty-first Congress, in the state of feeling which resulted from Mr. Speaker Reed's steps to put down obstruction, it was a frequent occurrence for a Member to insist that the Journal be read in full.

⁵Second session Forty-sixth Congress, Record, p. 1878.

⁶Second session Fifty-third Congress, Journal, p. 132; Record, pp. 1806, 1807.

⁷Charles F. Crisp, of Georgia, Speaker.

⁸Unless a separate vote is demanded on the title, it is always assumed to be agreed to with the passage of the bill.

2752. Ordinarily no business may be transacted before the reading and approval of the Journal, although for a brief period another rule prevailed as to certain highly privileged matters.—On July 22, 1856,¹ before the Journal was read, no quorum being present, Mr. John Letcher, of Virginia, moved that there be a call of the House.

Mr. David Ritchie, of Pennsylvania, made the point of order that, inasmuch as the previous question had been seconded and the main question ordered upon the pending question when the House adjourned yesterday, a motion for a call of the House was not now in order.

The Speaker² stated that the question now before the House was upon the reading of the Journal (the rule prohibiting its reading until the appearance of a quorum), and until the Journal was read the question upon which the previous question was seconded could not come before the House. He therefore overruled the point of order.

In this decision of the Chair the House acquiesced.³

2753. On January 11, 1889,⁴ before the Journal had been read Mr. J. B. Weaver, of Iowa, moved that the House take a recess until half-past 1 o'clock.

Mr. Samuel J. Randall, of Pennsylvania, made the point of order that such a motion was in the nature of business, and therefore not in order.

The Speaker⁵ ruled:

The point of order is well taken, as the Journal has not yet been read. The Chair decided a few days ago that it was competent for any gentleman upon the floor, before the reading of the Journal, to make a simple motion that the House adjourn, because the House might not desire to continue in session; but the House can transact no business until the Journal has been read, and the Chair thinks the only proceedings in order are the simple motion to adjourn and then the reading of the Journal.

Mr. Weaver stated that on a preceding day, the 9th of January, the Chair had ruled that a motion to fix the day to which the House should adjourn was in order before the reading of the Journal; and Mr. Springer quoted section 5 of Rule XVI:

A motion to fix the day to which the House shall adjourn, a motion to adjourn, and to take a recess shall always be in order.

The Speaker said:

The Chair is well aware of that rule. But the House, in the judgment of the Chair, can transact no business until its Journal has been read. It has been held again and again that an order of the House fixing the day to which the House shall adjourn, or to take a recess, is the transaction of business and requires the presence of a quorum. Moreover, the Chair desires to say that even if he had decided on the 9th of January that this motion was in order he is now satisfied that it is not in order, and would have no hesitation whatever in reversing his own ruling on the subject.

¹ First session Thirty-fourth Congress, Journal, p. 1253; Globe, p. 1710.

² Nathaniel P. Banks, of Massachusetts, Speaker.

³ Of course a case where the Speaker should be absent a Speaker pro tempore would be elected before the reading of the Journal.

⁴ Second session Fiftieth Congress, Record, pp. 676, 677.

⁵ John G. Carlisle, of Kentucky, Speaker.

2754. On Monday, March 7, 1892,¹ immediately after the prayer by the Chaplain, Mr. T.C. Catchings, of Mississippi, called up a resolution reported from the Committee on Rules on the preceding Monday, and providing a special order for the consideration of the bill (H.R. 4426) for the free coinage of gold and silver, etc.

Mr. Charles Tracey, of New York, made the point of order against the consideration of said resolution, that no business was in order until after the reading and approval of the Journal of the proceedings of Saturday last.

After debate the Speaker² overruled the point of order on the ground that under clause 51 of Rule XI³ "it shall always be in order to call up for consideration a report from the Committee on Rules," and that like a motion to adjourn, which "is always in order," such report may be called up before as well as after the reading of the Journal.

Mr. Tracey appealed from the decision of the Chair. This appeal was laid upon the table by a vote of yeas 195, nays 73.

2755. On February 20, 1893,⁴ the Speaker called the House to order.

Mr. William A. Stone, of Pennsylvania, made the point that no quorum was present. A quorum having appeared, Mr. John Dalzell, of Pennsylvania, moved that the House take a recess until 1 o'clock.

Mr. James D. Richardson, of Tennessee, made the point of order that the motion to take a recess was not in order until after the approval of the Journal.

The Speaker² overruled the point of order.

2756. On April 4, 1894,⁵ the Journal having been read, but a quorum not having voted on the question of its approval, a motion that the House adjourn was defeated by a vote of 185 nays to 0 yeas, a quorum voting.

Then Mr. Benjamin H. Bunn, of North Carolina, demanded that the House resume consideration of the contested election case of English *v.* Hilborn, and made the point that under the special order of the 28th ultimo, under which the House was proceeding, the consideration of said case took precedence over motions touching the approval of the Journal.

The Speaker⁶ sustained the point of order, and held that under the terms of the special order, which continued from day to day, no motion could intervene to prevent the consideration of the election case, and that while the question of the approval of the Journal must be disposed of, the vote first to be taken must be on the questions arising in said election case.

Mr. John F. Lacey, of Iowa, stated that he appealed from the decision of the Chair.

The Speaker declined to entertain the appeal.

¹ First session Fifty-second Congress, Journal, p. 91; Record, p. 1825.

² Charles F. Crisp, of Georgia, Speaker.

³ This clause of Rule XI was at this time a new provision. (See sec. 4621 of this volume.)

⁴ Second session Fifty-second Congress, Journal, p. 98; Record, p. 1863.

⁵ Second session Fifty-third Congress, Journal, pp. 308, 309.

⁶ Charles F. Crisp, of Georgia, Speaker.

2757. Before the reading of the Journal a simple motion to adjourn is in order. but a motion to fix the day to which the House shall adjourn, being the transaction of business, is not in order.—On January 9, 1889,¹ there having been a call of the House to ascertain the presence of a quorum before the reading of the Journal, and the presence of the quorum having been announced by the Speaker, Mr. J.B. Weaver, of Iowa, moved that when the House adjourn it be to meet on Friday next.

Mr. Samuel J. Randall, of Pennsylvania, made the point of order that, the roll call having disclosed the presence of a quorum, it was the duty of the Chair to cause the Journal to be read, and that until it was read the motion was not in order.

The Speaker² overruled the point of order and held that a motion to adjourn and a motion to determine the time to which the House will adjourn³ are in order before the Journal is read.⁴

2758. A motion to suspend the rules and approve the Journal was held in order although the Journal had not been read and the then highly privileged motion to fix the day to which the House should adjourn was pending.—On Monday, February 6, 1893,⁵ after prayer by the Chaplain and before the Journal was read, Mr. C.B. Kilgore, of Texas, moved that when the House adjourn it be to meet on Wednesday next.

Pending the motion, Mr. Benton McMillin, of Tennessee, moved that the rules be suspended and the Journal of Saturday's proceedings be approved.

Mr. Kilgore made the point of order that inasmuch as he (Mr. Kilgore), after making his motion, had not taken his seat, but was on his feet intending to move that the House take a recess, and inasmuch as the Journal had not been read, it was not in order for the Speaker to entertain the motion of Mr. McMillin and that the motion was not then in order.

After debate, the Speaker⁶ overruled the point of order, holding as follows:

As early as the Thirty-third Congress it was held that "A Member may submit more than one motion in connection with a pending proposition if the latter motion is of higher dignity than the former." Now, the latter motion submitted by the gentleman from Texas [Mr. Kilgore] is of not so high dignity as the first motion submitted by him, so that under the rulings heretofore made the latter motion was not in order. The point is made that before the reading of the Journal the motion of the gentleman from Texas is not in order. The Chair is inclined to think that that point comes too late. It has not been considered by the Chair because it was not made until after the Chair had recognized the gentleman from Tennessee [Mr. McMillin] and thus passed from, or recognized as pending, the motion of the gentleman from Texas that when the House adjourn it adjourn to meet on Wednesday next. So that, pending the motion of the gentleman from Texas, the gentleman from Tennessee made a motion to suspend the rules and approve the Journal. Now, the only question that troubles the Chair in this matter is the suggestion that, pending one motion, it is not in order to recognize the gentleman to make another motion which gentlemen claim is not privileged.

¹Second session Fiftieth Congress, Journal, pp. 193, 194; Record, p. 630.

²John G. Carlisle, of Kentucky, Speaker.

³This motion is no longer privileged.

⁴On a subsequent day, January 11, 1889, Speaker Carlisle qualified this ruling, saying that it was intended to go only to the extent of holding the simple motion to adjourn in order. He said the motion to fix the day was the transaction of business, and was not in order before the reading of the Journal. (Second session Fiftieth Congress, Record, p. 677.)

⁵Second session Fifty-second Congress, Journal, pp. 75, 76; Record, p. 1255.

⁶Charles F. Crisp, of Georgia, Speaker.

In the first place, the Chair thinks that on the first and third Mondays of the month the motion to suspend the rules, when a Member is recognized to make it, is a motion of the very highest privilege; expressly made so by the rule, made so for the purpose of enabling the House to transact such business as it chooses to transact under a two-thirds rule not in accordance with the general rules of the House. This view was very clearly expressed by the gentleman from Maine [Mr. Reed] when Speaker of the House. The Speaker then held that "A motion to suspend the rules waives and suspends all requirements and provisions of the rules and brings the House to an immediate vote on such motion." So, as the Chair has already remarked, the only question that troubles him is whether he had a right to recognize the gentleman from Tennessee [Mr. McMillin] to move to suspend the rules pending a motion recognized by the rules. The Chair inclines to the opinion that he may properly recognize the motion of the gentleman from Tennessee; not to deprive the gentleman from Texas [Mr. Kilgore] of the right to a vote on his proposition, not to take it away from him, but that the Chair might, pending that proposition, recognize another gentleman to move to suspend the rules and approve the Journal.

The suggestion has been made by the gentleman from Maine [Mr. Reed] that the Journal has not been read. Neither is a bill read at the time when the gentleman from Maine, or any other gentleman, rises and moves to suspend the rules and pass that bill. The motion is first made and then the bill is read, whereupon the Chair submits the question whether the motion is seconded. So there can be nothing in the point that the Journal has not been read, because a part of the motion to suspend the rules and approve the Journal requires the reading of the Journal, just as a part of the motion to suspend the rules and pass a bill requires the reading of the bill.

Inasmuch as it seems to the Chair that the provision for suspending the rules on the first and third Mondays of each month is, by its express terms, designed and intended to permit two-thirds of the House to transact business outside of and beyond the regular rules, and inasmuch as the rules themselves expressly provide that only one motion shall be made respecting it, which indicates the object of the rule to be to put it in the power of two-thirds of the House, on two certain days in each month, to transact business free from what are commonly known as dilatory motions, the Chair holds, in the interest of the purpose and scope of the rule, that, pending the motion of the gentleman from Texas, the motion of the gentleman from Tennessee is in order.

Mr. Kilgore appealed from the decision of the Chair. The appeal was laid on the table.

Pending the question on the motion of Mr. McMillin, Mr. Kilgore moved that the House adjourn; which motion was disagreed to.

The question was then put on the motion of Mr. Kilgore, that when the House adjourn today it be to meet on Wednesday next; which motion was disagreed to.¹

The Journal was then read; and the question being put, "Will the House suspend the rules and approve the Journal?" it was decided in the affirmative, yeas 204, nays 0, not voting 125.

2759. The reading of the Journal, being interrupted by disorder, was resumed as soon as the House had taken action to restore order.—On June 11, 1836,² while the Clerk was reading the Journal of the last day's session of the House, an assault was committed within the Hall, and in the presence of the House, by a person admitted to a place on the floor as a reporter or stenographer to take down the debates, upon the person of another reporter or stenographer, also admitted to a place on the floor for the same purpose.

Whereupon Mr. Lewis Williams, of North Carolina, submitted a motion that both persons be taken into custody. This motion having been agreed to, and the Sergeant-at-Arms having executed the order, the reading of the Journal was resumed.

¹The motion to fix the day to which the House shall adjourn was at that time highly privileged. (See sec. 5301 of Vol. V of this work.)

²First session Twenty-fourth Congress, Journal, p. 983.

2760. A motion to amend the Journal takes precedence of a motion to approve it.—On May 30, 1882,¹ Mr. Speaker Keifer held that a motion to amend the Journal took precedence of a motion to approve it.

2761. The House amends the Journal where a vote is recorded erroneously, even though the result be changed thereby.—On September 28, 1837,² the Journal of the preceding day having been read, Mr. Joseph L. Tillinghast, of Rhode Island, stated that, on the question to suspend the rules to enable Mr. Richard Biddle, of Pennsylvania, to propose a resolution on the preceding day he gave his vote in the affirmative, but that the same was omitted to be entered, and asked that his vote be recorded.

The Speaker stated that at this time the error could only be corrected by unanimous consent. This consent being given, the error was corrected, and Mr. Tillinghast's name was placed on the list of Members voting in the affirmative on that question.

2762. On December 10, 1840,³ Mr. Edward Stanly, of North Carolina, moved to reconsider the vote of the preceding day whereby the message of the President had been ordered referred and printed.

On this vote there were, ayes 89, noes 90.

The House then adjourned until Monday, December 14.

On that day, after the Journal of Thursday, the 10th, had been read, Mr. Robert C. Winthrop, of Massachusetts, moved to amend the same as follows:

That the ayes given by himself and Mr. Joseph L. Williams on Thursday last on the question of reconsidering the vote for printing certain extra copies of the President's message be now entered upon the Journal, it appearing that the same were omitted at the time.

After considerable debate as to the propriety of this course, the motion to amend the Journal was agreed to, yeas 201, nays 3.

The Journal being amended accordingly, the Speaker⁴ stated that the operation thereof changed the vote on the question of reconsideration, moved by Mr. Stanly, and announced the decision on that question to be in the affirmative. This therefore brought the resolution for referring and printing the message before the House again.

2763. On August 4, 1846,⁵ the Journal of the preceding day was read, when Mr. James B. Hunt, of Michigan, rose and stated that on the preceding day he voted in the affirmative on the resolution offered by Mr. Dodge directing the Clerk of the House to pay to the officers and others in the employ of the House of Representatives additional compensation; that his vote stood recorded in the negative and he asked that the Journal of the preceding day be corrected.

And the journal was corrected accordingly.

Mr. Elias B. Holmes, of New York, rose and stated that he voted in the affirmative upon the same resolution, and that his vote was not recorded, and asked that the Journal be corrected.

And the Journal was corrected accordingly.

¹First session Forty-seventh Congress, Record p. 4333.

²First session Twenty-fifth Congress, Journal, p. 106.

³Second session Twenty-sixth Congress, Journal, pp. 25, 31, 32; Globe, p. 17.

⁴Robert M. T. Hunter, of Virginia, Speaker.

⁵First session Twenty-ninth Congress, Journal. pp. 1200–1202; Globe, p. 1188.

The Speaker¹ stated that the operation of the corrections thus made was to change the vote upon the resolution offered by Mr. Dodge, and announced the decision on that resolution to be in the affirmative. So the Journal of the preceding day was changed to show that the resolution had been passed by a vote of 77 yeas to 76 nays.

2764. On March 1, 1847,² the Journal of the preceding legislative day having been read, Mr. Henry T. Ellett, of Mississippi, rose and stated that he was present on Saturday, and voted in the negative on the amendment to the revenue bill, and moved that the Journal be amended by recording his vote thereon in the negative on said question.

Mr. George Ashmun, of Massachusetts, asked whether the gentleman's vote, if recorded, would make any difference in the result.

The Speaker¹ said that this question was not pertinent to the matter before the House. The only question was whether the gentleman had a right to vote or not. If so, under the uniform practice of the House, his vote must be recorded.

The question of Mr. Ellett's motion was nevertheless put to the House, and decided in the affirmative. So the Journal was amended accordingly.

2765. On March 28, 1892,³ Mr. D.D. Donovan, of Ohio, being detained from the House by illness, sent to the Speaker a letter stating that in a certain roll call he was wrongly recorded as voting on a certain measure when he was not in fact present on the day in question, March 24. By unanimous consent the Journal of that day was corrected.

2766. The correction in the Journal before its approval of the erroneous record of a Member's vote is made as a matter of right and not by vote of the House.—On February 26, 1903⁴ during the process of approving the Journal, the question of approving the Journal was pending, when Mr. J.G. Russell, of Texas, called attention to the fact that he was recorded as voting "aye" when in reality he voted "no."

The Speaker⁵ said:

The correction will be made according to the statement of the gentleman from Texas.

Mr. James Hay, of Virginia, having objected, the Speaker said:

The Chair desires to say a word about this objection. In the early history of the Congress gentlemen were not allowed to change a vote in the Journal; but it has become more and more liberalized until it has become an absolute right to have it corrected and has been so treated where he is wrongfully recorded, and so it will be corrected in this case.

2767. While the regular time for amending the Journal expires with its approval, yet this rule has sometimes been waived for the correction of a yea-and-nay vote.—On November 5, 1807,⁶ Mr. Barent Gardenier, of New York, raised the question that in the Journal of October 28, his name was omitted from the list of yeas and nays on a certain question. He therefore proposed an amendment.

¹John W. Dav, is, of Indiana, Speaker.

²Second session Twenty-ninth Congress, Journal, p. 451; Globe, p. 556.

³First session Fifty-second Congress, Journal, p. 121; Record, p. 2610.

⁴Second session Fifty-seventh Congress, Record, p. 2709.

⁵David B. Henderson, of Iowa, Speaker.

First session Tenth Congress, Journal. p. 18 (Gales & Seaton ed.); Annals, p. 805.

This motion was opposed on the ground that it would be a dangerous precedent to suffer the Journal to be corrected several days after the question had been decided. If this were to be done the alteration might sometimes change the decision of a question. Mistakes in the Journal should be corrected immediately after the entries were read. Errors in the yeas and nays should be rectified at the time they were called over, and all other errors on the morning of the succeeding day, when the Journal was read to the House.

On the other hand, it was contended that the Member from New York had taken the earliest opportunity to move the correction, since he did not know his name was omitted until the printed sheets of the Journal were before the House. He had a constitutional right to have his name on the Journal on that question.

It was decided to agree to the motion with a preamble stating the reasons. Accordingly, the following was adopted:

Whereas an error is discovered in the Journals of this House by the total omission of the name of Barent Gardenier, on the question by yeas and nays, taken on the 28th of October last:

Resolved, That the Journals of this House, of the 28th of October last, be amended by placing the name of Barent Gardenier among those who voted in the negative on the amendment proposed by Mr. Blount to the motion for proceeding to the appointment of standing committees.

On December 15, 1807¹ and January 2, 1808,² the Journals of days previous to the day immediately preceding were amended without question.

2768. On April 19, 1870,³ business having intervened since the reading of the Journal, Mr. Samuel Hooper, of Massachusetts, asked that his vote in the Journal, on a bill passed the previous day, be corrected. He was recorded as voting "yea," while in fact he voted in the negative.

Mr. Ebon C. Ingersoll, of Illinois, raised the question of order that a motion to correct the Journal was not in order after the reading of the Journal had passed.

The Speaker⁴ said:

The rule in regard to corrections of the Journal is, that unless they be made immediately after the reading of the Journal at the Clerk's desk it is too late to raise any question for correction. It has, however, become the custom not to read the list of yeas and nays as recorded upon the Journal, and it would evidently be unfair to hold a gentleman responsible for and bound to abide by a record which he has not heard read.

So the correction was allowed.⁵

2769. On July 14, 1870,⁶ business having intervened after the reading of the Journal, Mr. James B. Beck, of Kentucky, claiming the floor for a question of privilege, stated that the Journal did not record his vote on a bill acted on the day previous. He had voted and asked the correction.

The Speaker⁴ said:

It is not in order to correct the Journal except immediately after its reading, save by unanimous consent. If there be no objection the name of the gentleman from Kentucky will be entered among the yeas.

¹ Journal, p. 75; Annals, p. 1177.

² Journal, p. 104; Annals, p. 1270.

³ Second session Forty-first Congress, Globe, p. 2783.

⁴ James B. Blaine, of Maine, Speaker.

⁵ This correction is not noted in the Journal of April 19.

⁶ Second session Forty-first Congress, Globe, p. 5601.

2770. A motion to amend the Journal may not be admitted after the previous question is demanded on a motion to approve.—On June 17, 1897,¹ the Journal having been read, Mr. Sereno E. Payne, of New York, moved that it be approved, and on that motion asked the previous question.

Mr. William Sulzer, of New York, moved to amend the Journal, and Mr. Joseph W. Bailey, of Texas, made the point of order that this motion had precedence over the motion to approve.

The Speaker² overruled the point of order, holding that the motion to approve had precedence.

Mr. Bailey having appealed, the appeal was laid on the table by a vote of 96 yeas to 80 nays, 16 answering “present.”

Subsequently, on June 21, the Speaker made this statement:

The Chair desires to call the attention of the House to a statement made at the last session in regard to the amendment of the Journal. According to the Record, the Chair stated that a motion to approve the Journal takes precedence of a motion to amend it. Of course that statement was made simply with reference to the case which was in hand, and, to be accurate for general purposes, there ought to be added, “if that motion is first made.”

2771. Journals of more than one session remaining unapproved, they are taken up for approval in chronological order, although the opposite ruling has once been made.

The question as to whether or not the Journal of the preceding day should be read until the Journals of days prior to that day have been approved.

Instance wherein the Speaker submitted to the House a question as to the order of disposing of several unapproved Journals.

On Tuesday, March 23, 1880,³ a controversy arose over the approval of the Journal of Monday, and the legislative day of Tuesday terminated without that Journal being approved, and with a question pending which was claimed by its proposer to be a question of privilege and which related to the Journal. On Wednesday, March 24, after the prayer by the Chaplain, the Speaker stated that the question before the House was the question of privilege raised as to Monday’s Journal.

Mr. Joseph C.S. Blackburn, of Kentucky, made the point of order that the first business in order was the reading of Tuesday’s Journal.

After debate, the Speaker⁴ submitted to the House the question whether the Journal of Tuesday’s proceedings should first be read, before proceeding with the question relating to the approval of Monday’s Journal; and the House decided not to require at that time the reading of the Journal of Tuesday.

Mr. J. Proctor Knott, of Kentucky, made the point of order that the reading of the Journal was peremptorily demanded by the rules, which could not be set aside except by unanimous consent.

¹First session Fifty-fifth Congress, Record, pp. 1803, 1892; Journal, p. 115.

²Thomas B. Reed, of Maine, Speaker.

³Second session Forty-sixth Congress, Record, pp. 1833, 1839; Journal, pp. 842–877.

⁴Samuel J. Randall, of Pennsylvania, Speaker.

The Speaker said:

The Chair has already stated that by universal practice all parliamentary bodies have the power to regulate the manner of their proceeding. The House has just expressed its opinion in relation to the reading of the Journal of yesterday's proceedings, and the Chair overrules the point of order of the gentleman from Kentucky, Mr. Knott, in obedience to the views of the House just expressed.

After the settlement of the pending question as to the Journal of Monday, that Journal was approved. Then the Journals of Tuesday and Wednesday were approved in order.

2772. On Saturday, April 14, 1894,¹ the Speaker directed the Clerk to read the Journal of the proceedings of the previous day, Friday, April 13.

Mr. Thomas B. Reed, of Maine, made the point that the Journal of the proceedings of Thursday not having been approved, the question on the approval of that Journal should be disposed of before the Journal of the proceedings of Friday should be read.

After debate, the Speaker² held that pursuant to the terms of Rule I the Journal of Friday should be first read and took precedence over the question of approving the Journal of the preceding day.

2773. On Tuesday, April 17, 1894,³ the Journal of the proceedings of Monday was read.

Mr. Julius C. Burrows, of Michigan, made the point that the Journals of Thursday and Friday last, respectively, not having been approved, the question would first be on the approval of the Journal of the preceding days, in chronological order.

After debate, the Speaker² sustained the point, holding as follows:

The rules provide that the Speaker shall take the chair at 12 o'clock, and, on the appearance of a quorum, cause the Journal of the preceding day's session to be read, and approved if correct. Suppose for some reason the day passes without this having been done. The next day arrives. The Chair directs the Journal of the preceding day to be read, which Journal itself discloses that a Journal has not been approved. That Journal itself discloses that the first question to come up after its approval is the approval of the Journal which has not been approved, because that was the proposition pending before the House. So that the Chair is unable to see any reason for the rule that, under existing conditions, the first question is the approval of the Journal most remote instead of that most near to the time of this meeting.

It is true the question seems heretofore to have been submitted to the House, and the practice contended for seems to have been approved by the House. The Chair will conform to that decision. The question is upon the approval of Thursday's Journal, and on that question the previous question has been demanded and the yeas and nays have been ordered thereon.⁴

By unanimous consent, the order for the yeas and nays was dispensed with, and the Journals of Thursday and of Friday last, respectively, were then approved.

2774. In ordinary practice the Journal is approved by the House without the formal putting of the motion to vote.—On February 12, 1857,⁵ in the course of discussion relating to the approval of the Journal, the Speaker⁶ said:

The Journal of the House has been read and approved by the House. * * * There has been no motion to approve the Journal; but it is assumed, no question being made. * * * That has

¹ Second session Fifty-third Congress, Journal, p. 334; Record, p. 3757.

² Charles F. Crisp, of Georgia, Speaker.

³ Second session Fifty-third Congress, Journal, pp. 337, 338; Record, p. 3793.

⁴ During the debate a decision of Mr. Speaker Randall bearing on the point was read from Record, second session Forty-sixth Congress, p. 1837.

⁵ Third session Thirty-fourth Congress, Globe, p. 674.

⁶ Nathaniel P. Banks, jr., of Massachusetts, Speaker.

been the uniform practice of the House as regards the Journal. The Chair assumes, instead of stating the question to the House, that the Journal is approved by the House, unless some question be raised. * * * It is the established practice in all deliberative assemblies that when the Journal is read it is considered as approved unless a question be raised.¹

2775. It was the early practice to record in the Journal all motions to amend the Journal, but in later years the rule has not been adhered to always.—On February 14, 1838,² a motion was made to amend the Journal of the preceding day by striking out a portion.

Mr. Charles F. Mercer, of Virginia, rising to a parliamentary inquiry, asked whether, if the motion to amend should prevail, the part stricken out would appear in the Journal of to-day.

The Speaker³ replied that it necessarily would, as showing the ground of the House's vote.

2776. On December 12, 1838,⁴ the Journal of the preceding day having been read, Mr. Henry A. Wise, of Virginia, moved that the same be amended by stating therein that he refused to vote on the question that the House do agree to the first of the resolutions moved on the preceding day by Mr. Charles G. Atherton, of New Hampshire.

The motion to amend the Journal was decided in the negative.

Mr. Wise, rising to a parliamentary inquiry, asked the Chair if the motion just made to amend would be recorded in the Journal of this day.

The Speaker³ replied that it would.

2777. In some cases where the Journal has been amended the proposed amendment has appeared in full on the day on which it was offered, and the Journal which was amended appeared also in its amended form. This was the case in an amendment adopted February 26, 1841.⁵

This was not always the case, however. Sometimes, and indeed, in most cases, the amended Journal does not appear in the amended form, the amendment being on the Journal of the day when it was offered and adopted.

2778. The Journal of the special session of 1841⁶ has this record in the index under the subject "Journal":

After being read in the morning, the Journal, was occasionally amended, and was made to conform to the order of amendment, no notice of which was taken in the Journal of the subsequent day.

2779. In the Thirty-first Congress⁷ the correction of the Journal for errors in the roll call was placed in the Journal of the succeeding day.

2780. The Journal makes no mention of its own approval except when a question is raised and a vote taken.—As early as 1842⁸ it appears by

¹At the present time the Journal is approved each day formally, the Speaker saying: "Without objection the Journal will be considered as approved." If there is objection, the motion is made and the vote taken.

²Second session Twenty-fifth Congress, Globe, p. 180.

³James K. Polk, of Tennessee, Speaker.

⁴Third session Twenty-fifth Congress, Journal, p. 60, Globe, p. 25.

⁵Second session Twenty-sixth Congress, Journal, pp. 311, 330.

⁶First session Twenty-seventh Congress, Journal, p. 541. Speaker—John White, of Kentucky.

⁷First session Thirty-first Congress, Journal, pp. 853, 1095, 1111, 1205, 1352.

⁸Second session Twenty-seventh Congress, Globe, pp. 16, 229, 250, etc.

the Globe each morning that the Journal of the previous day was read and approved. The Journal itself makes no mention of its own approval, unless the yeas and nays be taken on the motion.

2781. After the Journal has been approved, amendments should not be ordered.—On December 29, 1795,¹ after the Journal for the preceding day had been read and approved, a Member called attention to what he considered a material error, and moved to amend.

The Speaker² said he had never known an instance of this sort where amendment was made after the Journal had been read over and agreed to. He did not think it could be done unless the House were unanimous in it.

After debate the House dropped the subject without action.

2782. While a proposed correction of the Journal may be recorded in the Journal, yet it is not in order to insert in full, in this indirect way, what has been denied insertion in the first instance.—On July 6, 1846,³ the Speaker decided that an amendment to the Journal offered by Mr. Edward W. McGaughey, of Indiana, was not in order, because it related to proceedings which were rendered a nullity by the subsequent discovery of an error.

The Journal of the day did not give the proposed amendment of Mr. McGaughey in full, but merely described it briefly.

When the Journal had been read, on July 7, Mr. George Ashmun, of Massachusetts, moved that the same be amended by inserting at length the motion made by Mr. McGaughey.

The Speaker⁴ decided that the motion to amend the Journal was not in order, for the reason that it was not in order to spread on the Journal indirectly what the House had already refused to place there directly.

Mr. Ashmun having appealed, the decision of the Chair was sustained.

2783. The House declined to allow amendment of the Journal entry of a motion which was recorded exactly as made.

An instance wherein the House, by vote, allowed an explanation of a motion to be entered on the Journal.

On March 30, 1836,⁵ Mr. Bailie Peyton, of Tennessee, submitted to the House a motion, in writing, in the words following:

The Member from Tennessee [Mr. Peyton] moved to amend so much of the Journal contained in the motion of the Member from Louisiana [Mr. Ripley] in the following words: "Notwithstanding the Member from Tennessee alleged that General Hawkins from North Carolina, had not agreed to it, which allegation is disproved by the statement of General Hawkins," by inserting the following words, to wit: "The Member from Tennessee [Mr. Peyton] stated that the Member from North Carolina [Mr. Hawkins] was opposed to the change of the five votes from the Commons to the Congress box. That the fact of his disagreement with the majority of the committee, as to these five votes, was known to the others of the majority; and he [Mr. Hawkins] was about to enter his protest on the report, but at the suggestion of friends that he could have an opportunity of expressing his opinion as to these votes by his vote in the House, he [Mr. Hawkins] consented to sign the report of the majority, and to its being made without such protest."

¹ First session Fourth Congress, Annals, p. 173.

² Jonathan Dayton, of New Jersey, Speaker.

³ First session Twenty-ninth Congress, Journal, pp. 1032, 1035; Globe, pp. 1064, 1065.

⁴ John W. Davis, of Indiana, Speaker.

⁵ First session Twenty-fourth Congress, Journal, pp. 598, 599; Debates, p. 3014.

The said motion being read, and it appearing that the entry in the Journal of yesterday, on the motion of Mr. Ripley, had been at the time reduced to writing by Mr. Ripley, and was correctly copied into the Journal, the Journal, therefore, could not be amended as thus proposed.

Mr. Peyton then asked to have his said motion entered on the Journal of this day, as explanatory of the entry of the Journal of yesterday, which request was granted by a vote of the House.

2784. In amending the Journal the House may decide as to what are proceedings, even to the extent of omitting things actually done or of recording things not done.—On July 8, 1846,¹ the Journal of the preceding day having been read, Mr. John W. Tibbatts, of Kentucky, moved “to correct the same by omitting all proceedings in relation to the call of the House, moved by Mr. Dromgoloe, following the decision of the Speaker upon the resolution offered by Mr. McKay requiring absentees to render excuses for their absence whenever they shall next appear in the House.”

And after debate the previous question was moved by Mr. Barclay Martin, of Tennessee, and the main question was ordered and stated, “Shall the Journal be corrected as proposed by Mr. Tibbatts?” when Mr. William H. Brockenbrough, of Florida, raised the question of order that the Journal of the preceding day was made up in accordance with the Constitution of the United States, and was true in point of fact, and being true, could not be altered unless shown to be untrue.

The Speaker² overruled the point of order on the ground that the Constitution does not specify the manner in which the Journal shall be kept, and the House has the control thereof, and may judge what are and what are not “proceedings.”

Upon an appeal the decision of the Chair was sustained.

2785. The Journal being correct, the Speaker nevertheless entertained a motion to amend it so as to cause it to state what was not the fact, leaving the House to decide as to the propriety of the action.—On March 23, 1880,³ Mr. Omar D. Congar, of Michigan, raised a question of order that the bill of the House (H.R. 5265) to revise certain sections of the Revised Statutes, being virtually a bill to revise the tariff, had on the preceding day been improperly referred to the Committee on the Revision of the Laws; and thereupon Mr. James A. Garfield, of Ohio, moved to amend the Journal, which had been read but not approved, by striking out the Committee on Revision of the Laws and inserting the Committee on Ways and Means.

A question at once arose as to whether or not the Journal, when it stated correctly the proceeding of the day before, might be amended so as to change that proceeding.

The Speaker⁴ decided that he would entertain the motion to amend, leaving to the House to decide as to the propriety of amending the Journal in the manner indicated.

¹First session Twenty-ninth Congress, Journal, p. 1047.

²John W. Davis, of Indiana, Speaker.

³Second session Forty-sixth Congress, Journal, pp. 842, 874; Record, pp. 1804–1807, 1878–1881.

⁴Samuel J. Randall, of Pennsylvania, Speaker.

Thereupon the House agreed to the motion to lay on the table the motion to amend; but reconsidered, and after prolonged dilatory proceedings, on March 25 approved the Journal as originally made, and agreed to a resolution discharging the Committee on the Revision of the Laws and referring the bill to the Committee on Ways and Means.

2786. An instance wherein the Senate, after discussion, declined so to amend the Journal as to state what was not the actual fact.—On March 23, 1866,¹ in the Senate, Mr. John P. Stockton, of New Jersey, voted on his own election case. On March 26 Mr. Charles Sumner, of Massachusetts, contending that such action was in defiance of natural as well as parliamentary law, proposed to amend the Journal by striking out the vote of Mr. Stockton. Mr. Willard Saulsbury, of Delaware, made the point that the Journal was correctly made up in that it recorded the fact which occurred, and therefore that a motion to amend it thus was not in order. Mr. Sumner contended that it appeared from the face of the Journal that the action of the Senator in voting was contrary to the principles of natural law, and therefore void. So the Journal should be amended in accordance with that state of affairs. After considerable discussion of the best method of getting at the matter, it was decided informally not to amend the Journal, but to reconsider the vote agreeing to the resolution, and then to adopt a resolution declaring that Mr. Stockton's vote should not be received in determining the question of his right to a seat. This was done, Mr. Sumner withdrawing his proposition to amend the Journal.

2787. The House has nullified an order by rescinding the record of it in the Journal.—On February 13, 1821,² the Journal of the preceding day having been read, Mr. Arthur Livermore, of New Hampshire, moved to amend it by erasing the order directing the Clerk to inform the Senate that this House had rejected the resolution from the Senate declaring the admission of the State of Missouri into the Union.³

Mr. Livermore explained that he did this in order that the resolution might be retained in the possession of the House, so that he might make a motion to reconsider the vote by which it was rejected.

The motion was agreed to without division.

2788. Although the Journal had been approved, the Speaker admitted as privileged a motion to correct a manifest error which would deprive a Member of certain rights as to the pending question.—On December 31, 1851,⁴ after the Journal had been read and approved as usual, the House was proceeding to the consideration of a resolution presented on the preceding day by Mr. Thomas L. Clingman, of North Carolina, and providing for closing debate in Committee of the Whole on that portion of the President's message relating to Louis Kossuth.

¹First session Thirty-ninth Congress, Globe, pp. 1601, 1635–1648.

²Second session Sixteenth Congress, Journal, p. 225 (Gales & Seaton ed.); Annals, p. 1117.

³By a ruling of Mr. Speaker Clay in the preceding year it was held out of order to move to reconsider after the bill had gone to the Senate, and this procedure was taken to obviate the difficulty thus created. The present practice of the House is different. (See Sec. 5605 of Vol. V. of this work.)

⁴First session Thirty-second Congress, Journal, p. 148; Globe, pp. 169, 170.

Mr. Lewis D. Campbell, of Ohio, having proposed to offer an amendment, Mr. Clingman rose and stated that when he introduced the resolution he had accompanied its introduction with a demand for the previous question; and as it appeared that the Journal of the preceding day failed to state the facts, he therefore moved that it be amended accordingly.

Mr. Campbell made the point of order that, the Journal not showing any demand for the previous question, and he having the floor for the purpose of moving an amendment to the resolution, the Speaker was bound by the Journal, and the floor could not be taken from him by a motion to amend the Journal.

The Speaker¹ stated that his own recollection confirmed the statement of the gentleman from North Carolina as to his demand for the previous question and that the Journal was defective in failing to state the fact. If the House should direct the Journal amended accordingly, the gentleman from Ohio was clearly not entitled to the floor for the purpose of offering his amendment. In view of this fact, it seemed manifestly proper that the question as to the correctness of the Journal should first be submitted to the House for its decision. He therefore overruled the point of order.

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

2789. Because of the rule requiring every motion made and not withdrawn to be entered on the Journal, it was held not in order to amend the Journal by striking out a resolution actually offered.—On December 21, 1864,² after the reading of the Journal, Mr. S.S. Cox, of Ohio, claiming the floor on a question of privilege, moved to strike out such portion of the Journal as referred to a resolution offered on the preceding day, and relating to retaliatory treatment of prisoners of war.

The Speaker asked if it was charged that the Journal had not been correctly made up, and Mr. Cox responded that he did not raise that question.

Thereupon the Speaker³ decided that the motion to strike out was not in order.

Mr. Cox thereupon moved to expunge the resolution from the Journal.

Mr. Ellihu B. Washburne, of Illinois, having made the point of order that this motion was not in order, the Speaker said:

The Chair sustains the point of order. The Chair will state to the gentleman from Ohio that the thirty-ninth rule⁴ requires that every written motion made in the House shall be inserted in the Journal and that the Speaker shall revise and correct the Journal every morning before it is read to the House. There is a question of privilege if the charge is made that the Speaker has mutilated the Journal. That was decided in the Thirty-first Congress to be a question of privilege. If the gentleman wishes to expunge the resolution he must wait until resolutions are in order. But the Journal must state what occurred, and it is not a question of privilege to move to strike out what did occur.

2790. The Speaker has ruled out of order a motion to expunge a portion of the Journal.—On February 9, 1853,⁵ after the Journal of the preceding day had been read, Mr. Daniel Mace, of Indiana, moved to amend it “by expunging

¹ Linn Boyd, of Kentucky, Speaker.

² Second session Thirty-eighth Congress, Globe, p. 98.

³ Schuyler Colfax, of Indiana, Speaker.

⁴ See sec. 5300 of Vol. V of this work for the rule at present.

⁵ Second session Thirty-second Congress, Globe, p. 549.

therefrom the whole proceedings of last evening's session, because the same shows a spirit of faction," etc.

The Speaker¹ said:

The gentleman's proposition is not, legitimately, to amend the Journal, and the Chair rules it out of order.²

2791. On April 12, 1810,³ after the Journal had been approved and the House had proceeded with business for some time, Mr. John Taylor, of South Carolina, moved to expunge from the Journal of the preceding day's business the motion and vote relating to ceremonies on the death of Col. William Washington.

The Speaker⁴ held that unanimous consent was necessary to expunge a vote from the Journal, and, there being objection, the motion was not entertained.

2792. The House has rescinded a resolution recorded in the Journal of a preceding Congress.—On March 2, 1875,⁵ Mr. Glenni W. Scofield, of Pennsylvania, by unanimous consent, offered the following resolution, which was agreed to:

Whereas the House of Representatives, on the 30th day of April, 1862, adopted a resolution censuring Simon Cameron for certain alleged irregular proceedings as Secretary of War in the matter of purchasing military supplies at the outbreak of the rebellion; and whereas, on the 26th day of the ensuing month, the then President of the United States, Abraham Lincoln, in a special message to Congress, assumed for the Executive Department of the Government the full responsibility of the proceedings complained of, declaring in said message that he should be equally wanting in candor and in justice if he should leave the censure to rest exclusively or chiefly on Mr. Cameron, and adding that it was due to Mr. Cameron to say that, although he fully approved the proceedings, they were not moved nor suggested by him, and that not only the President, but all the other heads of departments were at least equally responsible with him for whatever error, wrong, or fault was committed in the premises:

Therefore,

Resolved, That this House, as an act of personal justice to Mr. Cameron and as a correction of its own records, hereby directs that said resolution be rescinded, and that "recission" be entered on the margin of the Journal where said resolution is recorded.

2793. On May 2, 1876,⁶ Mr. L. Q. C. Lamar, of Mississippi, proposed the following resolution, which was agreed to without dissent:

Resolved, That so much of the resolution adopted by the House of Representatives of the Forty-third Congress, on the 3d of February, 1875, as charges prevarication upon Hon. John Young Brown be, and the same is hereby, rescinded and ordered to be expunged.

Mr. George F. Hoar, of Massachusetts, referred to the precedents in relation to ex-Secretary of War Cameron, the Benton resolution in the Senate, and the resolution in Parliament in the case of Wilkes. He said it seemed to him that it was proper for the House to rescind a resolution of a preceding House, but the proposition to expunge went beyond the proper power of the House. Mr. Lamar said he considered the point well taken and would modify the resolution so as to leave out the words "and ordered to be expunged." The record of debates indicates that this was done and that the resolution was adopted as amended. The Journal, however, gives the resolution as adopted in the original form.

¹ Linn Boyd, of Kentucky, Speaker.

² In 1812, however, such a motion was admitted without question. (See sec. 2808 of this chapter.)

³ Second session Eleventh Congress, Annals, p. 1789.

⁴ Joseph B. Varnum, of Massachusetts, Speaker.

⁵ Second session Forty-third Congress, Journal, p. 618; Record, p. 2084.

⁶ First session Forty-fourth Congress, Journal, p. 907; Record, pp. 2887–2889.

2794. The correction of the Journal of a day preceding the last legislative day is usually made only by unanimous consent.—On June 15, 1836,¹ Mr. John Quincy Adams, of Massachusetts, submitted a motion to amend the Journal, not of the preceding day, the 14th, but of the day before that, the 13th. This motion was admitted “by consent.”

2795. On December 31, 1839,² a motion was made to amend the Journal of the 27th of December, although that Journal had been read for amendment on December 30.

Mr. Speaker Hunter expressed the opinion that it was too late to amend the Journal of the 27th, but Mr. John Jameson, of Missouri, who had made the motion to amend, quoted a passage from the Manual to show that the Journal might be corrected at any time. The Speaker thereupon admitted the motion.

2796. On August 2, 1852,³ Mr. Speaker Boyd held that a correction of the Journal for a day preceding the last legislative day could be made only by unanimous consent.

2797. On May 20, 1870,⁴ a Member was allowed, by unanimous consent, to correct his vote on the Journal of the 21st of the preceding March.

This correction is noted in the Journal of May 20.⁵

2798. A Member may not, as a matter of right, enter a protest in the Journal.—On February 10, 1869,⁶ during proceedings in the House relating to a protest made in joint convention against counting the electoral vote of the State of Georgia, Mr. P.M.B. Young, of Georgia, asked if it would be in order “to enter my solemn protest in behalf of the people of my State and in the name of the Constitution and laws of the United States against the action of this House in thus excluding from the Electoral College the State of Georgia.”

The Speaker⁷ said:

The remarks just made by the gentleman from Georgia will be recorded in the Globe, but a protest can not be entered on the Journal as a matter of right. The consent of the House is necessary to grant that privilege.

2799. The demand of a Member that a protest against certain parliamentary practices of the House be placed on the Journal does not present a question of privilege.

In 1855 the Speaker held it the right of the Chair to decide whether or not a question alleged to be of privilege should be submitted to the House.

On February 24, 1855,⁸ Mr. Joshua R. Giddings, of Ohio, rose and claimed, as a question of privilege, that a certain paper in the nature of a protest against the practice, represented by him as having lately grown up in the House, which precluded a Member from giving his reasons for voting upon a bill, be entered upon the journal.

¹ First session Twenty-fourth Congress, Journal, p. 1010.

² First session Twenty-sixth Congress, Journal, p. 151; Globe, p. 93.

³ First session Thirty-second Congress, Globe, p. 2041.

⁴ Second session Forty-first Congress, Globe, p. 3642.

⁵ Journal, p. 811.

⁶ Third session Fortieth Congress, Globe, p. 1059.

⁷ Schuyler Colfax, of Indiana, Speaker.

⁸ Second session Thirty-third Congress, Journal, p. 451; Globe, p. 930.

The Speaker decided that no question of privilege was presented by the gentleman.

Mr. Giddings's paper asserted that important bills and measures were pressed through the House by resorts and expedients until recently unknown to American legislation; that a bill for carrying into effect the convention of February 8, 1853, with Great Britain, was passed on the preceding day without permitting any exhibition of the fact that the convention was for the benefit of slavery; that the extraordinary manner in which the bill was protected from exposure was opposed to the true dignity of the American Congress; and for the reasons contained in these allegations Mr. Giddings protested.

Mr. Giddings claimed, in the debate which arose on the presentation of the paper, that it was a well-settled rule that questions of privilege were submitted to the decision of the House and not to the Speaker.

The Speaker¹ said:

The Chair differs with the gentleman from Ohio. He is perfectly assured of the correctness of his decision.

Mr. Giddings having appealed, the Speaker said, in stating the appeal:

The gentleman from Ohio complains that yesterday, during the proceedings had in reference to a bill indicated, he was not allowed to make a speech. Not being allowed to make a speech then, he now insists that he has the right to place a protest upon the Journal of the House. The Chair decides that he does not know of any rule making such a proposition a question of privilege, nor of any rule authorizing the spreading of any such document upon the Journal. The gentleman further holds that, whether or not it be a question of privilege under the rules must be determined by the House and not by the Speaker. The Chair differs with the gentlemen. He decides that it is not a question of privilege; that he can not, under the rules, claim the right as a privileged question, or a question of privilege, to spread upon the Journal what he states to be his protest.

The decision of the Chair was sustained, the appeal being laid on the table by a vote of 137 yeas to 46 nays.

2800. On May 29, 1882,² the House was considering a rule in relation to dilatory motions during the consideration of a contested-election case when Mr. Samuel S. Cox, of New York, rose to a question of privilege and submitted a protest signed by members of the minority—

against the proceedings of the majority and the rulings of the Speaker as unjustifiable, arbitrary, and revolutionary, and expressly designed to deprive the minority of the protection which has been established as one of the great muniments of the representative system by the patient and patriotic labors of the advocates of parliamentary privilege and civil liberty.

Objection was at once made that the protest should not go upon the journal, and it was not so entered. But by direction of the Speaker it was read and appeared in the Record. The Speaker³ said:

The Chair thinks that this is not a question of privilege, but one which should not be ruled out by the Chair. The Chair thinks, although he has no more interest in it than any other Member, as so many Members have signed it and desire it to go into the Record that it should go.

The protest appears in the Record but not in the Journal.

¹ Linn Boyd, of Kentucky, Speaker.

² First session Forty-seventh Congress, Journal, p. 1263; Record, p. 4326.

³ J. Warren Keifer, of Ohio, Speaker.

2801. In the earlier practice protests which the House refused to allow in the Journal appeared there indirectly as part of the rejected motion.— On February 8, 1836,¹ the House agreed to resolutions relating to the agitation for the abolition of slavery in the District of Columbia, and presented originally by Mr. Henry L. Pinckney, of South Carolina.

Immediately after the adoption of these resolutions Mr. Thomas Glascock, of Georgia, moved that—

The rules of proceeding be suspended to enable him to make a motion that Mr. Rice Garland, Mr. John Robertson, and himself, be permitted to enter upon the Journal of the House the reasons for the votes given by them this day on the division of the resolution moved by Mr. Pinckney, viz, on the following words: “With instructions to report that Congress possesses no constitutional authority to interfere in any way with the institution of slavery in any of the States of this confederacy.”

The House decided this motion in the negative. The motion in the words quoted appears in the Journal of that day’s proceedings.

On the next day this motion was repeated in the same form except that the words “a protest containing the reasons” are used instead of “the reasons.” With this difference the motion appears on the Journal of February 9 in the same terms as in the Journal of the preceding day. The protest in full, signed by the three Members appears in full in the debates but not in the Journal, the House, by a vote of 81 yeas to 113 nays, having refused to suspend the rules in order to enable the protest to be offered for insertion in the Journal.

2802. On December 21, 1838,² Mr. Caleb Cushing, of Massachusetts, moved—the Journal of the preceding day having been read—to amend the same by inserting the following words:

Mr. Cushing presented the petition of Joseph Young and others, of Salisbury, in the State of Massachusetts, which was laid on the table under the resolution of the House of the 12th of December; and, on presenting the same, Mr. Cushing protested that, in submitting to the application of said resolution to this petition, he yielded not to right but to power, conceiving said resolution to be unconstitutional and therefore in itself purely null and void; which protest he moved to have entered on the Journal, but the Speaker decided that the motion was not in order.

Mr. George C. Dromgoole, of Virginia, rising to a parliamentary inquiry, asked whether or not, if the motion to amend should be rejected. The subject-matter would still go on the Journal.

The Speaker³ replied that the whole would go on the Journal of this day’s proceedings.

The motion to amend the Journal was then decided in the negative, yeas 14, nays 174.

2803. In 1839,⁴ the organization of the House was prevented for some time by a contest as to who should be recognized as the occupants of five of the New Jersey seats. Finally the members-elect chose Mr. John Quincy Adams, of Massachusetts, Chairman, and adopted an order that the roll should be called by States, those gentlemen being called whose seats were not disputed or contested.

¹ First session Twenty-fourth Congress, Journal, pp. 316–318; Debates, p. 2503.

² Third session Twenty-fifth Congress, Journal, p. 138; Globe, p. 56.

³ James K. Polk, of Tennessee, Speaker.

⁴ First session Twenty-sixth Congress, Journal, pp. 27–31; Globe, pp. 46, 47.

On December 12, at the conclusion of the roll call had in pursuance of this order, Mr. Joseph F. Randolph, of New Jersey, the only Member from that State whose seat was uncontested, read in his place a paper purporting to be a protest, signed by the five Members from New Jersey who had credentials from the governor of that State. This was a protest against the course of the House in regard to their claim to be Members. Mr. Randolph moved that this protest be spread on the Journal of the House. And on this motion there were yeas 114, nays 117. So the House refused to allow the protest to be spread on the Journal.

On December 13, the Journal of the preceding day having been read, Mr. Henry A. Wise, of Virginia, moved that it be amended by inserting the protest in full, which he thereby presented.

Mr. George C. Dromgoole, of Virginia, submitted a question of order as follows:

Is the motion of Mr. Wise in order, as it effects, by putting on the Journal, the very thing the House yesterday refused to spread on the Journal?

The Chairman decided the motion of Mr. Wise to be in order, citing precedents from the proceedings of the last two Congresses.

Mr. Dromgoole appealed, and after debate Mr. John W. Davis, of Indiana, moved to lay the whole subject on the table.

Mr. George N. Briggs, of Massachusetts, here inquired of the Chair, if the subject was laid on the table, would the motion of Mr. Wise, with the paper recited in it, appear on the Journal?

The Chair decided that, according to all precedent, it would appear on the Journal.

From this decision also Mr. Dromgoole appealed.

After further proceedings and further appeal, the whole subject was laid on the table.

The protest appears in full in the Journal, as a part of Mr. Wise's motion to amend.

2804. In 1843 the House finally decided that a protest which had been refused admission to the Journal might not appear there indirectly.

The Journal should record every vote and state in general terms the subject of it.

It is in order to move to amend the Journal by inserting what the House has refused to hear read.

On December 4, 1843,¹ Mr. Daniel D. Barnard, of New York, proposed to read in his place a paper in the nature of a protest, but, a question being put, the House voted not to give him permission to do so. The vote was not taken by yeas and nays, and no reference to the transaction appeared in the Journal of the succeeding day.

On December 5, after the reading of the Journal, Mr. Barnard offered the following:

Resolved, That the Journal of yesterday be amended in regard to the offer of Mr. Barnard to read a paper in his place, so as to state the facts in regard to said offer, and inserting the following paper as that offered to be read, to wit: (Here follows the text of a protest signed by fifty Members of the House against the participation in the election of Speaker of Members from several States that had not chosen their Representatives by districts, as provided by law.)

¹First session Twenty-eighth Congress, Journal, pp. 7, 13, 27, 45, 49; Globe, pp. 2, 3, 10, 13, 23-27.

After debate Mr. Barnard modified the resolution to read as follows:

Resolved, That the Journal of yesterday be amended so as to state that Mr. Barnard offered in his place to read a paper, signed by himself and forty-nine other Members of the House; that objection was made; when a motion was submitted that Mr. Barnard have leave to read the paper; that question was put by the Clerk to the House, which, on a division, decided against granting the leave. And that the Journal be further amended by inserting the following paper as that offered to be read, to wit: (Here followed the protest.)

Mr. George C. Dromgoole, of Virginia, raised the following question of order: That it is not in order to move to amend the Journal, by inserting therein that which the House yesterday refused to hear read.

The Speaker¹ decided that it was competent for the gentleman from New York to bring the proposition before the House for its decision.

Mr. Thomas W. Gilmer, of Virginia, moved to amend the motion of Mr. Barnard by striking out the last clause, which provided for the insertion of the protest.

Pending the question of this amendment the House adjourned, and the motion of Mr. Barnard, with the protest in full, appeared on the Journal of the day's proceedings.

On December 6, when the Journal of the preceding day had been read, Mr. A.H. Chappell, of Georgia, contended that the protest was irregularly on the Journal, and moved to strike therefrom so much of Mr. Barnard's motion as recited the protest.

Mr. Barnard, as a question of order, submitted that he having of right offered a resolution on the preceding day, which was received and considered by the House, it was not now in order to move to strike it from the Journal.

The Speaker decided against the point of order.

Debate then arose as to the propriety of the entry of the protest as part of the motion of Mr. Barnard. The Speaker said that the Journal had been made up in accordance with the previous practice of the House in such cases. On the other hand, it was urged that the entry was irregular, and that such a practice destroyed the control of the House over its own Journal. The Journal should be a record of the things done by the House, but in this case it was proposed to make it a record of a paper which the House had refused to allow to be read. The Constitution required that the yeas and nays be entered on the Journal, but this did not involve the printing in full on the Journal of the whole subject over which the ordering of the yeas and nays arose. Otherwise it would be in the power of one-fifth to lumber the Journal with a great variety of extraneous matter.

After postponement the question was taken on December 11, on Mr. Gilmer's motion to amend Mr. Barnard's resolution, and was agreed to, yeas 120, nays 64.

Mr. Barnard's motion as amended was then agreed to, and the Journal of December 4 appears with the entry as specified in the amended resolution.

The question was then taken on the motion of Mr. Chappell, and it was agreed to, yeas 93, nays 84. And so the protest was stricken from the Journal of December 5, and nowhere in the Journal does it appear.²

¹John W. Jones, of Virginia, Speaker.

²Mr. Dromgoole offered a motion to amend the rules by providing in future that it should not be in order, under cover of a proposition to amend the Journal, to spread on the Journal a proposition which the House had previously refused to receive or hear read. This was debated at some length, but not acted on. (Journal, p. 49; Globe, pp. 27, 38.)

2805. It is not in order to place on the Journal indirectly what the House has refused to place there directly.

The House having declined to permit protests to be entered on the Journal, the Speakers have declined to entertain motions to amend the Journal which would have effected the purpose indirectly.

Effect in the House of an affirmative decision on a motion to lay on the table.

Practice of House and Senate as to admitting protests to the Journal. (Footnote.)

On December 22, 1862,¹ Mr. George H. Pendleton, of Ohio, offered a resolution to enter upon the Journal the protest of 36 Members of the House against the passage of House bill No. 591, entitled "An act to indemnify the President and other persons for suspending the privileges of the writ of habeas corpus and acts done in pursuance thereof."

The resolution, with the accompanying protest, was laid on the table at once by a vote of 75 to 41.

On the next day Mr. Pendleton called attention to the fact that the Journal contained only the resolution "that the following protest of 36 Members of this House against the passage of House bill No. 591 be entered upon the Journal," and did not contain the protest, which he claimed was a part of the resolution. Mr. Pendleton claimed that the protest should go on the Journal for two reasons: First, it was an essential part of the resolution which the Clerk was not at liberty to omit, and, secondly, the House, by laying the resolution on the table, had entertained the question whether they would or would not order it to be recorded on the Journal, and with deference to possible future action of the House the protest should be recorded. Therefore he moved to correct the Journal by inserting the protest at length.

The Speaker² decided that the motion was not in order, for the reason that it was not in order to spread upon the Journal indirectly what the House has already refused to place there directly, the order of the House by which the resolution was laid on the table being, according to the practice of the House, equivalent to such refusal. He said also that while in the Senate the effect of the motion to lay on the table was to postpone the question to be called up at any time, in the House the practice had always been to consider a vote laying a measure on the table as a negative decision of the House. The Chair, in support of his decision, cited the decision in the first session Twenty-ninth Congress, July 7, 1846, wherein the Speaker held that the motion of Mr. Ashmun to amend the Journal by inserting at length the motion made the day before by Mr. McGaughey to amend the Journal of the preceding day was not in order, on the ground that it was not in order to place on the Journal indirectly what the House had refused to place there directly. Also from the Journal of the first session Twenty-eighth Congress the following was cited:

Mr. Barnard moved the following resolution:

Resolved, That the Journal of yesterday be amended so as to state that Mr. Barnard offered in his place to read a paper signed by himself and forty-nine other Members of the House; that objection was made; when a motion was made that Mr. Barnard have leave to read the paper; that a question was put by the Clerk of the House, which, on a division, decided against granting the leave."

¹Third session Thirty-seventh Congress, Journal, pp. 122, 123; Globe, p. 165.

²Galusha A. Grow, of Pennsylvania. Speaker.

And so it was

“*Resolved*, That so much of the resolution of Mr. Barnard for an amendment of the Journal of Monday, the 4th instant, as recites a protest of D. D. Barnard and others be stricken from the Journal of Tuesday, the 5th instant.”

(The protest was accordingly stricken from the Journal.)

From this decision Mr. Pendleton appealed. The decision of the Chair was sustained, 74 yeas to 20 nays.¹

2806. In 1826 the House authorized the Representatives from the State of Georgia to enter a protest in the Journal.—On May 10, 1826,² during the hour set apart under the then existing rules for the presentation of resolutions by Members,³ Mr. John Forsyth, of Georgia, presented this resolution:

Resolved, That the following protest, presented by the Representatives of the State of Georgia yesterday, be entered on the Journal of the House. (Here follows a declaration, signed by the Members of the Georgia delegation, that neither the President, the Senate, nor the Government of the United States had any constitutional power to invalidate by the treaty with the Creek Indians the rights secured to the State of Georgia, and therefore the undersigned solemnly protested.)

The resolution was opposed, especially by Mr. Daniel Webster, of Massachusetts, on the ground that, with a single instance, the practice was unprecedented and might become very inconvenient.

The resolution was agreed to, yeas 82, noes 61, and the protest appears in the Journal.

2807. In 1868 a protest was entered in the Journal by unanimous consent.—On June 24, 1868,⁴ by unanimous consent, Mr. James Brooks, of New York, presented a protest signed by Members of the minority against the admission of Representatives from the State of Arkansas, and this protest was entered on the Journal.

2808. The declaration of a Delegate on a public question being presented for insertion in the Journal and read, was recorded in the Journal, whereupon the House declined to expunge it.—On June 4, 1812,⁵ the House,

¹ On August 14, 1850 (Globe, 1–31, pp. 1579, 1588), in the Senate, a protest against the action of the Senate in passing the bill admitting California as a State was presented, signed by 10 Senators. The Senator presenting it, Mr. Hunter, of Virginia, asked that it be read and spread upon the Journal of the Senate. An extended debate arose. The President of the Senate stated that there had not been a case since the foundation of the Government when a protest had been entered on the Journal. An attempt made July 17, 1789, to authorize the entering of protests on the Journal had been defeated. Mr. Benton, of Missouri, said that in the British House of Lords any peer might record his protest in the Journal, but this practice had never been allowed in the American Senate. Mr. Hale recalled that at the organization of the Twenty-eighth Congress Mr. Barnard had offered a protest against the admission of the Representatives from New Hampshire, Georgia, and Missouri, which had been refused a place in the Journal. Mr. Hunter recalled a case in the House where Mr. Garnett, of Virginia, was allowed to have entered on the Journal his reasons for a certain vote which he gave.

(The Senate decided not to admit the protest to the Journal.)

² First session Nineteenth Congress, Journal, p. 537; Debates, pp. 2623–2627.

³ This was Rule 17. (See Journal 1st sess. 19th Cong., p. 781.) It has long ceased to exist, and now all resolutions, unless involving questions of privileges, must be referred, unless by unanimous consent the House allows their presentation.

⁴ Second session Fortieth Congress, Journal, p. 922; Globe, p. 3441.

⁵ First session Twelfth Congress, Journal (supplemental), p. 470 (Gales & Seaton ed.); Annals, pp. 1638, 1679.

being in secret session, had passed the “act declaring war between Great Britain and her dependencies,” whereupon Mr. George Poindexter moved to have inserted in the Journal a declaration in the following words:

George Poindexter, Delegate from the Mississippi Territory, not having a constitutional right to record his suffrage on the Journal of the House on the important question under consideration, and being penetrated with a firm conviction of the propriety of the measure, asks the indulgence of the House to express his own and the sense of his constituents,¹ in support of the honorable and dignified attitude which the Government of his country has assumed in vindication of its rights against the lawless violence and unprecedented usurpations of the Government of Great Britain.

This paper was read, and appeared in the Journal of the next day, whereupon Mr. Nathaniel Macon, of North Carolina, moved that it be expunged from the Journal. This motion was disagreed to—yeas 44, nays 62. A motion that the House proceed to consider the declaration was decided in the negative.

2809. The Parliamentary method of raising a committee to investigate an alleged error in the Journal has not been utilized.—On February 10, 1885,² a question being raised as to the correctness of the Journal, a motion was made that a committee be appointed to ascertain the facts in regard to the matter over which the error was alleged to occur. This motion was made in accordance with the parliamentary principle laid down in Jefferson’s Manual. The motion was not agreed to.

2810. Certified extracts of the Journal are admitted as evidence in the courts of the United States.—The Statutes of the United States provide:

Extracts from the Journals of the Senate, or of the House of Representatives, and of the Executive Journal of the Senate when the injunction of secrecy is removed, certified by the Secretary of the Senate or by the Clerk of the House of Representatives, shall be admitted as evidence in the courts of the United States, and shall have the same force and effect as the originals would have if produced and authenticated in court.³

¹Mr. Poindexter must have wished to enter this expression in the Journal, for he had the right of debate and frequently exercised it. (For an instance see *Annals*, March 12, 1812, pp. 1201–1204.)

²Second session Forty-eighth Congress, *Record*, pp. 1497–1500; *Journal*, p. 508.

³See Revised Statutes, sec. 895.