

## Chapter CXXIV.

### DILATORY MOTIONS.

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#### **5706. No dilatory motion shall be entertained by the Speaker.**

**Review of the conditions which resulted in the rule empowering the Speaker to decline to recognize for dilatory motions.**

**Discussion of the power of the Speaker in relation to the rights of the House.**

#### **Present form and history of section 10 of Rule XVI.**

Section 10 of Rule XVI provides:

No dilatory motion shall be entertained by the Speaker.

This rule originated in the revision of 1890. It was not included among the rules of the Fifty-second and Fifty-third Congresses, but was restored in the Fifty-fourth. In their report<sup>2</sup> the committee making the revision of 1890 said:

This clause is merely declaratory of parliamentary law. There are no words which can be framed which will limit Members to the proper use of proper motions. Any motion the most conducive to progress in the public business or the most salutary for the comfort and convenience of Members may be used for purposes of unjust and oppressive delay. The majority may be kept in session for a long time against reason and good sense, sometimes at the whim of a single Member, and sometimes for a still longer period, at the will of one-fifth who are misusing the provision of the Constitution for yeas and nays, by the aid of simple motions proper in themselves, but which are improperly used.

In the early days such prostitution of legitimate motions caused by anger, willfulness, and party zeal was not so much as named among legislators, To-day the abuse has grown to such proportions that the parliamentary law which governs American assemblies has found it necessary to keep pace with the evil, and to enable the majority, by the intervention of the Presiding Officer, to meet by extraordinary means the extraordinary abuse of power on the part sometimes of a very few Members. Why

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<sup>1</sup>Motions held dilatory during proceedings of the electoral count of 1877. (Sec. 1955 of Vol. III.) Instance of prolonged dilatory proceedings. (Sec. 6738 of this volume.)

<sup>2</sup>First session Fifty-first Congress, House Report No. 23.

should an assembly be kept from its work by motions made only to delay and to weary, even if the original design of the motion was salutary and sensible? Why should one-fifth even be entitled to waste a half hour of themselves and of four other fifths by a motion to adjourn, when the majority manifestly do not want to adjourn?

If the suggestion should be made that great power is here conferred, the answer is that as the approval of the House is the very breath in the nostrils of the Speaker, and as no body on earth is so jealous of its liberties and so impatient of control, we may be quite sure that no arbitrary interruption will take place, and, indeed, no interruption at all, until not only such misuses of proper motions is made clearly evident to the world, but also such action has taken place on the part of the House as will assure the Speaker of the support of the body whose wishes are his law. So that in the end it is a power exercised by the House through its properly constituted officer.<sup>1</sup>

Once before in the history of the House there had been a rule in relation to dilatory motions.<sup>2</sup> On February 1, 1875,<sup>3</sup> during prolonged dilatory proceedings intended to arrest the passage of the bill (H. R. 796) "to protect all persons in their civil and political rights," Mr. James A. Garfield, of Ohio, from the Committee on Rules, reported a rule which provided that "whenever a question is pending before the House the Speaker shall not entertain any motion of a dilatory character except one motion to adjourn and one motion to fix the day to which the House shall adjourn," with a further proviso to prevent the too precipitate ordering of the previous question. The rule was agreed to by the House, although the minority made strenuous objection, led by Mr. Samuel J. Randall, of Pennsylvania. And at the next Congress, on December 7, 1875,<sup>4</sup> when Mr. Randall offered the resolution to agree to the rules of the last House, this rule as to dilatory motions was specially excepted, and the House concurred. Thus obstruction was officially reinstated.

**5707. The constitutional right of the House to "determine the rules of its proceeding" may not be impaired or destroyed by the indefinite repetition of dilatory motions.**—On May 29, 1882,<sup>5</sup> Mr. Thomas B. Reed, of Maine, as a privileged question, called up a report from the Committee on Rules submitting a resolution relating to dilatory motions.

Motions to adjourn and to adjourn over were made, and finally, after much delay, Mr. Samuel J. Randall, of Pennsylvania, moved that when the House adjourn it be to meet on Thursday next.

Mr. Reed made the point of order that the proposition was not in order at this time, on the ground that pending a proposition to change the rules of the House, dilatory motions could not be entertained by the Chair.

After debate on the point of order, the Speaker<sup>6</sup> sustained the same on the ground that the constitutional right of the House to determine its rules could not be impaired or destroyed by the indefinite repetition of dilatory motions, and that in the absence of specific direction as to procedure with respect to the adoption or

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<sup>1</sup> Previous to this rule the Speaker had ruled as to dilatory motions. This report was undoubtedly written by Mr. Speaker Reed, who had already acted on the principle involved. (See sec. 5713.)

<sup>2</sup> On January 25, 1875, a proposition was made for a rule to prevent dilatory motions for the remainder of the session, but it failed to receive the two-thirds vote needed to suspend the rules and give it a passage. (Second session Forty-third Congress, Journal, p. 248; Record, p. 700.)

<sup>3</sup> Second session Forty-third Congress, Journal, p. 360; Record, pp. 892–902.

<sup>4</sup> First session Forty-fourth Congress, Record, p. 174.

<sup>5</sup> First session Forty-seventh Congress, Journal, p. 1362; Record, pp. 4305–4325.

<sup>6</sup> J. Warren Keifer, of Ohio, Speaker.

changing of its rules, it must be held, in order to make effective that constitutional right, that dilatory motions, whether so intended or not, that accomplish that result were not in order.<sup>1</sup>

**5708.** On January 27, 1875,<sup>2</sup> during the prolonged dilatory proceedings over the civil rights bill, the Speaker<sup>3</sup> said:

The Chair has repeatedly ruled that pending a proposition to change the rules dilatory motions could not be entertained, and for this reason he has several times ruled that the right of each House to determine what shall be its rules is an organic right expressly given by the Constitution of the United States. The rules are the creature of that power, and of course they can not be used to destroy the power. The House is incapable, by any form of rules, of divesting itself of its inherent constitutional power to exercise its function to determine its own rules. Therefore the Chair has always announced that upon a proposition to change the rules of the House he would never entertain a dilatory motion.

**5709. The Speakers, during the period when the rules made in order a motion to excuse a Member from voting, held the motion dilatory when applied to votes on adjourning or for a call of the House, since it might be used to prevent adjourning or the procuring of a quorum.**

**Instance of prolonged obstruction by the repetition of motions and the multiplication of roll calls.**

**While one appeal is pending another may not be taken.**

**The ordering of the previous question on a resolution does not carry the business to such new stage as to justify the repetition of a motion to lay on the table.**

On May 11, 1854,<sup>4</sup> Mr. William A. Richardson, of Illinois, submitted the following resolution:

*Resolved*, That all debate in the Committee of the Whole House on the state of the Union on the bill of the House (No. 236) to organize the Territories of Nebraska and Kansas shall cease at 12 o'clock m. to-morrow (if the committee shall not sooner come to a conclusion upon the same); and the committee shall then proceed to vote on such amendments as may be pending or offered to the same, and shall then report it to the House, with such amendments as may have been agreed to by the committee.

On this resolution Mr. Richardson moved for the previous question.

Then followed prolonged dilatory operations, such as the alternation of the motions to lay on the table, for a call of the House, to excuse individual Members from voting,<sup>5</sup> to reconsider votes whereby individual Members were excused from voting, to adjourn, to fix the day to which the House should adjourn, and, after calls of the House had been ordered, to excuse individual absentees. After twenty successive roll calls on repetitions of these motions, the question again recurred on the demand for the previous question on the resolution.

Mr. John Z. Goodrich, of Massachusetts, moved a call of the House. Pending which, Mr. James Maurice, of New York, moved that he be excused from voting upon the same.

<sup>1</sup>This was before the adoption of the rule relating to dilatory motions in such cases. The Record (p. 4324) gives Mr. Speaker Keifer's ruling at length.

<sup>2</sup>Second session Forty-third Congress, Record, p. 806.

<sup>3</sup>James G. Blaine, of Maine, Speaker.

<sup>4</sup>First session Thirty-third Congress, Journal, pp. 735, 757, 762, 765, 854; Globe, pp. 1166, 1191, 1192.

<sup>5</sup>Such a motion is no longer allowable.

Mr. Thomas L. Clingman, of North Carolina, made the point of order that, inasmuch as the motion for a call of the House takes precedence of all motions except to adjourn, it is not in order to move to be excused from voting upon such a motion.

The Speaker<sup>1</sup> sustained the point of order, and decided the motion of Mr. Maurice to be out of order.

From this decision of the Chair Mr. Lewis D. Campbell, of Ohio, appealed. Pending which, Mr. John Wheeler, of New York, moved that the appeal be laid on the table.

Pending which, Mr. Maurice moved to be excused from voting thereon.

The Speaker decided that the motion was not in order, on the ground that the same question was involved in the decision already pending on appeal.

From this latter decision Mr. Maurice proposed to take an appeal.

And the Speaker refused to entertain the same, on the ground that two appeals could not be pending at one time.

After three roll calls on motions to adjourn and to fix the day to which the House should adjourn, Mr. Wheeler's motion to lay the appeal on the table was carried, 104 yeas to 48 nays. So the appeal was laid on the table and the decision of the Chair was sustained.

The question recurring on Mr. Goodrich's motion for a call of the House, after two roll calls on motions to adjourn and to fix the day to which the House should adjourn, Mr. James Meacham, of Vermont, moved that he be excused from voting on the motion for a call of the House. The Speaker again ruled this motion not in order, and on an appeal was sustained, 99 yeas to 34 nays.

On May 15 the struggle was still continuing, 109 roll calls having been had since Mr. Richardson submitted his resolution. The previous question having been ordered on a modification of this original resolution, which made the date of closing debate on the bill the 20th instant, the question then recurred on agreeing to the resolution.

Pending which, Mr. Israel Washburn, jr., of Maine, moved that the resolution be laid on the table.

The Speaker decided the motion to be out of order, a similar motion having already been voted upon, and no action having since been had upon the resolution, except to order the previous question thereon.

From this decision of the Chair Mr. Israel Washburn, jr., appealed.

Pending which, Mr. Edwin B. Morgan, of New York, moved to be excused from voting thereon.

Mr. Thomas L. Clingman, of North Carolina, made the point of order that it was not in order to entertain a motion to excuse a Member from voting after the main question was ordered to be put.

The Speaker overruled the point of order, on the ground that the forty-second rule of the House conferred that privilege.<sup>2</sup>

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<sup>1</sup>Linn Boyd, of Kentucky, Speaker.

<sup>2</sup>At this time Rule 42 provided: "All motions to excuse a Member from voting shall be made before the House divides, or before the call of the yeas and nays is commenced; and the question shall then be taken without further debate." This rule was dropped in the revision of 1890.

A rule which allowed a brief verbal statement of reasons to be given by any Member for requesting to be excused from voting was rescinded January 2, 1845.

From this decision of the Chair Mr. Clingman appealed.

Pending which, Mr. Elihu B. Washburne, of Illinois, moved that the appeal be laid on the table.

And the question being put, it was decided in the negative, yeas 75, nays 111.

Thereupon, after several dilatory motions, the vote was taken on the question, "Shall the decision of the Chair stand as the judgment of the House?" and it was decided in the negative, 63 yeas to 94 nays. So the decision of the Chair was reversed.

**5710.** On May 20, 1858,<sup>1</sup> the House was considering the question arising over the credentials of James M. Cavanaugh and W. W. Phelps as Members-elect from the State of Minnesota.

Mr. Galusha A. Grow, of Pennsylvania, moved that the whole subject be laid on the table.

Pending this, Mr. Israel Washburn, jr., of Maine, moved that when the House adjourn it adjourn until Saturday next.

Pending which, Mr. Edwin B. Morgan, of New York, moved that he be excused from voting on the motion.

The Speaker<sup>2</sup> decided that it was not in order to move to be excused from voting on a motion to adjourn over, as otherwise the House might be prevented, against its will, from adjourning. The Speaker said:

The Chair doubts whether it is competent to entertain the motion of the gentleman from New York [Mr. Edwin B Morgan] to be excused from voting on the proposition to adjourn over. The gentleman will perceive that if that motion were made by every gentleman on the floor, the House would put itself in a position that it never could adjourn, inasmuch as a motion to adjourn over takes precedence of a motion to adjourn.

**5711.** On February 20, 1866,<sup>3</sup> Mr. Thaddeus Stevens, of Pennsylvania, from the joint committee of fifteen, reported a concurrent resolution declaring that no Senator or Member should be admitted from any of the eleven insurrectionary States until Congress should have declared such State entitled to representation. Mr. Stevens asked for the previous question upon this resolution, whereupon dilatory proceedings arose, and a motion to adjourn having been negatived on a yeas-and-nays vote Mr. William E. Finck, of Ohio, moved that when the House adjourn it be to meet on Friday next. On this motion the yeas and nays were ordered, when Mr. Philip Johnson, of Pennsylvania, asked to be excused from voting on the question, whereupon Mr. Sydenham E. Ancona, of Pennsylvania, called for the yeas and nays on excusing Mr. Johnson.

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

The Chair, in conformity with the decisions of the Speaker during the Thirty-seventh and Thirty-eighth Congresses, declines to entertain a motion to excuse a Member from voting on motions to adjourn or to adjourn over. The ground for that decision is very evident, for by calling the yeas and nays on such motions it might be in the power of one-fifth of the Members present to prevent a majority of the House from ever adjourning, or at least delay the adjournment for an unreasonable period.

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<sup>1</sup>First session Thirty-fifth Congress, Journal, p. 866; Globe, p. 2277.

<sup>2</sup>James L. Orr, of South Carolina, Speaker.

<sup>3</sup>First session Thirty-ninth Congress, Globe, pp. 944, 945.

<sup>4</sup>Schuyler Colfax, of Indiana, Speaker.

From this decision Mr. Charles A. Eldridge, of Wisconsin, appealed.

The Speaker said:

The Chair declines to entertain the appeal, on the same ground that he refuses to entertain the motion to be excused from voting. Gentlemen will find precedents for this decision of the Chair in the proceedings of the Thirty-seventh and Thirty-eighth Congresses. It should always be in the power of the majority of the House to adjourn whenever they shall see fit. But if gentlemen can ask to be excused from voting on a motion to adjourn, and demand the yeas and nays upon it, or take an appeal from the decision of the Chair refusing to entertain such motion, and demand the yeas and nays on the appeal, then one-fifth of the House could prevent the majority from adjourning, and this could, of course, be prolonged for hours.

Again, on the same day, on a motion for a call of the House, Mr. Philip Johnson, of Pennsylvania, asked to be excused from voting. The Chair again declined to entertain the motion, and on Mr. Eldridge appealing declined to entertain the appeal, saying as he did so: "The Speaker, of course, renders himself liable to the future censure of the House if his conduct should be disapproved."

**5712.** On April 4, 1888,<sup>1</sup> the House was considering the proposition to refund the direct tax of 1861. A motion for a recess being made and submitted to the House, Mr. C. R. Breckinridge, of Arkansas, moved, under Rule VIII, that Mr. Benton McMillin, of Tennessee, be excused from voting.

Mr. Lucien B. Caswell, of Wisconsin, made the point of order that it was not in order to move to excuse a Member from voting on a motion for a recess.

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

The Chair will cause the Clerk to read the first paragraph of Rule VIII.<sup>3</sup>

"Every Member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented; and shall vote on each question put, unless on motion made before division or the commencement of roll call, and decided without debate, he shall be excused, or unless he has a direct personal or pecuniary interest in the event of such question."

Now, it has been held that this does not apply in the case of a motion to adjourn or to adjourn over or for a call of the House; and the reason seems to be that if the motion to excuse Members from voting were entertained in such a case it might be in the power of a Member to prevent the House from adjourning at all, or from compelling the attendance of Members, and thus the House might be kept in session indefinitely or be destroyed as a legislative body. Those reasons do not apply on the question of taking a recess.

**5713. Finding the ordinary and proper parliamentary motions used solely for delay and obstruction, Mr. Speaker Reed ruled them out as dilatory and was sustained on appeal.**

**The object of a parliamentary body is action, not stoppage of action; and the methods of procedure may not be used to stop legislation.**

**As to the duty of the Speaker to carry out the will of the House.**

On January 31, 1890,<sup>4</sup> the House was considering the West Virginia contested election case of *Smith v. Jackson*, and the Speaker had counted a quorum on the question of the approval of the Journal. The Speaker thereupon announced that the yeas were 161 and the nays none, and declared the Journal approved.<sup>5</sup>

<sup>1</sup> First session Fiftieth Congress, Record, pp. 2709, 2710.

<sup>2</sup> John G. Carlisle of Kentucky, Speaker.

<sup>3</sup> This rule has since been changed. See section 5941 of this volume.

<sup>4</sup> First session Fifty-first Congress, Journal, p. 181; Record, p. 999.

<sup>5</sup> These proceedings took place under general parliamentary law, the House not having adopted rules.

The Speaker recognized Mr. John Dalzell, of Pennsylvania, who arose to address the House, when Mr. William D. Bynum, of Indiana, claimed the floor on a question of personal privilege, and being recognized by the Speaker, addressed the House on that question.

At the conclusion of Mr. Bynum's remarks Mr. William M. Springer, of Illinois, moved that the House adjourn.

The Speaker ruled the motion not in order.

From this ruling Mr. Springer appealed.

The Speaker<sup>1</sup> thereupon made the following statement to the House as the grounds of his ruling:

The House will not allow itself to be deceived by epithets. The facts which have transpired during the last few days have transpired in the presence of this House and of a very large auditory. No man can describe the action and judgment of this Chair in language which will endure unless that description be true.

A man much more famous than any in this Hall said many years ago that nobody could write him down but himself. Nobody can talk any Member of this House down except himself.

Whatever is done has been done in the face of the world, and is subject to its discriminating judgment. The proceedings of this House, so far as the Chair is concerned, have been orderly, suitable in conformity to the rules of parliamentary law, and the refusal of the Chair to entertain the motion to adjourn at this juncture is strictly in accordance therewith.

There is no possible way by which the orderly methods of parliamentary procedure can be used to stop legislation. The object of a parliamentary body is action, and not stoppage of action. Hence, if any Member or set of Members undertakes to oppose the orderly progress of business, even by the use of the ordinarily recognized parliamentary motions, it is the right of the majority to refuse to have those motions entertained, and to cause the public business to proceed.

Primarily the organ of the House is the man elected to the Speakership. It is his duty in a clear case, recognizing the situation, to endeavor to carry out the wishes and desires of the majority of the body which he represents. Whenever it becomes apparent that the ordinary and proper parliamentary motions are being used solely for purposes of delay and obstruction; when Members break over in an unprecedented way the rule in regard to the reading of the Journal; when a gentleman steps down to the front, amid the applause of his associates on the floor, and announces that it is his intention to make opposition in every direction, it then becomes apparent to the House and to the community what the purpose is. It is then the duty of the occupant of the Speaker's chair to take, under parliamentary law, the proper course with regard to such matters; and in order that there might not be any misunderstanding as to whether or not it is the wish or desire of the majority of the House—apparent as it seems to be—the question of the appeal from the refusal of the Chair to entertain the motion will be put to the House for its judgment and determination.<sup>2</sup>

The question being on the appeal, Mr. William McKinley, jr., of Ohio, moved to lay it on the table, and the question being put, there appeared, yeas 163, nays 0: so the appeal was laid on the table, the presence of a quorum being ascertained.

**5714. A motion must be manifestly for delay in order to justify its rejection as dilatory.**—On January 16, 1903,<sup>3</sup> the Committee of the Whole House was considering a resolution referring a list of claims to the Court of Claims, the resolution being open to amendment under the five-minute rule.

Mr. Thaddeus M. Mahon, of Pennsylvania, moved that debate on the pending section and amendment be limited to one minute.

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<sup>1</sup> Thomas B. Reed, of Maine, Speaker.

<sup>2</sup> It was after this ruling that the rule was made.

<sup>3</sup> Second session Fifty-seventh Congress, Record, pp. 895, 896.

Mr. Sereno E. Payne, of New York, moved to amend by striking out “one minute” and inserting “three hours.”

This amendment being disagreed to, Mr. Payne then proposed “two hours,” which being also disagreed to, he proposed “one hour.”

Mr. James D. Richardson, of Tennessee, made the point of order that the motion was dilatory.

The Chairman,<sup>1</sup> after permitting debate on the point of order, said:

The gentleman from Tennessee makes a point of order that the motion of the gentleman from New York to limit debate to one hour is dilatory. The Chair, taking into consideration the character of this bill, which includes eighty-five bills, each one having a separate report, thinks that one hour would not be too much time in which to debate these several questions, and therefore thinks that the motion of the gentleman from New York is not dilatory and is in order. The question is upon the motion of the gentleman from New York to amend the motion of the gentleman from Pennsylvania.

**5715. When motions or appeals have been made with an evident purpose of obstruction, the Speaker, acting under the rule, has held them dilatory, either on a point of order being made or without it.**—On August 27, 1890,<sup>2</sup> Mr. Marriott Brosius, of Pennsylvania, presented a resolution directing the Sergeant-at-Arms to procure the attendance of absent Members.

Pending this, Mr. R. H. Clarke, of Alabama, moved that the House adjourn.

Mr. Brosius made the point of order that the motion was a dilatory one, and therefore not in order.

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

From the decision Mr. Clarke appealed.

The Speaker declined to entertain the appeal.

The question recurring on agreeing to the resolution submitted by Mr. Brosius, Mr. Charles H. Turner, of New York, moved to lay the resolution on the table.

Mr. Brosius made the point of order that the motion was a dilatory one, and therefore not in order.

The Speaker sustained the point of order.

From the decision Mr. Turner appealed.

The Speaker declined to entertain the appeal.

Then Mr. Turner demanded a division of the question.

The Speaker ruled that the question was not divisible.

Mr. Turner appealed from the decision of the Chair.

The Speaker declined to entertain the appeal.<sup>4</sup>

**5716.** On March 29, 1894,<sup>5</sup> the House was in the midst of proceedings to secure the attendance of absent Members.

Mr. Josiah Patterson, of Tennessee, had presented a resolution to provide for the arrest of Members absent without leave and to provide that the order of arrest should be a continuing one until further order of the House.

<sup>1</sup>James A. Hemenway, of Indiana, Chairman.

<sup>2</sup>First session Fifty-first Congress, Journal, p. 997; Record, p. 2939. This and the following decisions were made after the adoption of the rule empowering the Speaker to decline to entertain dilatory motions.

<sup>3</sup>Thomas B. Reed, of Maine, Speaker.

<sup>4</sup>For other rulings as to dilatory motions, see first session Fifty-first Congress, Journal, pp. 627, 810, 812, 931, 942, 958, 1029, and second session Fifty-first Congress, pp. 22, 111, 144, 166.

<sup>5</sup>Second session Fifty-third Congress, Journal, pp. 284, 286, 287; Record, pp. 3333–3340.

Mr. Thomas B. Reed, of Maine, demanded that the proposed order be divided and that the vote be taken separately on each of the three propositions which, he insisted, were embraced therein.

Mr. William M. Springer, of Illinois, made the point that a proposition designed to secure absent Members was not subject to the demand that it be divided.

The Speaker *pro tempore*<sup>1</sup> sustained the point of order and held that the pending proposition could not be divided.

Mr. Sereno E. Payne, of New York, appealed from the decision of the Chair.

Mr. Springer moved to lay the appeal on the table.

Mr. Payne moved that the House adjourn; and the question being put, Will the House adjourn? it was decided in the negative.

The appeal was then laid on the table.

Mr. John F. Lacey, of Iowa, moved to reconsider the vote by which the appeal was laid on the table.

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

Mr. Payne moved that the House adjourn; and the question being put, Will the House adjourn? it was decided in the negative.

So the House refused to adjourn.

The Speaker<sup>2</sup> then sustained the point of order submitted by Mr. Dockery respecting the motion of Mr. Lacey, and held that the motion to reconsider the vote by which the appeal from the decision of the Chair was laid on the table could not be considered during a call of the House.

Mr. Lacey stated that he appealed from the decision just made.

The Speaker declined to entertain the appeal.

**5717.** On the same day, March 29, 1894,<sup>3</sup> the House was still considering the order offered by Mr. Josiah Patterson, of Tennessee, directing the Sergeant-at-Arms to take into custody absent Members.

Mr. Sereno E. Payne, of New York, moved that the House adjourn.

The Speaker<sup>2</sup> declined to entertain the motion, holding that there had been no transaction of business since the previous motion to adjourn was disagreed to.

Mr. Payne appealed from the decision of the Chair in declining to recognize him for the motion to adjourn.

The Speaker<sup>2</sup> declined to entertain the appeal.

**5718.** On March 30, 1894,<sup>4</sup> the Speaker having held that a motion made by Mr. Charles A. Boutelle, of Maine, to proceed to consider the bill (H. R. 4956) "directing the coinage of silver bullion held in the Treasury, etc.," returned with the President's objections, was not in order, Mr. Boutelle stated that he appealed from the decision of the Chair.

The Speaker<sup>2</sup> declined to entertain the appeal.

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<sup>1</sup> William J. Stone, of Kentucky, Speaker *pro tempore*.

<sup>2</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>3</sup> Second session Fifty-third Congress, Journal, pp. 284, 286, 287; Record, pp. 3339, 3340.

<sup>4</sup> Second session Fifty-third Congress, Journal, pp. 292, 293, 295; Record, p. 3353.

**5719.** On April 30, 1894,<sup>1</sup> the House was considering the contested election case of *Joy v. O'Neill*, from Missouri, under a special order which provided that after two hours' debate the vote should be taken "without intervening motion."

A vote having been taken on one branch of the resolutions, Mr. John M. Wever, of New York, moved to reconsider the vote.

The Speaker sustained the point of order that the motion to reconsider was not in order under the special order.

Mr. John F. Lacey, of Iowa, appealed from the foregoing decision of the Chair.

The Speaker<sup>2</sup> declined to entertain the appeal, holding that the motion to reconsider and the appeal were intervening proceedings and were precluded by the special order.<sup>3</sup>

Mr. Thomas B. Reed, of Maine, appealed from the decision just rendered.

The Speaker declined to entertain the appeal.

The question being put, "Will the House agree to the first resolution reported by the committee?" the yeas and nays were demanded and ordered by one-fifth of the Members present.

Mr. Reed moved to reconsider the vote by which the yeas and nays were ordered.

The Speaker declined to entertain the motion.

Mr. Reed stated that he appealed.

The Speaker declined to entertain the appeal.

**5720.** On February 27, 1897,<sup>4</sup> the question before the House was on ordering the previous question on the bill (H. R. 10090) to amend the interstate commerce act.

Mr. James G. Maguire, of California, moved to lay the whole matter on the table.

Mr. Albert J. Hopkins, of Illinois, made the point of order that the motion was dilatory.

The Speaker<sup>5</sup> sustained the point of order.

**5721.** On July 16, 1897,<sup>6</sup> the House was considering certain Senate amendments to the deficiency appropriation bill, and the one relating to the purchase of armor plate for the Navy was before the House.

Mr. Joseph D. Sayers, of Texas, moved that the House recede from its disagreement to the Senate amendment. The question was then taken on the motion of Mr. Sayers, and the Speaker announced that the ayes seemed to have it.

The yeas and nays having been ordered, and the roll call being about to proceed, Mr. William A. Stone, of Pennsylvania, moved that the House adjourn.

Mr. Joseph W. Bailey, of Texas, made the point of order that the motion was dilatory.

The Speaker<sup>5</sup> sustained the point of order.

**5722.** On January 19, 1898,<sup>7</sup> the House was in Committee of the Whole House on the state of the Union considering the diplomatic and consular appropriation bill.

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<sup>1</sup> Second session Fifty-third Congress, Journal, pp. 304, 305; Record, pp. 3422, 3423.

<sup>2</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>3</sup> This case is somewhat different from the general practice, because of the language of the special order.

<sup>4</sup> Second session Fifty-fourth Congress, Record, p. 2469.

<sup>5</sup> Thomas B. Reed, of Maine, Speaker.

<sup>6</sup> First session Fifty-fifth Congress, Record, p. 2661.

<sup>7</sup> Second session Fifty-fifth Congress, Record, pp. 761, 762.

A point of order having been made on an amendment offered by Mr. James Hamilton Lewis, of Washington, in relation to recognition of a state of war in Cuba, the Chair sustained the point of order, this being the second amendment relating to Cuban affairs ruled out in succession.

Mr. Lewis, of Washington, having entered an appeal, Mr. John Dalzell, of Pennsylvania, made the point of order that the appeal was dilatory.

The Chairman<sup>1</sup> sustained the point of order.

Mr. Lewis thereupon made the point of order that while a motion might be ruled out of order as dilatory, an appeal might not be thus ruled out.

The Chairman overruled the point of order.

**5723. In a rare instance in the earlier history of the House a Speaker declined to entertain an appeal which was evidently trivial.**—On August 31, 1842,<sup>2</sup> a resolution providing for extra compensation to the officers of the House was under consideration, and on a motion for the previous question the Speaker announced, ayes 91, noes 45.

Mr. Edward J. Black, of Georgia, called for tellers; but only twenty-one Members arose to vote for tellers, and the Speaker announced that tellers were not ordered.

Mr. Black called for a count of the other side on the vote for tellers.

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

The Chair will not count. As tellers, under the rule, are ordered by one fifth of a quorum, the count of those opposed is never necessary.

Mr. Black appealed from the decision.

The Speaker said:

The Chair will not put the appeal.

**5724. The Speaker being satisfied that a quorum was present and that a point of no quorum was made for dilatory purposes, declined to entertain it.**—On January 25, 1896,<sup>4</sup> the House was considering the bill (H. R. 9099) for the regulation of cemeteries, etc., in the District of Columbia, and the previous question had been demanded on the engrossment and third reading of the bill.

On the division there were, ayes 104, noes 1.

Mr. Henry M. Baker, of New Hampshire, made the point that no quorum was present.

Mr. James D. Richardson, of Tennessee, called attention to the fact that a quorum had within a short time appeared on a roll call, and suggested that the point of no quorum was dilatory.

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

The Chair does not feel quite certain that there is a quorum now. \* \* \* The fact that it is dilatory does not make any difference if there is not a quorum present.

<sup>1</sup> William P. Hepburn, of Iowa, Chairman.

<sup>2</sup> Second session, Twenty-seventh Congress, Globe, p. 979.

<sup>3</sup> John White, of Kentucky, Speaker.

<sup>4</sup> Second session Fifty-fourth Congress, Record, p. 11 1133.

<sup>5</sup> Thomas B. Reed, of Maine, Speaker.

The Speaker having ascertained by a count that 180 Members, a quorum, were present, announced that the ayes had it, and that the previous question was ordered.

The question being then taken on the engrossment and third reading, there were, on a division, 119 ayes and 3 noes.

Mr. Baker made the point that no quorum was present.

The Speaker overruled the point of order.

On the passage of the bill there were, ayes 105, noes 5; and Mr. Baker made the point of no quorum.

The Speaker said:

The Chair overrules the point of order, it having been ascertained that a quorum is present. The ayes have it, and the bill is passed.

**5725.** On June 5, 1896,<sup>1</sup> the House was considering the contested election case of *Martin v. Lockhart*, from North Carolina, and the vote on the substitute resolutions offered by the minority had resulted in their rejection, 57 yeas to 156 nays.<sup>2</sup>

Immediately upon the announcement of the vote Mr. Joseph W. Bailey, of Texas, moved to recommit the resolution of the majority, and on a division there were, ayes 39, noes 70.

Mr. Bailey made the point of no quorum.

The Speaker pro tempore<sup>3</sup> overruled the point of order.

The question on the motion to recommit being taken by yeas and nays, there were, yeas 51, nays 148, "present" 1.

The question recurring immediately on the adoption of the resolution, there were, on division, 113 ayes and 5 noes.

Mr. Bailey made the point of no quorum.

The Speaker pro tempore overruled the point of order, a quorum having been disclosed by the roll call just had.

Mr. Bailey appealed from the ruling.

The Speaker pro tempore declined to entertain the appeal.

**5726. The presence of a quorum having been ascertained, the Speaker has overruled points of "No quorum" made very soon thereafter.**—On September 23, 1890,<sup>4</sup> the question on the approval of the Journal of Friday having been taken by yeas and nays, the Speaker<sup>5</sup> announced from a list noted and furnished by the Clerk, at the suggestion of the Speaker, the following-named Members as present in the Hall when their names were called, and not voting: Messrs. Lind, Bartine, Cooper, of Ohio, De Haven, McCord, McKenna, and O'Ferrall, the Speaker being present. Mr. Bartine and Mr. Lind, noted by the Clerk as present and not voting, were, at their request, recorded in the affirmative.

The Speaker thereupon stated that the Members present and refusing to vote (6 in number), together with those recorded as voting (160 in number), showed a total of 166 Members present, constituting a quorum present to do business, and

<sup>1</sup>First session Fifty-fourth Congress, Record, pp. 6166, 6167, 6173.

<sup>2</sup>The quorum was 179.

<sup>3</sup>Sereno E. Payne, of New York, Speaker pro tempore.

<sup>4</sup>First session Fifty-first Congress, Journal, p. 1071, Record, p. 10337.

<sup>5</sup>Thomas B. Reed, of Maine, Speaker.

that the yeas being 160 and the nays 0 the Journal of the proceedings of the sitting of Friday, September 19, as read, would stand approved.

The Journal of the proceedings of the sitting of Saturday, September 20, was then read, and the question being on its approval,

Mr. Charles T. O'Ferrall, of Virginia, made the point of order that no quorum was present.

The Speaker overruled the point of order on the ground that the proceedings had just disclosed the presence of a quorum.

**5727.** On December 9, 1890,<sup>1</sup> the question being on an amendment to the bill (S. 1044) for the erection of a public building at Madison, Ind., there appeared, on division, yeas 76, nays 33.

Mr. E. S. Williams, of Ohio, made the point of order that no quorum was present.

The Speaker thereupon proceeded to count the House, and announced the presence of 185 Members—more than a quorum—and that the amendment to the amendment was agreed to.

The said amendment, as amended, was then agreed to, and the said bill, as amended, read the third time, and, the question being on its passage, there appeared, on division, yeas 118, nays 6.

Mr. Williams, of Ohio, made the point of order that no quorum was present.

The Speaker<sup>2</sup> overruled the point of order, saying:

There is no doubt that there is a quorum here. The same number of Members are present as were here before.

**5728.** On February 26, 1903,<sup>3</sup> the pending question was on agreeing to the following resolutions, on which the previous question had been ordered:

*Resolved*, That George C. R. Wagoner was not elected a Representative in the Fifty-seventh Congress from the Twelfth Congressional district of Missouri, and is not entitled to a seat therein.

*Resolved*, That James J. Butler was elected a Representative in the Fifty-seventh Congress from the Twelfth Congressional district of Missouri, and is entitled to a seat therein.

Mr. Oscar W. Underwood, of Alabama, moved to recommit the resolutions.

Mr. Sereno E. Payne, of New York, moved the previous question on the latter motion, and the vote being taken by division there were yeas 156, noes 4.

Mr. Underwood, of Alabama, made the point of order that no quorum was present.

Mr. Charles H. Grosvenor, of Ohio, made the point of order that the point of no quorum was dilatory.

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

Evidently there is no quorum in the Hall. The Chair orders the doors to be closed. The Doorkeeper will take measures to enforce the attendance of absent Members. The yeas and nays will now be taken under the rule.

There appeared yeas 147, nays 12, answering present 19—more than a quorum, 177 being a quorum—and the previous question was ordered.

<sup>1</sup> Second session Fifty-first Congress, Journal, p. 39; Record, p. 271.

<sup>2</sup> Thomas B. Reed, of Maine, Speaker.

<sup>3</sup> Second session Fifty-seventh Congress, Record, pp. 2726–2728.

<sup>4</sup> John Dalzell, of Pennsylvania, Speaker pro tempore.

The question was then taken on the motion to recommit, and on division there were ayes 5, noes 165. So the motion was disagreed to.

Mr. Underwood made the point of order that there was no quorum present.

The Speaker pro tempore overruled the point of order as dilatory.

The question was then taken on the first of the two resolutions, which was agreed to.

The question being taken on the second resolution, on division there were ayes 161, noes 2.

Mr. Underwood made the point of order that no quorum was present.

The Speaker pro tempore overruled the point of order as dilatory, and declared the resolution agreed to.

Mr. Wagoner then appeared and took the oath.

A little later Mr. Sereno E. Payne, of New York, moved a recess, and on that motion demanded the previous question.

A division being taken on ordering the previous question, there were ayes 169, noes 5. So the previous question was ordered.

Mr. Underwood made the point of order that no quorum was present.

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

The Chair is obliged to overrule the point of order, for the reason that the recent call of the House shows that there was a quorum present, and it is well settled by the rules that the point of no quorum can not be made when a recent call of the House shows the presence of a quorum.

The question being then taken on the motion for a recess, it was agreed to, there appearing on division ayes 173, noes 4.<sup>2</sup>

On the calendar day of February 28 (legislative day of February 26) a vote by tellers on a motion to suspend the rules showed ayes 100, noes 33.

Mr. Underwood made the point of no quorum.

Mr. Payne made the point of order that the point was dilatory.

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

The last roll call, only two minutes ago, disclosed the presence of 224 members—47 more than a quorum; and not a single roll call since the opening of the session to-day has failed to disclose a quorum. The Chair sustains the point of order.<sup>3</sup>

**5729.** On May 22, 1906,<sup>4</sup> a yea-and-nay vote had developed the presence of 233 Members (192 being a quorum). Shortly after, a quorum failed to vote on a division on a motion that the House resolve itself into Committee of the Whole.

Mr. John S. Williams, of Mississippi, made the point of order that a quorum was not present.

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

Under the practice, a vote having just been taken by the yeas and nays, the most accurate way of taking it, disclosed a quorum \* \* \*. The Chair overrules the point.

<sup>1</sup> David B. Henderson, of Iowa, Speaker.

<sup>2</sup> It will be noted that on this division an actual quorum voted. The minority had to a large extent left the Hall before the quorum of record was developed by the call, and had remained away during the proceedings.

<sup>3</sup> For similar proceedings see contested election case of *Miller v. Elliott*, first session Fifty-first Congress. See sec. 1034 of Vol. II of this work.

<sup>4</sup> First session Fifty-ninth Congress, Record, pp. 7248, 7249.

<sup>5</sup> Joseph G. Cannon, of Illinois, Speaker.

**5730.** On February 21, 1907,<sup>1</sup> the sundry civil appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when a point of no quorum was made and the roll was called under the rule. The roll call showing a quorum and the Committee of the Whole House having resumed its sitting, after a short interval Mr. Frank Clark, of Florida, made a point of no quorum.

Mr. James A. Tawney, of Minnesota, made the point that the proceeding was dilatory.

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

The Chair at this time sustains the point made by the gentleman from Minnesota that it is dilatory, because in the opinion of the Chair at this time, so recently after the roll has been called, it is dilatory.

Not long after, Mr. John S. Williams, of Mississippi, again suggested the absence of a quorum, saying that he did it in no dilatory spirit.

The Chairman said:

The gentleman says he makes the motion in sincerity and not in a dilatory spirit, so the Chair will count.

**5731. Under certain circumstances the motions to reconsider and adjourn and the question of consideration have been held dilatory.**

**The Speaker has declined to entertain debate or appeal on a question as to dilatoriness of a motion.**

On May 18, 1906,<sup>3</sup> the House had under consideration the bill (H. R. 9297) for the relief of Henry E. Rhoades, assistant engineer, United States Navy, retired, which had been reported from Committee of the Whole House after proceedings evidently dilatory.

The previous question was ordered on the bill, yeas 143, nays 69.

Mr. John S. Williams, of Mississippi, moved to reconsider the vote whereby the previous question was ordered.

Mr. James M. Miller, of Kansas, made the point of order that the motion was dilatory.

Mr. Williams desired to be heard on the point of order, holding that it should be open to discussion.

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

Not at all; the Chair will say to the gentleman from Mississippi, because if it were open for discussion and open for appeal, the gentleman can see at once that would heap one dilatory motion, if this be dilatory, upon another, and the rule itself would be nullified. Now, the Chair having had clause 10 of Rule XVI read, and the vote being as the Chair stated, 143 yeas and 69 nays, it is perfectly patent to the Chair and, in the opinion of the Chair, to every Member of this House, including the gentleman from Mississippi, that this is a dilatory motion.

Mr. William said:

Mr. Speaker, in order to emphasize the difference of opinion existing between the Chair and the gentleman from Mississippi, I respectfully appeal from the decision of the Chair.

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<sup>1</sup>Second session Fifty-ninth Congress, Record, pp. 3572, 3573.

<sup>2</sup>James E. Watson, of Indiana, Chairman.

<sup>3</sup>First session Fifty-ninth Congress, Record, pp. 7092, 7093.

<sup>4</sup>Joseph G. Cannon, of Illinois, Speaker.

The Speaker held:

The Chair has just stated that the very object of the rule would be defeated if a motion to appeal were entertained, and it is so patent that it is dilatory that the Chair would be willing to put the question to the gentleman from Mississippi [Mr. Williams] himself on his word.<sup>1</sup>

The bill having been passed, the House next proceeded to consider the bill (H. R. 850) for relief of the estate of Samuel Lee, etc.<sup>2</sup>

Mr. John S. Williams, of Mississippi, raised the question of consideration.

Mr. Charles H. Grosvenor, of Ohio, made the point of order that the motion was dilatory.

The Speaker sustained the point of order.

Later,<sup>3</sup> during proceedings on this bill, the Speaker held a motion to adjourn dilatory, although the hour at which the House, under ordinary circumstances, might be expected to adjourn had arrived.

On May 19,<sup>4</sup> the day after the bill passed, Mr. Miller moved that the vote by which the bill passed be reconsidered, and that the motion to reconsider do lie on the table.

This motion to reconsider was laid on the table.

Thereupon Mr. Williams proposed a motion to reconsider the vote whereby the title of the bill had been amended.

Mr. Miller made the point of order that the motion was dilatory.

The Speaker held:

The House will notice from the Journal, as well as the recollection of Members, the votes that were taken on this bill upon yesterday. There were one or more amendments to the bill reported from the Committee of the Whole House. Those amendments were agreed to by the House. The bill was engrossed and read a third time and passed, and then there was a vote upon amending the title. Then the House adjourned. This morning a motion was made to reconsider the vote by which the bill was passed, and we have just voted upon a motion to lay that motion upon the table, and the House has agreed to the motion by a majority. The Chair will state to the gentleman from Mississippi that it does seem to the Chair that, all things considered, the Chair, in ruling upon the point of order that the motion is dilatory, must sustain the point. \* \* \* The Chair will state further in reply to the gentleman that the vote by which the bill was passed was the material vote, the substantial vote, and a motion to reconsider that vote was made and that motion was laid on the table. The question of amending the title may be likened to the "leather and prunella" that surround many questions, and the Chair must adhere to its decision and sustain the point of order.

**5732.** On the calendar day of February 28, 1903<sup>5</sup> (legislative day of February 26), the conference report on the Military Academy appropriation bill was presented; and having been read, Mr. James D. Richardson, of Tennessee, proposed to move the question of consideration.

Mr. Sereno E. Payne, of New York, made the point of order that the motion was dilatory.

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<sup>1</sup>The motion to reconsider when applied to the vote by which a bill has been passed might be considered to stand on a somewhat different basis from the motion as applied to a vote on a subsidiary proposition.

<sup>2</sup>Record, p. 7097.

<sup>3</sup>Record, p. 7101.

<sup>4</sup>Record, pp. 7105, 7106.

<sup>5</sup>Second session Fifty-seventh Congress, Record, p. 2828.

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

The gentleman from Tennessee raises the question of consideration; the gentleman from New York makes the point of order that that is a dilatory motion. The right to raise the question of consideration is not one given by the Constitution, but by the rules of the House. The rules of the House also provide that dilatory motions shall not be entertained by the Speaker. Therefore that motion is governed by the dilatory rule. It is perfectly plain to the Chair, and possibly to the gentleman making the motion, that this is a dilatory motion. At least the Chair is perfectly conscientious in so holding, and sustains the point of order.

Mr. Richardson having proposed to appeal, the Speaker held the appeal out of order as dilatory.<sup>2</sup>

**5733.** On December 18, 1900,<sup>3</sup> the House was considering the bill (S. 1929) to provide for eliminating certain grade crossings in the city of Washington, the Committee of the Whole House on the State of the Union having risen in order that the House might fix a time for closing general debate.

A resolution fixing the time for closing general debate was offered, and the previous question demanded. On a vote by yeas and nays, there were yeas 157, nays 87, so the previous question was ordered.

The resolution was then agreed to, the yeas and nays being again taken and resulting, yeas 147, nays 86.

The question then recurring on the motion that the House resolve itself into Committee of the Whole to continue consideration of the bill, it was agreed to, 161 to 66, the yeas and nays being again taken.

This vote being announced, Mr. William S. Cowherd, of Missouri, moved to reconsider.

Mr. James A. Norton, of Ohio, made the point of order that this motion was dilatory.

The Speaker<sup>1</sup> sustained the point of order.

**5734. A motion fixing the time of five-minute debate in Committee of the Whole has been ruled out when dilatory.**—On June 8, 1906,<sup>4</sup> the sundry civil appropriation bill was under consideration in Committee of the Whole House on the State of the Union, when Mr. James A. Tawney, of Minnesota, moved that debate on the pending paragraph be now closed.

Mr. John J. Fitzgerald, of New York, moved an amendment fixing the limit of time at twenty minutes.

Mr. John S. Williams, of Mississippi, moved an amendment to the amendment, fixing the time at half an hour.

On division on Mr. Williams' amendment there were ayes 39, noes 78. Mr. Williams demanded tellers and they were ordered, and there were ayes 37, noes 83.

Mr. Fitzgerald's amendment was then disagreed to, ayes 34, noes 63.

Mr. Champ Clark then moved an amendment fixing the time at five minutes.

Mr. Tawney made the point of order that the motion was dilatory.

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<sup>1</sup> David B. Henderson, of Iowa, Speaker.

<sup>2</sup> These proceedings occurred at a time when prolonged dilatory tactics had been employed.

<sup>3</sup> Second session Fifty-sixth Congress, Record, p. 409.

<sup>4</sup> First session Fifty-ninth Congress, Record, p. 8135.

The Chairman<sup>1</sup> sustained the point of order.

**5735. The Speaker has ruled a demand for tellers dilatory when satisfied that it was made only for purposes of delay.**

**The motion to reconsider has been ruled out as dilatory when manifestly made for purpose of delay.**

On March 7, 1898,<sup>2</sup> pending the presentation of a bill from the Committee for the District of Columbia, Mr. Joseph W. Bailey, of Texas, moved that the House adjourn.

The question being put, there were on division ayes 76, noes 125.

Mr. Bailey demanded tellers, and tellers were ordered and appointed, when Mr. John J. Jenkins, of Wisconsin, demanded the yeas and nays.

The question was taken on ordering the yeas and nays, and the Speaker announced that a sufficient number had risen, and that the yeas and nays were ordered.

Mr. Bailey demanded tellers on the vote for the yeas and nays.

Mr. David B. Henderson, of Iowa, made the point of order that the demand was dilatory.

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

Mr. Bailey appealed from the decision of the Chair.

The Speaker declined to entertain the appeal.

Later on the same day, the House having proceeded to the consideration of the bill (S. 2323) relating to the incorporation of Columbian College, the vote on the third reading of the bill was taken by yeas and nays, there appearing 218 yeas, 1 nay, 23 answering "present."

Immediately the question was put on the passage of the bill, and on a division there appeared 119 ayes, 3 noes.

Mr. Bailey made the point of no quorum.

The Speaker overruled the point of order.

Mr. Bailey appealed from the decision of the Chair.

The Speaker declined to entertain the appeal.

Mr. Bailey having demanded the yeas and nays, there were yeas 208, nays 0, answering "present" 9.

The Speaker having declared the bill passed, Mr. Bailey moved to reconsider the vote by which the bill was passed.

The Speaker declined to entertain the motion upon the ground that the gentleman was making it as a dilatory motion.

Thereafter during this day the point of no quorum was several times ruled out of order as dilatory, and the Chair declined to entertain appeals.

**5736.** On March 25, 1898,<sup>4</sup> the House was in Committee of the Whole House on the state of the Union, considering the naval appropriation bill.

Several points of order having arisen over the attempt of a Member to speak under the five-minute rule on a subject not before the committee, and several

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<sup>1</sup>James E. Watson, of Indiana, Chairman.

<sup>2</sup>Second session Fifty-fifth Congress, Record, pp. 2559-2566.

<sup>3</sup>Thomas B. Reed, of Maine, Speaker.

<sup>4</sup>Second session Fifty-fifth Congress, Record, p. 323.

dilatory motions having been ruled out of order, the question was put on the pending amendment.

On a division, the Chairman announced that there were ayes 62, noes 99.

Mr. Joseph W. Bailey, of Texas, demanded tellers.

Mr. Sereno E. Payne, of New York, made the point of order that this demand was dilatory, since the amendment on which the division had just taken place was simply the pro forma one, which was almost invariably withdrawn in Committee of the Whole.<sup>1</sup>

The Chairman<sup>2</sup> held—

It is not only the privilege but the duty of the Chair, as it seems to me, at all times when a question of order is raised, to consider the circumstances under which it has been raised. Here a purely formal amendment to strike out the last word is made. \* \* \* The vote is taken upon that amendment. The vote shows that the Chair is not likely to have been mistaken, the total being 62 to 99. It is not so close as to indicate that the Chair erred in his count or in his conclusion as to whether the motion is carried or lost. \* \* \* The gentleman having stated some time ago that he started out this afternoon for the purpose of consuming time, and as it seems perfectly apparent that the demand is made clearly for the purpose of consuming time, the Chair sustains the point of order.

Mr. Bailey appealed from the decision of the Chair.

Mr. John Dalzell, of Pennsylvania, made the point of order that the appeal was dilatory.

The Chairman sustained the point of order.

**5737. The constitutional right of a Member to demand the yeas and nays may not be overruled as dilatory.**—On January 21, 1898,<sup>3</sup> the Committee of the Whole House having risen, Mr. John Dalzell, of Pennsylvania, moved that the House adjourn.

Tellers having been ordered, they reported ayes 62, noes 106.

Mr. Dalzell demanded the yeas and nays.

Mr. Joseph W. Bailey, of Texas, made the point of order that the demand for the yeas and nays was plainly dilatory.

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

Under the Constitution of the United States one-fifth of the Members present have always the right to order the yeas and nays.

Thereupon the question of ordering the yeas and nays was submitted to the House.

**5738. Pending consideration of a report from the Committee on Rules the Speaker is forbidden to entertain dilatory motions.**—Section 61 of Rule XI<sup>5</sup> provides:

\* \* \* Pending consideration thereof [a report from the Committee on Rules], the Speaker may entertain one motion that the House adjourn, but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of.

<sup>1</sup> Members who wish to speak under the five-minute rule, but have no amendment to offer, obtain the floor by offering the pro forma amendment to strike out the last word or the last two words. After the Member has concluded, he is usually allowed by unanimous consent to withdraw the amendment which has served his purpose. If there is objection, however, the vote must be taken on the amendment, since in Committee of the Whole amendments may not be withdrawn as in the House.

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

<sup>3</sup> Second session Fifty-fifth Congress, Record, p. 847.

<sup>4</sup> Thomas B. Reed, of Maine, Speaker.

<sup>5</sup> For full form and history of this rule see section 4621 of Vol. IV of this work.

**5739. Pending consideration of a report from the Committee on Rules appeals and the motion to reconsider have been ruled out as dilatory within the meaning of the rule.**—On September 20, 1893,<sup>1</sup> Mr. Thomas C. Catchings, of Mississippi, had reported from the Committee on Rules a resolution relating to the immediate call of committees for reports, and several points of order had been made and decided, when the question recurred on the demand of Mr. Catchings for the previous question on agreeing to the resolution.

Mr. Sereno E. Payne, of New York, thereupon demanded that the question of consideration of the resolution be put.

The Speaker<sup>2</sup> declined to entertain the demand inasmuch as the House had already entered upon the consideration of the resolution, also upon the ground that, as held in the Fifty-second Congress, the question of consideration could not be demanded against a report from the Committee on Rules.

Mr. Payne appealed from the decision of the Chair.

The Speaker declined to entertain the appeal.

Mr. Julius C. Burrows, of Michigan, thereupon moved to lay on the table the pending resolution reported by the Committee on Rules.

The Speaker declined to entertain the motion.

Mr. Burrows appealed from the decision of the Chair.

The Speaker declined to entertain the appeal, a similar motion having heretofore on a former occasion been decided out of order pending a report from the Committee on Rules.

The question recurring on the demand of Mr. Catchings for the previous question on agreeing to the resolution reported from the Committee on Rules, it was decided in the affirmative.

So the previous question was ordered.

Mr. Burrows moved to reconsider the vote by which the previous question was ordered.

Mr. James D. Richardson, of Tennessee, made the point of order that, pending the consideration of the report from the Committee on Rules, the motion to reconsider was dilatory and not in order.

The Speaker entertained the motion of Mr. Burrows to reconsider.

**5740. Construction of the rule permitting one motion to adjourn and thereafter no other dilatory motion pending consideration of a report from the Committee on Rules.**—On April 1, 1892,<sup>3</sup> the House was considering a resolution reported from the Committee on Rules for the appointment of a special committee to investigate certain charges against the Census Bureau.

During the consideration of the resolution Mr. Lucas M. Miller, of Wisconsin, moved that the House adjourn.

This motion was negatived; whereupon Mr. Miller moved that the House take a recess until 5 p.m.

Mr. Thomas C. Catchings, of Mississippi, made the point of order that pending the consideration of a report from the Committee on Rules only one motion, to adjourn, was in order.

<sup>1</sup> First session Fifty-third Congress, Journal, pp. 96, 97, and 98.

<sup>2</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>3</sup> First session Fifty-second Congress, Record, p. 2837; Journal, p. 126.

The Speaker<sup>1</sup> sustained the point of order.

**5741.** On September 20, 1893,<sup>2</sup> objection having been made to the reception of a report from the Committee on Rules by Mr. Julius C. Burrows, of Michigan, the Speaker overruled the objection, and Mr. Burrows appealed from the decision.

Mr. Ashbel P. Fitch, of New York, moved to lay the appeal on the table.

Pending this, Mr. Burrows moved that the House take a recess for one hour.

Mr. Thomas C. Catchings, of Mississippi, submitted the point of order that, pending action on the resolution just reported from the Committee on Rules, the motion for a recess was dilatory and not in order.

It being suggested by Mr. Burrows that the report, having been only submitted or tendered, was not before the House and had not been called up pursuant to the provisions of clause 57, Rule XI.<sup>3</sup>

After debate, the Speaker<sup>1</sup> held that the report from the Committee on Rules was before the House, and that pending the consideration of such report a motion for a recess was not in order.

The question recurring on the motion of Mr. Fitch to lay on the table the appeal of Mr. Burrows from the decision of the Chair overruling the objection of Mr. Burrows to the reception of the report from the Committee on Rules, and the question being put, "Shall said appeal lie on the table?" it was decided in the affirmative, yeas 173, nays 55.

The Speaker thereupon stated that the question recurred on the motion of Mr. Burrows to dispense with the morning hour for reports.

Whereupon, Mr. Thomas B. Reed, of Maine, submitted the point of order that, pending the report from the Committee on Rules, which had just been held to be before the House for consideration, it was not in order to recur to the motion of Mr. Burrows to dispense with the morning hour until the report from the Committee on Rules was disposed of.

After debate, the Speaker sustained the point of order, holding that the consideration of the report from the Committee on Rules took precedence of the pending motion of Mr. Burrows to dispense with the morning hour.<sup>4</sup>

Mr. Catchings thereupon demanded the previous question on agreeing to the resolution reported from the Committee on Rules.

Mr. William P. Hepburn, of Iowa, moved that the House take a recess for two hours.

Mr. Joseph H. Outhwaite, of Ohio, submitted the point of order that, pending the report from the Committee on Rules, a motion for a recess was not in order.

Pending debate on the question of order, Mr. Reed submitted a motion that when the House adjourn today it be to meet on the day after to-morrow.

The Speaker declined to entertain the motion.

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<sup>1</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>2</sup> First session Fifty-third Congress, Journal, pp. 96, 97, 98.

<sup>3</sup> See section 4621 of Vol. IV of this work.

<sup>4</sup> The present morning hour is different, and there is no provision for dispensing with it. See section 3118 of Vol. IV of this work.

The Speaker thereupon sustained the point of order against the motion of Mr. Hepburn for a recess, holding as follows:

There are certain motions under the rules of the House which are privileged. The fifth clause of Rule XVI contains this language:

“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, and the hour at which the House adjourns shall be entered on the Journal.”

Now, another part of the rules provides that a report from the Committee on Rules shall always be in order. Here, therefore, we have four propositions that are always in order—to fix the day to which the House shall adjourn, to adjourn, to take a recess, and to call up for consideration a report from the Committee on Rules.<sup>1</sup>

All of these motions are of high privilege and are all in order at any time. The fourth clause of Rule XVI fixes a priority as between three of these motions—a motion to fix the day to which the House shall adjourn, to adjourn, and to take a recess. The rule prescribes in what order they shall be received and considered:

“4. When a question is under debate no motion shall be received but to fix the day to which the House shall adjourn, to adjourn, to take a recess, to lay on the table, for the previous question, \* \* \* which several motions shall have precedence in the foregoing order,” etc.

That is, as between the three motions, to fix the day, to adjourn, and to take a recess, if all three were pending, and they may be at the same time, that the question should be first taken on the motion to fix the day to which the House shall adjourn, next on the motion to adjourn, and the third on the motion to take a recess.

The rule specifically prescribes, therefore, the order in which they shall be voted upon. Now, added to these privileged motions is the fourth one; that is to say, the consideration of a report from the Committee on Rules. But there is no provision in the rules regulating the priority of consideration as between the three motions named and a report from the Committee on Rules. There is no provision of the rule which provides whether the report from the Committee on Rules shall be voted on before the three motions or afterwards; and in the absence of any such provision, and in furtherance of what the Chair understands to be the scope, the purpose, and the intent of the rules of the House, the Chair holds that a report from the Committee on Rules is of equal privilege with a motion for a recess, to adjourn, or to fix a day to which the House shall adjourn, and that where a motion to take up a report from the Committee on Rules is made before a motion for a recess, that the report from the Committee on Rules must be voted upon first; that where it is made before a motion to fix the day to which the House shall adjourn, that the report must also be voted upon first; and the only exception provided in the rule that would give any priority or right of priority over the report of the Committee on Rules is the one motion to adjourn, and one only. That the Chair understands to be a fair, equitable, and just construction of the rule, and the Chair therefore holds, inasmuch as the report of the committee was called up for consideration before any motion for a recess is made, that, waiving the question as to the pendency of such motion, the vote must be first taken on the report.

Mr. Hepburn appealed from the decision of the Chair.

Mr. Outhwaite submitted the point that the appeal being a dilatory proceeding was not pursuant to the rule in order pending a report from the Committee on Rules.

The Speaker stated that the precise question involved in the appeal not having been decided by the House, and that the rule on the subject in question being of comparatively recent origin, in the judgment of the Chair the appeal should be entertained.

Mr. Fitch thereupon moved to lay the appeal on the table.

And the question being put, the appeal was laid on the table, yeas 178, nays 2.

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<sup>1</sup>Under the present rules the motions for a recess and to fix the day are not privileged.

**5742.** On July 30, 1894,<sup>1</sup> a report from the Committee on Rules having been agreed to, Mr. John A. Pickler, of South Dakota, moved to reconsider the vote by which the foregoing resolution reported from the Committee on Rules was agreed to.

Mr. Joseph H. Outhwaite, of Ohio, moved to lay the motion to reconsider on the table.

Pending which, Mr. Pickler moved that the House take a recess until 4 o'clock p. m.

Mr. Outhwaite made the point that, pending the consideration of a report from the Committee on Rules, a motion for a recess was not in order.

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

**5743. Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn, but thereafter no other dilatory motion may be made.**

**Present form and history of section 8 of Rule XVI.**

Section 8 of Rule XVI provides:

Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn; but after the result thereon is announced he shall not entertain any other dilatory motion till the vote is taken on suspension.

This rule, in almost identically the same language, was reported from the Committee on Rules by Mr. Elihu B. Washburne, of Illinois, on February 25, 1868, and adopted by the House by a suspension of the rules. This was during the proceedings preliminary to the impeachment of President Johnson, and immediately after the rule was adopted Mr. Washburne presented the special order providing for the consideration of the articles of impeachment without dilatory motions. This special order was offered and adopted under a motion to suspend the rules, dilatory tactics being precluded by the new rule.<sup>3</sup>

**5744. A motion to suspend the rules having been entertained and one motion to adjourn having been voted on, another motion to adjourn may not be made unless the failure of a quorum be demonstrated.**

**Instance wherein, under the former practice, business was halted because a quorum did not vote, although the Speaker declared that there was no doubt of the actual presence of a quorum.**

On March 20, 1882,<sup>4</sup> Mr. Thomas B. Reed, of Maine, moved to suspend the rules and adopt the following resolution:

*Resolved,* That House bill 4197, reestablishing the court of commissioners of Alabama claims, for the distribution of the unappropriated moneys of the Geneva award, be taken from the Committee of the Whole and be considered in the House as in Committee on the fourth Tuesday of March, and then from day to day until finally disposed of, not to interfere with the revenue and general appropriation bills.

A motion to adjourn having been made by Mr. William M. Springer, of Illinois, the yeas and nays were ordered, and there were in the affirmative 50, in the negative 101, not voting 141.

<sup>1</sup> Second session Fifty-third Congress, Journal, pp. 520, 521; Record., p. 8009.

<sup>2</sup> William Everett, of Massachusetts, Speaker pro tempore.

<sup>3</sup> Second session Fortieth Congress, Globe, pp. 1424, 1425.

<sup>4</sup> First session Forty-seventh Congress, Record, pp. 2081, 2082, 2088.

The Speaker<sup>1</sup> then announced that the question recurred on the motion to suspend the rules and adopt the resolution, which had been read by the Clerk.

On a vote by tellers, there were 93 yeas and 1 nay.

Mr. William A. J. Sparks, of Illinois, made the point of order that no quorum had voted.

Mr. Richard P. Bland, of Missouri, thereupon moved that the House adjourn.

Mr. George M. Robeson, of New Jersey, made the point of order that only one dilatory motion was in order pending a motion to suspend the rules, and that that motion had been made and negatived.

Mr. Joseph C. S. Blackburn, of Kentucky, made the further point of order that, the lack of a quorum having developed, only two motions were in order, that there be a call of the House, and to adjourn.

The Speaker had read the rule:

Pending the motion to suspend the rules, the Speaker may entertain one motion that the House adjourn; but after the result thereon is announced he shall not entertain any other dilatory motion until the vote is taken on suspension.

Then, after debate as to the proper course to be pursued, the Speaker recognized a motion for a call of the House. The call having been concluded, Mr. Reed called for the regular order.

The Speaker announced that the regular order was the motion to suspend the rules and adopt the resolution presented by Mr. Reed.

Mr. Joseph C. S. Blackburn, of Kentucky, moved that the House adjourn, making the point that the motion to suspend the rules had come up anew, and therefore that another motion to adjourn was in order.

The Speaker said:

Upon the point of order made by the gentleman from Kentucky, the Chair desires to say that the gentleman from Maine, after proceedings under the call of the House had been dispensed with, called up the motion which was to suspend the rules and adopt the resolution which was read by the Clerk. That motion had been submitted to the House, and pending the consideration of it a motion was made that the House adjourn, which was lost. The Chair now holds that the motion of the gentleman from Maine has been pending ever since it was first stated to the House; that all the intervening business in connection with the call of the House has been business that was merely incident to the fact that a quorum did not vote; that the motion has been pending all the time, and the difficulty about announcing the result was that a quorum did not vote. The motion having been pending, and one motion having been made to adjourn and voted down, the Chair holds that the motion to adjourn is not now in order, and therefore overrules the point of order. The question is on the motion of the gentleman from Maine to suspend the rules and adopt the resolution.

On the motion to suspend the rules there were 106 yeas and 5 nays, not voting 181.

Mr. Blackburn having raised the point that no quorum had voted, and proposed to submit a motion to adjourn,

The Speaker ruled:

The point of order is made that it is the duty of the Chair at this stage of the proceedings, under the motion of the gentleman from Maine, to entertain a motion to adjourn. The Chair will state that since the making of the motion by the gentleman from Maine to suspend the rules and to adopt the resolution which has been read to the House, a motion to adjourn was made, was entertained, and voted

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<sup>1</sup>J. Warren Keifer, of Ohio, Speaker.

down. The question now is whether at this stage, operating under the rules of the House, the Chair is called upon to entertain another motion to adjourn.

The Chair holds that ever since the motion was made by the gentleman from Maine and submitted to the House it has been pending, notwithstanding the call of the House and the proceedings under it. The gentleman from Illinois [Mr. Springer] submits that by virtue of the Constitution certain motions are in order. The Chair will remind the House that under section 5 of the first article of the Constitution the House is authorized "to determine the rules of its proceedings." In this case the Chair thinks the House has made its own rules; and the only duty incumbent upon the Chair is to give those rules construction.

The Chair might state that most, if not all, of the precedents cited relate to a condition of things and a state of business not similar to that now presented. The ordinary rule is to entertain at any time a motion to adjourn, and, other business having intervened, another motion to adjourn, and so on indefinitely. There is, however, no rule declaring absolutely that under all circumstances when the House discloses by its own vote only that there is no quorum, a motion for a call of the House or to adjourn is in order. It does not follow from any rule or precedent that this is true when we are operating under a rule such as has been read here to-day—the rule embodied in paragraph 8, of Rule XVI.<sup>1</sup>

That rule is imperative in its terms, and authorizes the Chair to entertain a motion to adjourn, and then prohibits the making of that motion again and all other dilatory motions, until, as the rule provides, a vote is had on that motion. Attempts to take a vote, either on a division, by tellers, or by yeas and nays, is not the vote that is intended by that rule. A vote announced by tellers, disclosing a quorum has not voted, does not determine the fact whether there is a quorum or not.

The Chair will state, although the question does not arise, that if it were disclosed by a call of the House, though we were operating under this rule which applies when there is a motion to suspend the rules—if it were disclosed by a call of the House there was no quorum present, then the rule would not apply, there being, in fact, no quorum present, and the motion to adjourn might be made. But in the absence of a call of the House disclosing that fact,<sup>2</sup> the Chair is bound to hold the rule means exactly what it says, that there shall be but one motion to adjourn pending a motion to suspend the rules—one motion until after the vote is taken.

Gentlemen complain it would leave the House powerless to adjourn. The Chair will state that it is within the power of the House to have a call of the House to disclose whether or not there is a quorum. If there is a quorum, then the only answer the Chair need make to that is, the House has the power to vote if gentlemen will obey the rules made by the House; and having had a vote on the pending question, then a motion to adjourn will be in order.

The Chair holds that it is not now in order to make a motion to adjourn, it having been disclosed by the last call of the House there was a much larger number present than a quorum. And the Chair will state it has now no doubt there is within the bar of the House at this time much more than a quorum. That fact has been ascertained by a count of the House.

The motion to adjourn is not in order.

**5745. When a quorum fails on a vote to second a motion to suspend the rules, a second motion to adjourn is not considered a dilatory motion within the prohibition of the rule.**—On December 17, 1888,<sup>3</sup> Mr. Samuel Dibble, of South Carolina, moved to suspend the rules and pass the bill (H. R. 10406) for the purchase of a site for a post-office in the city of Washington.

A second having been demanded, less than a quorum voted on the vote by tellers.

Mr. James H. Blount, of Georgia, moved that the House adjourn, and on a yeas-and-nays vote the motion was negatived, 57 yeas, 127 nays.

<sup>1</sup> See section 5743 of this volume.

<sup>2</sup> This was before the presence of a quorum could be ascertained otherwise than through the responses on a vote.

<sup>3</sup> Second session Fiftieth Congress, Record, pp. 300, 301; Journal, p. 103.

The tellers again took their places and the vote on the second was taken anew.

The tellers having reported 92 ayes and 0 noes, Mr. C. B. Kilgore, of Texas, made the point of no quorum.

Mr. Benjamin A. Enloe, of Tennessee, moved that the House adjourn.

Mr. William M. Springer, of Illinois, made the point of order that the second motion to adjourn was not in order.

The Speaker pro tempore,<sup>1</sup> directed the reading of section 8 of Rule XVI:

Pending a motion to suspend the rules the Speaker may entertain one motion that the House do adjourn; but after the result thereon is announced he shall not entertain any other dilatory motion till the vote is taken on suspension.

And held—

A quorum having failed to vote on the question of ordering a second, the Chair is of opinion that nothing is now in order except a motion to adjourn or for a call of the House. In the judgment of the Chair the motion to adjourn is in order. \* \* \* The present occupant of the chair is not able to decide that a dilatory motion. He thinks, therefore, the motion to adjourn is in order and feels compelled to put the motion to the House.

**5746.** On February 20, 1899,<sup>2</sup> Mr. Sereno E. Payne, of New York, moved to suspend the rules and pass the bill (H. R. 12064) to encourage the holding of a Pan-American Exposition on the Niagara frontier, etc., and Mr. F. Brucker, of Michigan, demanded a second.

Pending this demand Mr. Joseph G. Cannon, of Illinois, moved that the House adjourn. The House, on division, refused to adjourn.

The question of seconding the motion to suspend the rules was then taken by tellers, and there were, ayes 93, noes 18.

Mr. Buckner made the point of “no quorum.”

The Speaker counted the House and announced 163 present, not a quorum.

Mr. Sereno E. Payne, of New York, moved that the House adjourn.

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

A motion that the House do now adjourn is in order.

**5747. There being no doubt of the presence of a quorum a motion for a call of the House was held to be such dilatory motion as the rule forbids pending consideration of a motion to suspend the rules.**—On July 8, 1892,<sup>4</sup> the pending question was a motion of Mr. Joseph E. Washington, of Tennessee, to suspend the rules and pass the bill organizing the government of the Territory of Utah.

The bill having been read, Mr. Sereno E. Payne, of New York, moved that the House do now adjourn, which motion was disagreed to.

The motion of Mr. Washington was then seconded on a vote by tellers.

Pending the question Mr. Julius C. Burrows, of Michigan, moved that there be a call of the House.

Mr. Alexander M. Dockery, of Missouri, made a point of order that the motion for a call of the House was not now in order.

<sup>1</sup>James B. McCreary, of Kentucky, Speaker pro tempore.

<sup>2</sup>Third session Fifty-fifth Congress, Record, p. 2121.

<sup>3</sup>Thomas B. Reed, of Maine, Speaker.

<sup>4</sup>First session Fifty-second Congress, Journal, p. 277; Record, p. 5922.

After debate the Speaker<sup>1</sup> sustained the point of order, holding as follows:

The rule provides that, pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn, but after the result thereon is announced he shall not entertain any other dilatory motion until the vote is taken on suspension. In this case one motion to adjourn has been made and voted down by the House, and the gentleman from Michigan now moves a call of the House.

It appears from the report of the tellers that more than a quorum of the Members is present, so that there is a House for the transaction of business. The Chair will read a decision, or the effect of a decision, referred to in the Digest, of the second session of the Thirty-ninth Congress:

“Pending the motion to suspend the rules, so as to take an immediate vote on a proposition, a motion for a recess is not in order.”

The compiler of the Digest says:

“This decision of the Speaker was sustained on appeal by yeas and nays, there being yeas 172 and nays 4, and it would seem to have settled the question that pending a similar motion dilatory motions, such as had been previously tolerated, would not be entertained by the House.”

The Speaker then held that a motion for a recess was a dilatory motion, and that decision was sustained on appeal, as shown.

There being now present a quorum reported by the tellers, the Chair is of opinion that, whatever might be the intention of the gentleman from Michigan, within the meaning and spirit of this rule, the effect of this motion is dilatory in this, that it delays the House, a quorum being present, from the opportunity to vote on this pending motion to suspend the rules.

**5748. Pending consideration of a motion to suspend the rules a motion for a recess was held to be such dilatory motion as is forbidden by the rule.**—On December 1, 1877,<sup>2</sup> the House was considering the motion of Mr. Roger Q. Mills, of Texas, to suspend the rules and adopt a resolution instructing the Committee on Ways and Means as to tariff revision.

Mr. Hiester Clymer, of Pennsylvania, moved that the House take a recess.

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

The Chair thinks that the motion for a recess is not in order pending a motion to suspend the rules.

**5749.** On November 3, 1893<sup>4</sup> the Speaker laid before the House the joint resolution (H. Res. 86) to pay session and per diem employees and other employees, and that they be retained during the coming recess, with amendments of the Senate.

Mr. James D. Richardson, of Tennessee, moved that the House concur in the amendments.

After debate Mr. Richardson moved to suspend the rules and concur in the amendments.

Mr. Joseph C. Hutcheson, of Texas, moved that the House take a recess until 2 o'clock and 55 minutes p. m.

Mr. Richardson, of Tennessee, made the point of order that the motion for a recess was not in order pending a motion to suspend the rules.

The Speaker<sup>1</sup> sustained the point of order.

**5750.** On March 2, 1867<sup>5</sup> Mr. James G. Blaine, of Maine, moved that the rules be suspended, so that the House should immediately proceed to vote on the question as required by the Constitution: Will the House on reconsideration agree

<sup>1</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>2</sup> First session Forty-fifth Congress, Record, pp. 811, 812; Journal, p. 290.

<sup>3</sup> Samuel J. Randall, of Pennsylvania, Speaker.

<sup>4</sup> First session Fifty-third Congress, Journal, pp. 174, 175; Record, p. 3127.

<sup>5</sup> Second session Thirty-ninth Congress, Journal, pp. 572, 573; Globe, p. 1733.

to the passage of the bill (H. R. 1143) to provide for the more efficient government of the rebel States?

Mr. William E. Fink, of Ohio, having proposed to move that the House take a recess, the Speaker<sup>1</sup> decided that the motion for a recess was not in order, as the motion previously made was a motion to suspend all the rules in the way of an immediate vote on the pending bill, and being entitled to priority must be first voted on.

Mr. Fink having appealed, the decision of the Chair was sustained, yeas 173, nays 4.

**5751.** On December 1, 1877,<sup>2</sup> Mr. Roger Q. Mills, of Texas, moved that the rules be suspended to enable him to submit this resolution:

*Resolved,* That the Committee on Ways and Means be instructed to so revise the tariff as to make it purely and solely a tariff for revenue, and not for protecting one class of citizens by plundering another.

After the yeas and nays had been ordered, and a motion to adjourn had been negatived, a motion was made to reconsider the vote whereby the yeas and nays were ordered, and that motion was decided in the negative.

Thereupon Mr. Fernando Wood, of New York, moved that the House take a recess until 10 a. m. Monday.

Mr. Mills made the point of order that the motion was not in order.

The Speaker<sup>3</sup> sustained the point of order on the ground that a motion to take a recess was not in order pending a motion to suspend the rules.

**5752. A motion to suspend the rules and pass a bill, being seconded and under consideration, was held to suspend all rules inconsistent with this purpose, including a rule requiring a recess to be taken.**—On Friday,<sup>4</sup> July 8, 1892,<sup>5</sup> Mr. Thomas C. McRae, of Arkansas, moved to suspend the rules and pass the bill (H. R. 8390) to amend an act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes, approved September 29, 1890.

The motion of Mr. McRae was then seconded upon a vote by tellers.

Pending debate on the motion, the hour of 5 o'clock having arrived, Mr. John A. Caldwell, of Ohio, made the point of order that this being Friday, under clause 2 of Rule XXVI,<sup>6</sup> it was the duty of the Speaker to declare the House in recess until 8 p. m.

The Speaker,<sup>7</sup> overruling the point of order, held that the motion to suspend the rules having been seconded, it was in the possession of the House, and that the House had a right to vote on the motion, the effect of which, if carried, would be to suspend the rules for a recess at 5 o'clock as well as the other rules of the House.

After further debate, the rules were suspended and (two-thirds voting in favor thereof) the bill (H. R. 8390) was passed.

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<sup>1</sup> Schuyler Colfax, of Indiana, Speaker.

<sup>2</sup> First session Forty-fifth Congress, Journal, pp. 290, 291; Record, pp. 812, 813.

<sup>3</sup> Samuel J. Randall, of Pennsylvania, Speaker.

<sup>4</sup> This day had, by special order, been substituted for Monday.

<sup>5</sup> First session Fifty-second Congress, Journal, pp. 274, 277; Record, p. 5919.

<sup>6</sup> See section 3281 of Vol. IV of this work.

<sup>7</sup> Charles F. Crisp, of Georgia, Speaker.