HUGHES' AMERICAN PARLIAMENTARY GUIDE

REVISED NEW EDITION

1931-32

EDWARD WAKEFIELD HUGHES

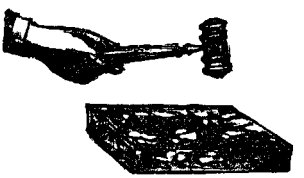
ADOPTED PARLIAMENTARY AUTHORITY OHIO GENERAL ASSEMBLY

Yours truly
Ed. W. Hughes

State Parliamentarian.

HUGHES' AMERICAN PARLIAMENTARY GUIDE

(Revised Edition, (1931-1932)



MECHANICS OF LAWMAKING

BY

EDWARD WAKEFIELD HUGHES

Parliamentarian of Ohio General Assembly and Officially Designated State Parliamentarian by Joint Resolution

Printed Under Authority of House Resolution No. 34

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DEDICATION

TO

MY WIFE

MARGARET VIRGINIA TERRELL HUGHES

Sweetheart of my boyhood, lover and wife of my young manhood, sharer in my joys and cares, her loving kindness the same in adversity as in prosperity. Wife and comrade of my mature years, unwavering in her loyalty and fidelity to her vows; incomparable in her patience and self-sacrificing love; matchless in devotion, unsurpassed in purity of heart and nobility of soul. In the preparation of this work and the research work incident thereto, she has rendered the author a service that defies description with words. It is because of her loving and tender care that I have been able to maintain a condition of health that has permitted me to begin and bring this work to a successful conclusion.

To Her So Feebly Described
This Volume
Is Inscribed
As a Small Testimonial of My Love and Affection

EDWARD WAKEFIELD HUGHES

SUGGESTIONS TO MEMBERS

One of the important duties of a new member of the legislative body is to familiarize himself with the parliamentary procedure and the rules of the body of which he is a member. His usefulness as a member of the Assembly does not depend so much upon his education or literary attainments, as it does upon his faithfulness to duty and a knowledge of parliamentary law. He should carefully study the various stages through which a bill must pass before it becomes a law; the rules of the General Assembly and the laws and the constitution of the state bearing upon the duties, powers and rights of members of the law-making body. To assist in acquainting him with these matters is the purpose of this Guide. If the new member thus equips himself for the service he is to render, he will do honor to himself and will be capable of far greater service to his constituency.

OTHER WORKS BY EDWARD WAKEFIELD HUGHES

Published by the State of Ohio

Parliamentary Guide for Ohio House of Representatives.

Parliamentary Guide Ohio General Assembly.

Parliamentary Guide Treatise on Passing Bills.

American Parliamentary Guide Process of American Lawmaking.

Passing Bills.

American Parliamentary Guide (Passing Bills).

American Parliamentary Guide, Technique of Lawmaking.

American Parliamentary Guide, Mechanics of Lawmaking.

American Parliamentary Guide, Mechanics of Lawmaking, Revised.

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ABBREVIATIONS, CITATIONS AND EXPLANATION OF TERMS

H. R..... House of Representatives or House resolution, the text when such abbreviations are used will always disclose which of these is intended.

(V. 1231)..... Such citations and all similar ones refer to Hinds' Precedents of Our National House —eight volumes. Mr. Hinds for many years and at the time of his death was Parliamentary Secretary of our National House of Representatives.

Where citations are separated by comma, the first number is for the volume, remaining numbers refer to sections.

CUSHING..... L. S. Cushing's Law and Practice of Legislative Assemblies—one large volume.

SCOBELL..... Treatise on Practice of Parliament (1600) among the most widely quoted English authorities.

PALGRAVE..... Chairman's Handbook. Mr. Palgrave was for many years clerk of Parliament.

AMERICAN PARLIAMENTARY PRACTICE..... Rules—Practice, procedure and rulings of the National House of Representatives.

SPEAKER'S DECISIONS... Refer to speakers of the National House, unless otherwise stated.

H. B..... House Bill.

S. B..... Senate Bill.

H. J. R..... House Joint Resolution.

S. J. R..... Senate Joint Resolution.

S. R..... Senate Resolution.

O. L..... Ohio Laws.

JEFFERSON..... Jefferson's Parliamentary Manual—Thomas Jefferson, Vice-President and presiding officer of the U. S. Senate and President of the United States.

BOURINOT..... Parliamentary Practice of the Dominion of Canada. Mr. Bourinot was formerly clerk of the Canada House of Commons.

HATSELL..... Hatsell's English Precedents, four volumes. Mr. Hatsell was at the time he prepared this work Clerk of the English House of Commons.

MAY..... May's English Parliamentary Practice—one volume. Twelfth edition. Mr. May was formerly clerk of the English House of Commons.

HINDS..... Asher Hinds' Digest of Rules and "Precedents of the House of Representatives."

FESS..... Digest of Rules and Practice of Congress. Mr. Fess was Parliamentarian of the National House of Representatives.

G. C..... General Code of Ohio.

CONST..... Constitution of Ohio.

CONG..... Congress.

SPEAKER REED..... Decisions of Speaker in the National House of Representatives.

Unless inconsistent with the text—

Speaker and chairman interchangeable.
Clerk and secretary interchangeable.
House and meeting interchangeable.
Temporary chairman and president interchangeable.
Journal and minutes interchangeable.

Privileged motions or any other matter referred to as privileged, simply means that such matter is given special privilege over other classes of business or motions, and are usually in order at any time; e. g., the motion to adjourn and reconsideration are given the highest privilege.

Precedence means to go before or take the place of (supersede). When a question is pending and another question of higher privilege is presented, it takes the place of the pending motion; it has precedence and is first put to the question and decided, the original pending question being held for the time in abeyance.

AMERICAN PARLIAMENTARY GUIDE

FOREWORD

Parliamentary Law Defined

Parliamentary Law in the first instance refers to the system evolved in the English House of Commons, or Parliament, and which governs the procedure of that body. A Parliament is a law-making body, therefore Parliamentary Law, in its last analysis is the law governing legislative bodies. However, following the publication of Mr. Jefferson's Manual there sprung up, or has been developed in debating clubs and other societies, what is now dignified with the name "Common Parliamentary Law" designed for clubs, societies and business organizations and represents in most instances rules and theories, of the writer, purporting to be Parliamentary Law, but it is not, these resulting largely from a misconception and false interpretation of Jefferson's theories by the inexperienced.

Of this practice the writer takes but little or no notice in these pages. On the "Common American Parliamentary Practice" there are many writers with but little choice to be made between them. Each seem to evolve their own particular rules; for the most part based on their limited experiences and then dignify the result with the TITLE "Parliamentary Rules or Law", and most of them are barren of any semblance of **real parliamentary law.**

In these pages the principles of Parliamentary Law laid down are not our own theories but the accumulated wisdom of a century of practice of the greatest law-making body in the world—the United State's House of Representatives of our federal Congress, reinforced by the wisdom of its eminent and learned speakers. If we were seeking important information on the subject of blacksmithing we would not seek the blacksmith's apprentice

but would go direct to the experienced blacksmith. Just so, have we been guided in producing this volume.

So when you find these pages are not in agreement with what you have previously supposed was parliamentary law, it is merely the difference between the real and the assumed. In these pages you can at least get helpful training for a legislative career which is next to impossible from the study of works on **"Common Parliamentary Law."**

It has been said that Parliamentary Law is both a SCIENCE and an art. With which we agree.. Its science may be found in the construction and arrangement of its rules of procedure. Its **art** in the skillful use of the rules to accomplish a desired end. It is in the latter that so many fail in their efforts to use and practice Parliamentary Law.

The Parliamentary Law of the United States had its origin in the practice of the Parliament of England; but the evolution of the Parliamentary Law of the United States has been such that but little is left to indicate that its foundation was laid in the English practice.

The development of our United States Parliamentary Law has been so thorough and satisfactory that now we may and do claim a system of Parliamentary Law distinctly our own, designated by Thomas B. Reed as "American General Parliamentary Law" but the writer prefers the classification "United States General Parliamentary Practice".

If in the study of these pages you find yourself in disagreement with the principles and forms laid down we would have you remember that you are not disagreeing with the writer of this volume but your disagreement is with such eminent lawyers and parliamentarians as James G. Blaine, Thomas B. Reed, Samuel Randall, John G. Carlisle, Charles Crisp, Champ Clark, Joseph Cannon, Speaker Gillette and Nicholas Longworth, also with established parliamentary forms.

We have recorded the practice and decisions as we have found them with an occasional effort to elucidate or make clearer. However, we have recorded no pet unsupported theories of our own. So if you desire to find fault with the principles laid down or because they do not coincide with your own, put it up to the foregoing gentlemen and fuss it out with them.

In the revision of this volume we have in many instances reclassified the text and added much new and important matter. We are confident that this volume covers the entire field of parliamentary law and is decidedly the most complete volume we have yet issued. We release the manuscript for printing with the hope that it will fully accomplish the purpose intended, be a reliable guide for parliamentary practice to transact business.

ACKNOWLEDGMENTS

It only remains for me to acknowledge the many kind encouragements that have come to me in producing this work.

My first effort to produce a parliamentary volume for the Assembly resulted from the action of the Democratic session of the 79th Assembly in 1911. Hon. Charles Kempel, Clerk of that House suggested to the author that he prepare such volume for the use of the House of Representatives. Hon. Lawrence K. Langdon, the Republican floor leader, introduced a resolution providing for such work and the author prepared a small pamphlet from which foundation grew the present volume.

The writer feels particularly obligated to Capt. John P. Maynard, clerk of the Ohio House, with whose encouragement I was persuaded to put forth my first efforts to produce this volume. The very little confidence I had in my own ability to build a book on this important subject needed much earnest prodding, indeed coaxing, before I was willing to assume the responsibility of reducing to the printed page the results of my years of study, investigation and experience.

EDWARD WAKEFIELD HUGHES,
State Parliamentarian.

House of Representatives,
Columbus, Ohio, 1932.

SOURCE OF AMERICAN PARLIAMENTARY AUTHORITY

Mr. Jefferson in the preface to his Manual says relative to the proper source from which to draw proper and correct principles of parliamentary procedure: "But to what system of rules are we to recur as supplementary to the rules of the senate? To this there can be but one answer: To the system of regulations adopted for the government of some one of the parliamentary bodies in these states, or of that which has served as a prototype to most of them. The last (English Parliament) is the model which we have all studied, while we are little acquainted with the modifications of it in our several states."

So, we repeat the inquiry of Jefferson and ask to what system of rules shall the state assemblies recur as supplementary to their own for proper and correct principles of American parliamentary procedure? Shall it be the English Parliament or some one of the states? We agree that to this there can be but one answer. To the system of rules adopted by our own American House of Representatives which has served as a prototype to most all of them. Nearly every state legislative body at its birth adopted in part, at least, the rules of Congress for its government. Unfortunately most all of them failed to keep pace with the changes made from time to time in the National House rules. The Ohio General Assembly came into existence about 1803, at which time it adopted the rules and practice of the American House almost without change and some of these old rules exist to this day with but little substantial change. Very few original rules have been added and these for the most part bear the earmarks of inexperience and unfamiliarity with parliamentary principles.

The early practice under the adopted rules of both the house and senate is the best evidence that the rules they adopted were not understood. As an outstanding example, take the practice of referring the bill to a select committee of one with instructions to amend, this we presume grew out of a false interpretation of the purpose of the rule that a bill on third reading could not be amended except it be referred to committee with instructions. This rule was intended for unusual and important matters, to correct possible errors, and was in no sense intended to be the general practice for amending bills. The rule they overlooked of far greater importance and which if observed would have prevented this senseless general practice is that bills should be considered for amendment on second reading and before the engrossment of the bill. In the present day practice in our National House a bill, except senate bills, may not be amended on third reading or after engrossment except by unanimous consent. Another crude and dangerous procedure in the house of the Ohio assembly is the practice of disposing of committee amendments, which has resulted from inexperience and lack of parliamentary information relating to forms. The crudeness of our state legislative practice is made perfectly plain by reference to Jefferson and Cushing even in their day. It is not so much the written rule of the National House, as its practice and unwritten rules that appeal to the writer.

Part I

HUGHES' MANUAL OF UNITED STATES FUNDAMENTAL PARLIAMENTARY RULES

Presenting the rules and practice of the House of Representatives of the United States Congress with copious descriptive and comparative notes on the English practice. Designed for general use by all legislative and other deliberative bodies.

EDWARD WAKEFIELD HUGHES
State Parliamentarian

ADOPTED PARLIAMENTARY AUTHORITY OF THE OHIO GENERAL ASSEMBLY

CHAPTER I

RULES

NEED OF RULES TO TRANSACT BUSINESS

SEC. 1. Every body of men (and this word men is a generic term as used here) who assemble for the transaction of business, should be governed in its deliberations, and the disposal of its business, **by some system of rules.** As Mr. Jefferson remarks, quoting a great English Speaker, "It is not of so great importance what the rule is, but it is important that there be a rule to go by, so there may be uniformity of proceeding in business, not subject to the caprice of the chairman or the captiousness of the members." Rules are also necessary **to maintain order, decency, dignity and to preserve regularity in the transaction of business.**

In America these rules are furnished by the **National House of Representatives,** in England, the **House of Commons** and in all other countries by the **popular branch of its National Legislative body.**

POWER OF CONGRESS TO MAKE RULES

SEC. 2. The federal constitution grants the power to Congress to make its own parliamentary rules in this language: **"Each House may determine its own rules of procedure."**

EXTENT OF POWER TO MAKE RULES

SEC. 3. The National House of Representatives has repeatedly decided that the power to make its own rules may not be **impaired or controlled by the rules of a pre-**

[1] Canadian Parliamentary Practice.

ceding House, or by a law passed by a prior Congress. (Hinds, I, 187, 210-V, 6002, 6743-47-1, 82, 245-1V, 3298, 3679.)

BASIC PRINCIPLES OF RULES

SEC. 4. The principles that should lie at the basis of all parliamentary rules, is well and concisely stated by Sir John Bourinot, late clerk of the House of Commons, of the Canadian Parliament. He says: **"They should be calculated to promote the rapid progress of public business;** they should **protect the minority and restrain the improvidence or tyranny of a majority; secure the transaction of public business in an orderly manner;** enable every member to express his opinion within limits necessary to preserve decorum and prevent unnecessary waste of time; give abundant opportunity for the consideration of every measure and to prevent any legislative action being taken upon sudden impulse."

PRECEDENCE OF RULES

SEC. 5. The order of precedence of rules in the government of the assembly is as follows:

(1) Constitutional rules.
(2) Rules of the assembly.
(3) Adopted authority.
(4) General parliamentary law.

RULES

SEC. 6. The general parliamentary law governing the procedure of the house, before the adoption of rules consists of the rules of the previous congress so far as they may be applicable.

CHAPTER II

PRESIDING OFFICERS

SPEAKER

History of Term Speaker

SEC. 7. In mediaeval times the presiding officer of the house of commons in the English parliament was called the **Prolocutor,** the term **speaker** for the presiding officer, made its appearance first about 1377, being applied to Sir Thomas Hungerford, but the term Speaker did not find permanency until the time of Queen Elizabeth.

IMPORTANCE OF SPEAKERSHIP

SEC. 8. Thomas B. Reed says "The office of Speaker of the National House has but one superior—the President —and no peers."

EFFECT OF SPEAKER'S RULINGS

SEC. 9. Ruling on an important question of order on June 7, 1921, Speaker Gillette stated the real purpose of the speaker's rulings. He said, "The chair is perfectly willing for the house to set aside his ruling if the house thinks it would be better for the business of the house, **but for the sake of establishing a future course of action,** the chair will overrule the question of order."

RESPONSIBILITIES OF SPEAKER

SEC. 10. In December, 1823, Mr. Henry Clay, on taking the Speaker's chair, made the following observations relative to the principles touching the duties of the Speaker: **"To enjoin promptitude and impartiality in deciding the various questions of order as they arise; firm-**

ness and patience, good temper and courtesy toward individual members, and the best arrangement and distribution of the talents of the House in its numerous subdivisions for the dispatch of the public business and **the fair** exhibition of every subject presented for consideration. **They specially require of him, in those moments of agitation from which no deliberative assembly is always entirely exempt, to remain cool and unshaken amidst all the storm of debate, carefully guarding the preservation of the permanent laws and rules of the House from being sacrificed to temporary passions, prejudice or interests."**

RESPECT FOR SPEAKER

SEC. 11. In March, 1893, former Speaker Thomas B. Reed, in presenting a resolution of thanks to the new Speaker, in the course of his remarks, had the following to say of the office of Speaker:

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

HOUSE'S AUTHORITY OVER SPEAKER

SEC. 12. The authority of the House over its presiding officer is fully and concisely expressed by Mr. Speaker Lenthall on January 4, 1642, when King Charles, defying all law and tradition, broke into the House with members, who were the leaders in the opposition to the

king. When the king put the question to Speaker Lenthall, whether the members he sought and who had made their escape were present, **the Speaker fell upon one knee and answered, "Sire, I have neither eyes to see, nor tongue to speak, in this place but as the house is pleased to direct me, whose servant I am here and I humbly beg your majesty's pardon, that I cannot give any other answer than this to what your majesty is pleased to demand of me."** (Rushworth, Vol. 1, pp. 660, 670.)

AUTHORITY OF HOUSE SUPREME

SEC. 13. Mr. Speaker Reed, one session of Congress, was privately criticized for being dilatory about appointing committees, after giving his reasons from the chair for not appointing committees, he concluded his remarks as follows: **"So far as the power of the Speaker is concerned everyone who has made the subject a matter of consideration understands that his power is solely the power of the House,** which can at any moment change the action which its representatives (officers) see fit to indulge in. **The House has the power at all times."**

SPEAKER SHOULD ACCORD MINORITY THEIR FULL RIGHTS

SEC. 14. On taking the chair in March, 1871, Mr. James G. Blaine said: **"Chosen by the party representing the political majority in this House, the Speaker owes a sacred allegiance to the principles and policies of that party, but he will fall far below the honorable requirements of his station if he fails to give to the minority their full rights under the rules which he is called upon to administer."**

POWERS AND DUTIES OF SPEAKER

SEC. 15. The Speaker in the National House declines to sign a bill in the absence of a quorum.

SEC. 16. The Speaker puts all questions as elsewhere described. (See Questions.)

SEC. 17. The Speaker signs all acts, joint resolutions, writs, warrants and subpoenas of or issued by order of the House.

SEC. 18. The Speaker decides all questions of order, subject to appeal.

SEC. 19. In the National House the Speaker very frequently submits questions of order to the House for its determination, thereby precluding appeal.

SEC. 20. It is not the duty of the Speaker to decide any question which is not presented in the course of the proceedings of the House.

SPEAKER ORGAN OF THE HOUSE

SEC. 21. In a ruling relative to the authority of the speaker, Mr. Reed said: **"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."

SPEAKER SHOULD NOT EXERCISE ARBITRARY CONTROL

SEC. 22. "The suggestion which has been made during this debate that the matter of the control of the House is under the exclusive control of the occupant of the chair, is at this very moment receiving a negative, because an appeal from the chair is pending in this very case, as has been, or might be in many other cases against the decision of the chair. **All decisions by the chair, by appeals which are made under proper circumstances and in good faith, are subject to revision by the majority of the House.** Consequently, there is not and

cannot be any **arbitrary control of this body against its will."** (Reed.)

SEC. 23. "The Speaker for the time being and as a matter of convenience arising from the nature of his office, makes a ruling upon a question, subject to **revision** by the **House itself,** and no one can take that **right on the part of the House."** (Reed.)

SPEAKER—REFERENCE TO SELF

SEC. 24. In referring to himself or in rendering a decision, the Speaker should not use a personal pronoun, but should refer to himself as the **"chair."**

THE SPEAKER SHOULD BE CONSTRAINED IN HIS RULINGS TO GIVE PRECEDENT ITS PROPER INFLUENCE

SEC. 25. A question of procedure arising in the House, Speaker Hopkins said: **"The Speaker does not sit here to expound rules according to his own arbitrary views. A just deference for the opinion of his fellows should constrain him to give precedent its proper influence and until the House shall reverse them, to give them all the consideration which is due to cases heretofore settled by a solemn decision of the House."** [1]

PRECEDENTS OF LONG STANDING

SEC. 26. In rendering a decision, Speaker Longworth said: "The speaker is constrained to follow precedents of long standing, even though personally he may be convinced that they are wrong in theory, but he may submit the question of order to the house with a statement giving his views."

HOUSE, NOT SPEAKER, REGULATES ITS PROCEEDINGS

SEC. 27. A question of the reading of the Journal being raised, Speaker Randall declined to decide the ques-

[1] 2nd Session, 27th Cong. Globe, p. 112.

tion, saying: **"It is an accepted parliamentary rule governing all legislative bodies, and is the practice of this House, that the House shall regulate the manner of its proceedings.** The chair therefore submits the question whether the Journal of yesterday shall be read."

SPEAKER—DUTY RELATIVE TO RULES

SEC. 28. It is clearly the duty of the speaker to observe the rules of the assembly in directing any procedure, whether or not in his opinion they are the best under all conditions. If the speaker for any reason avoids the enforcement of the provisions of the rules how can he consistently enforce the observance of the rules by the members? There is no authority in the speaker to ignore or change the plain provisions of the rules after they have been adopted by the House, nor because in his judgment some other way seems better. The Supreme Court of the United States in considering the National House rules recorded: "It is no impeachment of a rule to say that some other way would be more accurate or even more just." If a rule is objectionable it should be modified or repealed, having in mind not individual whims, but in accordance with well established parliamentary principles and the protection of the rights of the members.

SPEAKER DOES NOT CONSTRUE CONSTITUTIONAL EFFECT OF PROPOSED ACTION OF HOUSE

SEC. 29. In 1878 a bill was pending in the House against which Mr. S. S. Cox raised a question of order that the bill was in conflict with a certain constitutional provision. The Speaker, Mr. Randall, overruled the point of order, saying: **"It is not the duty of the Speaker to construe the constitution as effecting or touching any proposed legislation."** On another occasion the House was considering a bill when James A. Garfield raised the question of constitutionality and Speaker Randall said: "The chair rules that it is not the duty of the chair to

rule upon the constitutionality of a law; that belongs to the House." [2]

SEC. 30. Speaker Orr in the 32nd Congress ruling upon a similar proposition said: **"The chair decides that he has nothing to do with the question whether the amendment is constitutional or not, that is a question for the House to determine by their votes."** [3]

IT IS FOR THE HOUSE AND NOT THE SPEAKER TO DECIDE ON THE EFFECT OF A PROPOSITION

SEC. 31. In 1869, the House was considering a resolution relating to a contested election case when Mr. Wood, rising to a parliamentary inquiry, asked if the resolution would bind the House in its action in subsequent matters. Mr. Speaker Blaine said: "That is not a parliamentary inquiry. **The chair must decline to rule on the effect of a resolution. It is for the House to judge as to that."** (Cong. Globe, page 19741.)

APPOINTMENT OF COMMITTEES BY SPEAKER WHEN HIS SEAT IS CONTESTED

SEC. 32. The seat of the Speaker being **contested** he should decline to appoint the committee on elections and request the House to make such appointment by resolution or otherwise.

SEC. 33. The Speaker appoints all conference and select committees of the House. Standing committees are selected by the House. (In Ohio the Speaker appoints committees.)

SPEAKER'S VOTE

SEC. 34. The duty of giving a deciding or casting vote by the Speaker may be exercised **after the intervention** of other business or after the **announcement of**

[2] 2nd Session, 35th Cong. Globe, p. 680.
[3] 2nd Session, 46th Cong. Record, p. 1501.

the result, or on **another day,** if a correction of the roll shows his vote would be decisive. He may also **withdraw his vote** in case a correction of the roll shows his vote to be unnecessary. The Speaker being a member of the body has the same right to vote as other members, but rarely ever exercises it.[1]

SEC. 35. "The duty of voting in the decision of a tie vote is one of the most unpleasant that is imposed on the Speaker. The Speaker has the same right as any other member of the House to vote. **But he follows the usage and etiquette of his position, which he desires not to violate,** when he abstains from voting as well as taking a part on the one side or the other in debate upon questions with reference to the decision of the House to which he ought to maintain a position of impartiality." (Blaine.)

SEC. 36. **The Speaker never has two votes on the same roll call, that is, having voted as a member of the body, he may not again vote should the result be a tie.** In voting by ballot the Speaker shall vote.

SEC. 37. In parliament when a member is elected Speaker his right to vote is considered as surrendered—lost, except in case of a tie vote.

CASTING VOTE OF SPEAKER

SEC. 38. The practice of English speakers in giving a deciding vote is upon all occasions when the question is for or against giving any measure further opportunity for discussion, to always vote for further discussion, but if the question is upon the measure itself, for instance, that a bill do pass, he votes according to his best judgment. **The Speaker usually assigns reasons for his casting vote.**

[1] Blaine.

CASTING VOTE DEFINED

SEC. 39. Upon a division of the House if it be equal the presiding officer is to declare his voice whether it be yea or nay, which in this case is a "casting vote".

The casting vote is so called, not because of an equal division, the question is decided by it. For, in fact, an equal division on any question is a negative decision but the question is then in such position that it is within the power of a single vote to decide the question either way by being given on that side. Thus, if there be an equal division, the affirmatives do not preponderate and if there are no more votes to be given the question must necessarily be held to be decided in the negative. But if there is another vote to be given that vote must of course be a casting vote because on whichever side it is given that becomes the preponderating side of the question.

MAY CALL MEMBER TO CHAIR

SEC. 40. **The Speaker may name any member to perform the duties of the chair, but such substitution shall not extend beyond an adjournment.** (Rule I, Sec. 7.)

WHEN SPEAKER TO TAKE CHAIR

SEC. 41. **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 meeting to be read, having previously examined and approved same.** (Rule I, Sec. I.) (Sometimes this rule is suspended and the reading of the journal dispensed with.)

CUSTOM OF SPEAKER OR CHAIRMAN IN TAKING CHAIR

SEC. 42. In Parliament at the hour for the meeting of the House it is the custom **of the Speaker to con-**

sider whether a quorum is present, but after he takes the chair that responsibility rests with the House. Upon entering the House at the hour for convening the Speaker enters the desk of the clerk and satisfies himself of the presence of a quorum. If he finds a quorum is not present he remains in the desk of the clerk until a quorum appears. When a quorum appears he indicates such by taking the chair of the Speaker. [1] **It is not the call to order that opens a sitting of the House but the appearance of the Speaker in the chair.** If a quorum does not appear in reasonable time a motion to adjourn is in order. (Practice of Parliament.)

SPEAKER'S RIGHT IN DEBATE

SEC. 43. While it is the right of the Speaker to engage in debate if he so desires (being a member of the body), **yet decency and courtesy demand that before doing so, he call a member to the chair to preside** before he proceeds in debate, and after debating a question common courtesy to the members requires that he not take the chair again until the question he has debated has been **finally disposed of. It is very unusual,** but Speakers of the National House have taken the floor in debate, but they have always observed the foregoing formalities.

RIGHT OF SPEAKER TO INTRODUCE BUSINESS

SEC. 44. While it is rarely ever done, it is the right of the Speaker to submit a motion, resolution or bill from the floor of the House, **but not from the chair.** The President of the Senate does not enjoy this privilege.

[1] Practice of Parliament.

WHEN MEMBER FAILS TO OBEY SPEAKER

SEC. 45. If a member refuses or fails to obey a direction of the Speaker, the chair should then **call him by name** and direct the sergeant-at-arms to do his duty.

CALLING MEMBER BY NAME

SEC. 46. The calling of a member by name by the speaker is sufficient reason for the House to take action against the member and in fact is an invitation for the House to take action which may be accomplished by the House adopting a resolution of censure.[1] The right of the House to **expel** for cause is complete, but the right to **suspend is doubtful.**

SEC. 47. If the member offers public apology to the House his punishment is not insisted upon.

OBEDIENCE TO SPEAKER OR CHAIRMAN

SEC. 48. **One of the first duties of a member is to obey the directions of the presiding officer until they have been reversed by proper authority** because the presiding officer, however humble an individual he may be, does not act of his own volition, or on his own motion, but he acts as the representative of the house of which he is speaker, or the committee of which he is chairman. Certainly the very foundation and basis of order in the house is the recognition of that authority and whatever objections any member may have to unfortunate methods of procedure, still he will, if he thinks a minute, recognize the necessity of prompt obedience to whoever presides over the body.[2]

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[1] In Parliament, when a member is named by the Speaker, it is customary for the House to signify its approval by crying Withdraw! Withdraw! meaning of course that the offending member should leave the House. If the member neglect or refuse to comply with the suggestion, it is the custom to move that the member withdraw, until the question of his offense is settled by the House.

[2] Reed, H. J., 2nd Sess., 55th Cong., p. 52.

ASCERTAINING INTENT OF PERSON SEEKING RECOGNITION

SEC. 49. In dividing time in debate between the opponents and proponents on any question, the Speaker is permitted before he recognizes a member to speak, **to inquire upon which side the member proposes to speak.**

WHEN CHAIR MAY PUT QUESTION SITTING

SEC. 50. If the chair is ill, or for any other reason he feels unable to rise to put a question, he may request the indulgence of the House to permit him to put questions to the House while sitting. This he **may not do** without consent of the House.

CORRECTION OF ERRONEOUS REFERENCE OF BILLS BY SPEAKER

SEC. 51. Frequently when bills have been erroneously referred to committees not having jurisdiction, such references are corrected by the Speaker requesting unanimous consent to do so. If objected to the Speaker may not make such correction. If objected to the change of reference could then be made by motion to discharge or a motion to refer would be in order under this condition.

DECORUM OF SPEAKER

SEC. 52. In the House of Commons the Speaker puts all questions to the House, even those which concern himself. In America it is considered more in keeping with the dignity of the office for the Speaker to **call another member to the chair when questions are under discussion in which he is personally interested.**

SEC. 53. **The Speaker should always leave the chair during the transaction of business, concerning himself, even the reference of a paper.**

SEC. 54. Speaker Jones of the House left the chair when his seat was being contested. He refused to receive a report or to appoint a committee on Elections.

SEC. 55. In asking an investigation of his conduct, Mr. Speaker Clay addressed the House from the Chair, but immediately left it before the House acted.

SEC. 56. A newspaper having made charges against Speaker Randall, he called Mr. Carlisle to the Chair, and then himself moved an investigation of the charges.

SEC. 57. A great English speaker of the Commons, speaking of the speakership, said: **"The Speaker is the mouth, the eye, the ear, the hand of the House."** Speaker Reed very appropriately applies this statement to American committees.

AUTHORITY OF SPEAKER IN MATTERS OF DECORUM

SEC. 58. It is absolutely **necessary** that the Speaker or chairman should be **vested with authority, and is,** to repress discord and give effect **promptly and decisively** to the rules and order of the House.

SEC. 59. **The ultimate authority on all points of order is the House itself but the executive officer is the Speaker or Chairman by whom its rules and orders are enforced.** In ordinary cases when a breach of order is obvious it is immediately checked by the Speaker. In other cases when his attention is directed to it by **question of order at the proper moment,** namely, when the alleged violation of order occurs; he at once gives his decision and calls upon the member who is at fault to conform to the rules as explained by the chair.

SEC. 60. In all doubtful cases upon which the rules of the House are indistinct or obsolete, or do not apply directly to the point at issue and the Speaker being **left**

without specific directions, he refers the matter to the judgment of the House. [1]

SEC. 61. A rule of Parliament is, "If doubt arise on any question, the Speaker is to explain, but not to sway the House with argument or dispute."

SEC. 62. There are two very vital conditions to be recognized by parliamentary and deliberative bodies. The protection of the majority against obstruction by the minority, and the protection of the minority against the oppression of the majority. These are functions of the Speaker.

HOW SPEAKER OBJECTS

SEC. 63. The Speaker being a member of the House has as much right to object to procedure or business as any other member, but **he does not object by declaring his objection, but usually registers his objection by refusing to recognize the member making the request** thus, after the request is made instead of asking if there be objection, he would say the **Speaker refuses to recognize the gentleman for that purpose.** If the request is entertained and there is no objection the Speaker declares "The chair hears no objection, it is so ordered."

THE SPEAKER SHOULD DECLINE TO SIGN BILL WHILE MOTION TO RECONSIDER IS PENDING

SEC. 64. In May, 1840, Mr. Alferd moved to reconsider the vote whereby the House had on a preceding day passed the bill of the Senate No. 12. After debate as to the regularity of the motion Mr. Speaker Hunter held **that the motion was in order, notwithstanding the fact that the bill was in the possession of the joint committee on enrollment.** During the consideration of the motion Mr. Burke made a privileged report from the committee on enrollment, which included said Senate bill No. 12

[1] Practice of Parliament.

against which the motion to reconsider was pending and thereupon the Speaker, **Mr. Hunter, declared he would decline to sign the bill until the motion to reconsider was disposed of.** The motion to reconsider was decided in the negative and the Speaker signed the bill. (First session 26th Cong. H. J. pp. 1033-1036.) Commenting on the effect of a pending motion to reconsider the Supreme Court of the U. S. said: "The effect of the pending of a motion to reconsider, according to universal usage, is to suspend the original proposition." (See Field vs. Clark, 143 U. S. Sup. Ct. Reports, page 650.) A similar decision has been rendered by the Ohio Supreme Court.

VACATING SIGNATURE OF SPEAKER

SEC. 65. The presiding officer of either House is without authority to erase or vacate his signature on his own initiative after he has signed a bill as provided by the constitution. The House itself may rescind or vacate the signature of the presiding officer, at its pleasure.

EFFECT OF DECISIONS OF SPEAKERS

SEC. 66. **Decisions of the speaker do not conclude the rights of members, but are always open for examination and decision of the house on appeal.**

BINDING EFFECT OF SPEAKERS' DECISIONS ON PRACTICE OF CONGRESS

SEC. 67. In ruling on a question of order, Mr. Speaker Cannon said: "It has been held by a former speaker that, etc. (quoting ruling) **which ruling is binding on the speaker until reversed by the house."**

SEC. 68. In a ruling in which he referred to a decision of his predecessor, Speaker Randall said: **"The decisions of a speaker of the house of a former congress are binding on succeeding speakers until reversed by the house."**

AUTHORITY AND DIGNITY OF SPEAKERS' DECISIONS

SEC. 69. "If there is any one thing that has been thoroughly and completely established for the past fifty years, it is that the decisions of the speakers of the house establishing precedents **are of equal dignity with the rules of the house themselves."** (Mr. Helm in debate on floor of house.)

SPEAKER MAY BE REQUESTED TO RECONSIDER DECISION

SEC. 70. It is in order for a member to courteously request (not demand) the speaker to reconsider his decision on a question of order. In the 54th Congress, Mr. Reed requested Speaker Crisp to **reconsider his decision on a question of order** made that day. The Speaker then reviewed his decision and said, **"The chair will adhere to his decision previously made."**

SPEAKER SUBMITS QUESTION OF ORDER FOR DECISION OF HOUSE

SEC. 71. A question of order being raised against an amendment, after debate, Speaker Carlisle instead of deciding the question, submitted it to the house thus: **"Is the amendment of Mr. Jones in order?"**

METHOD OF PUTTING QUESTION OF ORDER FOR DECISION OF HOUSE

SEC. 72. Speaker: "Is the question of order raised by Mr. ———————— well taken?"

SPEAKER'S TABLE—CALENDAR

SEC. 73. The speaker's table is, in fact, a calendar of the house and the business on the speaker's table may be reached by the privileged motion **"to proceed to the consideration of business on the speaker's table."** If

this motion prevails, the business as presented is up for immediate consideration; a majority vote is required.

SPEAKERS DO NOT HESITATE TO REVERSE RULING

SEC. 74. On February 16, 1917, Speaker Champ Clark, at the opening of the sitting, said: "With the consent of the house the chair **wishes to correct a ruling made in the first session of the present congress,** which he has been intending to correct for some time. It will be remembered that during the last session, the gentleman from Illinois, Mr. Madden, made a motion to reconsider a vote by which unanimous consent was granted in a certain matter. The chair ruled, 'I think the motion to reconsider does not apply to unanimous consent.' On subsequent reflection and investigation, the chair is convinced that the ruling of the chair was incorrect and untenable and the **motion to reconsider does apply in such cases."**

SEC. 75. The Speaker may entertain questions of order after the House votes to go into the committee of the whole, for the reason that after such decision of the House the Speaker continues *de facto* to be exercising the functions of the Speaker.[1]

REMOVAL OF SPEAKER

SEC. 76. At the close of a parliamentary wrangle, Speaker Cannon called attention of the house to the fact if they did not like his decision they had a remedy, and cited the rule of the house as found in Jefferson, Sec. IX, as follows: **"A speaker may be removed at the will of the house** and a speaker pro tempore appointed." Under the rule a resolution to declare the Speaker's chair vacant presents a question of high privilege, one expressly authorized by the rule of the House.[2]

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[1] H. J., 2nd Sess., 57th Cong., p. 271.

[2] H. J., 3d Sess., 61st Cong., p. 139.

APPOINTMENT OF SPEAKER PRO TEM.

SEC. 77. It is the custom of the Speaker when he expects to be absent from the House on a future day to announce to the House that he appoints Mr. ———— to serve as Speaker during his absence. If he does not have opportunity to do so he usually before leaving addresses a letter to the clerk giving notice of his absence and informing him whom he desires to preside in his absence. In these cases the clerk calls the House to order and reads to the House the Speaker's letter and **requests** the member selected to take the chair.[3]

APPOINTMENT OF SPEAKER PRO TEM.

SEC. 78. The appointment of a member to occupy the chair during the speaker's absence is a right of the speaker. If such appointment is made while the House is sitting no notice of such appointment is necessary; but if made while the House is not sitting and for a future sitting the House should be notified of such appointment in writing. Otherwise any member could take the chair claiming to have been appointed. All such appointments terminate with adjournment and are subject to the will of the House. If the speaker is absent and no selection of speaker pro tem. has been made by him, it is the duty of the clerk to call the House to order and request proposals or nomination and election of speaker pro tem. Such temporary selection terminates with adjournment or the return of the speaker or speaker pro tem.

SPEAKER CLAY'S ADVICE TO SPEAKERS

SEC. 79. Henry Clay gave some very wholesome advice to his successor in the speaker's chair. He said: "It is my experience that the chair should promptly decide all questions of order, and without giving a reason for his decisions. **The house will nearly always accept**

[3] See House Rule I, Sec. 7.

your decision, but the members individually will always cavil over your reasons."

DILATORY MOTIONS AND APPEAL

SEC. 80. There is no appeal from the decision of the speaker on the dilatoriness of a motion or recognition. The speaker declines to permit debate or appeal on his decision as to a motion being dilatory, as to do otherwise, **would be to destroy the very purpose of the rule.**

SEC. 81. It is very rare in congress that the ruling of a former Speaker is reversed. The rulings of the earliest Speakers are still cited and followed, except in cases where the rule under which the ruling was made has been repealed.

CRITICISM OF SPEAKER

SEC. 82. Complaint of the conduct of the speaker should be presented directly for the action of the house and not by way of debate on other matters. The house may and does, even on a subsequent day and after intervening business, censure a member who has used words insulting to the speaker. **In these cases the speaker leaves the chair** and calls another to preside, then the House takes action against the offender.

EXTENT OF RIGHT OF SPEAKER IN DEBATE

SEC. 83. The speaker may of right speak from the chair on questions of order and is entitled to be first heard. But with this one exception he may speak from the chair only by leave of the house, and on questions of fact. **The speaker may call a member to the chair and then participate in debate without asking leave of the house.**

SUCCESSION TO SPEAKER'S OFFICE

SEC. 84. On the death, resignation, disqualification or removal of the speaker, a new election takes place, in

the usual manner. There is no provision in the constitution, statutes or rules that the speaker pro tem. shall under the foregoing conditions, succeed to the office of speaker. Therefore, under any of these conditions creating a vacancy, **it is to be filled by election.**

PRESIDENT OF SENATE

VOTE OF PRESIDENT OF UNITED STATES SENATE UNDER CERTAIN CONDITIONS

SEC. 85. It has been decided in the United States Senate that the right of the Vice-President to give a casting or deciding vote extends to all cases where there is an equal division.

ILLUSTRATION OF CASTING VOTE OF VICE-PRESIDENT

SEC. 86. In 1850, Millard Fillmore, Vice-President, raised the question whether under his constitutional power to give a casting vote he might vote in the case where there was a tie in the election of an officer of the Senate. The Federal Constitution provides: "The Vice-President shall have no vote unless the Senate be equally divided." Mr. Fillmore submitted this question to the Senate and during debate former Vice-President John C. Calhoun said he recalled that several times when he was Vice-President he voted on executive nominations. The Senate then decided that Mr. Fillmore could vote and he voted for an officer.

In the 47th Congress the Vice-President in case of a tie voted on questions relating to the organization of the Senate. In the 45th Congress Vice-President Wheeler voted on a question relating to the right of a senator to his seat. In this latter case Senator Allen G. Thurman, of Ohio, challenged the right of the Vice-President to vote, but after debate withdrew his point of order.

CHAIRMAN

SEC. 87. Chairmen at their best are merely imitators of speakers. In fact all chairmen seek to imitate the speaker of a legislative body and particularly the speaker of their national legislative body. **No one can hope to do this successfully unless he have liberal knowledge of the rules that govern such speaker and also the rules and procedure governing the house over which the speaker presides.**

CHAIRMAN'S FUNCTIONS MINISTERIAL

SEC. 88. It should be borne in mind by chairmen that their ordinary functions are **essentially ministerial.** The chairman on all occasions is entitled to and should claim the united and prompt support of those over whom he presides, but to be so entitled the chairman must obey the governing principle of chairmanship, **absolute impartiality.**

WHEN CHAIRMAN SHALL VOTE

SEC. 89. In all cases where the decision of the house is obtained by ballot or poll, **the chair shall vote.**

CLERK

CLERK MAY CORRECT CLERICAL ERRORS

SEC. 90. It is the recognized right of the clerk of either body, without direction from the House, to correct any errors he may discover that have resulted from the work of his office. The right extends to those papers that have been sent to the other House.

CLERK COMMUNICATES WITH HOUSE THROUGH SPEAKER

SEC. 91. In the national house all communications received by the clerk to be presented to the house are by him

delivered to the speaker who at his discretion, presents them to the house with the statement they were received from the clerk.

TRANSMITTING ELECTION CONTEST TO THE HOUSE

SEC. 92. We find this notation in the journal: "The speaker laid before the house a communication from the clerk transmitting the contested election case of a certain member, etc." From the foregoing it appears that the clerk's only avenue to communicate with the house is through the speaker.

THE OFFICERS

SEC. 93. The speaker is the chief officer and leader of the house. It is he alone who is authorized to direct procedure and execute the rules. He decides all questions of order, subject to appeal to the house, so that in the end the house itself controls procedure. No other officer or employe of the house is authorized to insist upon the observance of the rules or to question procedure on his own motion. Any officer aside from the chair that assumes to reject or accept business presented to the house by one of its members, or from the other house, is usurping authority not conferred upon them by congress or parliamentary rules. Even in case of the speaker, all cases of doubt should be submitted to the house directly for its decision. Officers and employes are not masters but merely servants of the body and subject at all times to its will. It is perhaps the duty of the subordinate officers and employes to call attention of the speaker to any infraction of the rules they may observe and the speaker in turn to call the attention of the house. The speaker pro tem is the floor leader of the majority party in the house. He assists the speaker in directing the business from the floor. His duties are those directly provided by the rules. He usually in Ohio, is a member of the rules committee and exercises much influence as to the business that shall be brought forward for the consideration of the

house but he is subject to the rules. The clerk is the reading and recording officer of the house and in early parliamentary practice was elected as the recorder. The clerk has many other duties fixed by the rules and law. The clerk has charge of the journal but the house itself makes the journal and the clerk is to make a true record of the proceedings. He does not control what is to be entered in the journal. The sergeant-at-arms is the police officer and it is his duty to maintain order during the sessions of the house.

OFFICERS SERVE HOUSE

SEC. 94. The officers of the House are not the officers of the members individually, but of the House collectively. They are to be ordered only by the House through the Speaker. The clerk or other officers are without authority to execute an order of an individual member that would in any way affect the House as a whole.

SEC. 95. It is a breach of all rules for one officer to interfere with the duties of another officer unless requested to do so by the officer whose duties are being infringed upon, or the head of the department.

SEC. 96. Neither have the members or officers of one House the right to direct in any way the members and officers of the other House; but either House may request the other by message to instruct their officers or members, and this applies to those instances where their presence is desired before a committee.

CHAPTER III

ORGANIZATION AND SELECTION OF OFFICERS

ORGANIZATION

SEC. 97. There is no general practice of organizing a body in this country that would be applicable to or descriptive of, the detail in methods employed by all our American legislative bodies. Each state and Congress seems to have a method distinctively of their own creation, and each different from all the others. Yet all have their foundation in the English system. The English system with slight modifications has been generally adopted outside legislative bodies. It is the simplest and most flexible method now in use, for an assemblage of unorganized persons to organize for the purpose of the orderly transaction of business, viz.[1]

TEMPORARY ORGANIZATION

SEC. 98. At the hour appointed for the meeting some person **who was interested in calling the meeting,** should rise and call the meeting to order, and announce: "The hour having arrived for us to begin our business, I suggest that Mr. B—— act as **President or** temporary chairman of this meeting. (The person suggested should then be **present, in the meeting.)** If the name suggested is challenged or objected to, then other names should be suggested **or persons nominated. The American plan to close nominations is to move the Previous Question.**

WHEN PERSON FIRST PROPOSED IS CHOSEN

SEC. 99. If there be no objection raised to the first person proposed for president, or no other name is proposed, then the proposer should conduct the person thus

[1] See chapter Legislative Organization.

proposed to the chair and introduce him to the meeting **(without waiting further action)** as its President, or he may appoint two members from the meeting to perform this service. This should be followed by selecting a secretary and sergeant-at-arms, in the same manner. These are the only officers necessary in the temporary organization to dispose of the business.

ILLUSTRATION OF ORGANIZATION BY GENERAL CONSENT

SEC. 100. The simple method of organizing a body meeting the first time, by general or unanimous consent described in the foregoing section, is the method employed in organizing the American Arms Conference at Washington, viz.: Sir Arthur Balfour, of England, arose in the meeting, called for order and merely said: "Gentlemen, without resolution (motion) to that effect, I suggest that the Hon. Chas. Evans Hughes, Secretary for the United States, do take the chair of this convention." (It is to be assumed that Mr. Balfour, previous to making this suggestion had **interviewed several of the prominent members** of the meeting to ascertain if his proposal would meet with **serious objections** from the other members.)

SEC. 101. **No objections being made to the name proposed,** Mr. Balfour conducted Mr. Hughes to the chair and introduced him, thereupon Mr. Hughes **briefly thanked the meeting** for the honor. If objection had been made, or the name of another member had been suggested, then it would have been necessary for Mr. Balfour to submit the names of those proposed, in the order they were named for a vote of the meeting, and the first to receive a majority vote he would have declared elected, and had him conducted to the chair of the meeting.

RIGHT TO PROPOSE TEMPORARY CHAIRMAN OR PRESIDENT

SEC. 102. In organizing a new body, it should be remembered that the right to propose the **temporary chairman or president** of the meeting, belongs entirely to those **responsible for calling** the meeting, and courtesy demands that their proposal should be **accepted without dispute.**

BUSINESS AFTER SELECTING TEMPORARY CHAIRMAN OR PRESIDENT

SEC. 103. After the temporary chairman or president takes the chair the business of organization should proceed as follows:

Chairman: The next order of business is the election of a secretary, **what is your pleasure?**

Mr. A.: Mr. Chairman, without motion or resolution I suggest that Miss Brown take the chair of the secretary.

Chairman: Is there objection? (pausing to hear objection) the chair hears none and declares Miss Brown chosen temporary secretary. Mr. A. will please conduct Miss Brown to her desk. Mr. A. complies with the chair's direction and the chair proceeds with business.

Chairman: We are now ready to proceed to the election of a permanent organization, the first officer being chairman. What is your pleasure?

MAKING TEMPORARY ORGANIZATION PERMANENT

SEC. 104. Mr. Brown: Mr. Chairman.

Chairman: Mr. Brown.

Mr. Brown: I move that the temporary organization be made permanent.

Chairman: The question I have to state (propose) is "That the temporary organization of this meeting be made

permanent?" (in this instance the chair is involved, and it might save him from embarrassment, for Mr. Brown to put the question to the meeting.)

OTHER OFFICERS

SEC. 105. If the foregoing question in Sec. 104 should be decided in the affirmative, the permanent chairman should call for the election of any other needed permanent officers, say, **Vice-President and Treasurer.** If the motion of Mr. Brown should be **negatived, then the chair should proceed by calling for nominations or proposals for each officer to be elected, and put to the question the names of the persons nominated, until someone receives a majority vote of those voting.**

PERMANENT ORGANIZATION

SEC. 106. Following the selection of secretary and sergeant-at-arms, the president should call for nominations for permanent chairman, or motions would be in order, that Mr. A. or Mr. D. do take the chair as chairman of the meeting. The president should then put to vote the first name proposed or nominated.

SEC. 107. When the **first named** person fails to receive a majority vote, the president should present the other names that have been suggested or nominated, in the order in which they were proposed and so continue until a **majority** vote has been expressed for some one of the persons **proposed or nominated.**

CLOSING NOMINATIONS

SEC. 108. When sufficient names are proposed or persons are nominated, a motion is **in order** to **close nominations,** and requires only a **majority vote,** or the **Previous Question may be moved which amounts to the same thing.**

SEC. 109. When any person receives a **majority vote** of those present, the president should then appoint a committee of two to conduct the chairman-elect to his station and introduce him to the meeting.

MAJORITY REQUIRED TO ELECT OFFICERS

SEC. 110. A majority vote is necessary to elect officers. When a **majority vote** is given for any person, the President should declare such person elected chairman and appoint a committee as herein described and relinquish chair to the permanent chairman. The chair should then call for proposals or nominations for secretary and such other permanent officers as may be thought necessary, putting the question on each name proposed until a majority express a choice.

WHEN TEMPORARY ORGANIZATION IS SUFFICIENT

SEC. 111. In those bodies that expect to complete their business in one or two meetings and adjourn sine die, the temporary organization would be sufficient for their purpose.

EFFECT OF NEGATIVE VOTE FOR OFFICERS

SEC. 112. In case but two persons are nominated for the same office, the name of **the one first proposed is first to be put to the question and if negatived, the second person is the choice of the house without further question being put.**

METHOD OF ORGANIZING IN NATIONAL HOUSE

SEC. 113. All the officers following the election of the chairman could be elected by using the plan of our National House of Representatives, viz.: By written motion or resolution, embodying the names of the persons and the name of office they were selected for except chairman. This motion or resolution would be amendable by striking out any of the names and inserting other

names for those in the resolution. The resolution or motion would be debatable or amendable in any way. This latter plan would hasten organization and would not encroach on, or deny the rights of anyone. A **majority vote** being necessary to adopt this resolution or motion. The plan of the National House in electing officers is best for large assemblies, and the English method for small bodies.

ELECTION OF SPEAKER IN NATIONAL HOUSE

SEC. 114. At the beginning of a new congress and until a speaker is elected, the clerk of the preceding house calls the new house to order, presides, maintains order, recognizes members who seek recognition, decides questions of order, subject to appeal to the house. In the case of the death or resignation of the speaker, the clerk presides until another speaker is elected. In case of the absence of the vice-president or president pro tem of the senate at the beginning of a new congress it is the usual custom to call to the chair one of the older members to preside.

The early practice of congress was to elect the speaker by ballot, but under the present rule and practice all officers except speaker are elected by the adoption of a resolution, elsewhere explained. Since about 1839, the speaker is chosen by viva voce vote, that is, the roll of members is called, and the **member rises in his place** and announces the name of the person for whom he votes for speaker, thus, Mr. Longworth. It is the custom before proceeding to the election of a speaker to adopt a resolution of this substance: "That the house do now proceed to the election of a speaker," after this preliminary step, nominations are made, usually but two, one each representing the two major parties.

CHAPTER IV

BUSINESS

STATEMENT OF CALL

SEC. 115. When the organization of a meeting has been perfected, the meeting is then prepared to take up the business **it was called to consider,** and the chair should at once state or read to the meeting the purpose of the call, or cause the secretary to do so.

The subject of the call forms the basis of the business that should be permitted to be introduced for consideration.

METHODS EMPLOYED TO INTRODUCE BUSINESS

SEC. 116. When the organization of a meeting has been completed and the purpose of the meeting has been stated, the meeting is then ready for the introduction of business germane to the subject of the call.

(A) There are many methods employed for bringing forward (introducing) business in deliberative assemblies, such as petitions, memorials, remonstrances, motions, orders, resolutions, ordinances and bills. Of these motions and resolutions are generally employed in ordinary deliberative assemblies.

(B) In unicameral legislative bodies they use **ordinances, orders, motions and resolutions.** In bicameral legislative bodies all the methods are employed except ordinances, and for these they substitute bills. When legislative bodies desire to enact law the methods employed are bills and ordinances, according to the kind of legislative body. Facts, principles and their own opinions are expressed in the form of resolutions. When they wish to command, it is by order. But for all purposes relating to the transaction

and disposition of their business, and its advancement to a successful conclusion, they generally use motions and orders. When bills and ordinances are agreed to they become acts (laws) of the assemblies; orders become commands; motions and resolutions, resolves of the body, when adopted.

WHEN BUSINESS BEGINS

(C) Decisions in the English Parliament are to the effect that public business begins, when the Speaker recognizes a member to introduce business, or directs the Clerk to report the first order of the day.

BUSINESS AFTER COMPLETING REGULAR ORDER

(D) Speaker Cannon ruled in the American House, that when the House has gone through its regular order of business for the day, the Speaker may then recognize members to make any motion they may desire and any motion would be in order. Objection to such procedure could not be urged, because the regular order of business has been disposed of.

WHEN NO BUSINESS IS BEFORE THE HOUSE

(E) Speaker Reed ruled in the American House, that in the interval between disposing of one item of business and the taking up of another, **there was no business before the House.** The decision was based on the following conditions:

The House was considering a bill, and upon motion laid it aside, thereupon, Mr. Dingley moved to adjourn, fixing the time to meet. Mr. Richardson raised a question of order that the motion was not in order under the rule of precedence and then moved to adjourn, and claimed his motion of the highest rank and therefore should first be put to the question. Speaker Reed overruled Mr. Richardson's point of order, saying, "That would be true if a question were under consideration,

but now **no business is before the House,** therefore, the motion of Mr. Dingley is first in order." The rule of Precedence is only applicable when a question is under consideration.

NATURAL ORDER OF BUSINESS

SEC. 117. Nearly all organizations now have an order of business of their own arrangement that is best suited to their particular needs, but the usual order of transacting business is about as follows:

(1) Call to order by chairman.
(2) Reading and approval of minutes of last meeting.
(3) Unfinished business.
(4) Reports of committees.
(5) New business.
(6) Announcements by the chair.
(7) Adjournment.

BUSINESS OUT OF ORDER

SEC. 118. Speaker Randall ruled that where a rule prescribes the order of the disposition of business, matter not provided for could not be introduced and if introduced would be out of order. (Jour. 46th Cong. 1st Sess. p. 1080.)

ORDER AND MANNER OF INTRODUCING BUSINESS IN CONGRESS

SEC. 119. In Congress and all other American legislative bodies all business is classified, and a time is arranged for the consideration of **each class of business.** Example: The order in which the National House disposes of its business each day is as follows:

ARRANGEMENT OF BUSINESS IN AMERICAN HOUSE OF REPRESENTATIVES

(1) Prayer.
(2) Reading of Journal.

(3) Correction of reference of public bills.
(4) Disposal of business on Speaker's table.
(5) Unfinished business.
(6) Consideration of bills.
(7) Motion to go into committee of whole on state of Union.
(8) Orders of day (obsolete).

(A) During the sitting each day, business under each of these heads is called for by the Speaker in the order provided in the rule.

(B) When these different orders of business are announced by the Speaker, which he does by merely announcing "The next order of business is consideration of bills." It is then in order for that class of business to be called up or introduced from the floor. If in the hands of the Speaker he would hand same to the secretary to be read.

(C) If the business is presented from the floor it must be at the particular time when that class of business is being considered, otherwise it would be out of order.

(D) The new practice is presenting business at **any time by filing with the clerk (secretary).** When each order of business is reached the Speaker presents any business of that class that has been **filed with the clerk.**

(E) This new practice does not deprive any member of his right to introduce business from the floor, when it is in order, but it does add a more convenient and expeditious plan.

POPULAR METHOD OF INTRODUCING BUSINESS

SEC. 120. The method of introducing business from the floor is the popular one in small deliberative assemblies and is the only one provided under the old parliamentary system and several motions were required before the business was before the assembly.[1]

[1] An English writer declares that formerly as many as eighteen motions were necessary to get a bill before the house.

By slow evolution a new procedure has been gradually developed in our American legislative bodies until we now have a sensible and practical method. This new method has many advantages over the older practice. It is particularly designed to expedite the transaction of business.

AMERICAN METHOD OF INTRODUCING BUSINESS

SEC. 121. Under our modern American practice a member having business to bring forward (introduce) of any kind, for consideration of the House, need not wait until that order is reached in the day's business which permits introduction from the floor, but he may at any time file it with the clerk or secretary of the House informally.

DUTY OF SECRETARY

(A) It is the duty of the secretary to keep all papers filed unmolested in his possession and they are not to be examined by others, not even members, before being presented to the House by the Speaker.

When the proper order of business is reached, it is the duty of the clerk or secretary to have all such business in the hands of the chair for presentation to the House.

(B) When such papers are presented by the chair they are up for consideration and subject to the same treatment, as when presented direct from the floor, **except the question of receiving** may not be raised, but **objection to consideration would be in order** by demanding or moving the question of consideration.

(C) Even in introducing business from the floor, we have made many important and desirable changes by **eliminating all unnecessary motions and procedure.**

USE OF ORDERS

SEC. 123. Ordered, That the members of the committee on judiciary be increased from 12 to 15 members. Orders can be received only by unanimous consent.

AMERICAN MODE OF INTRODUCING RESOLUTION OR PRESENTING REPORT FROM FLOOR

SEC. 123. That we may have a definite and clear idea of the American practice of introducing business from the floor, let us follow the procedure of introducing a resolution or presenting a report.

(A) If a member should desire to bring forward business by introducing a resolution or presenting a report from the floor, he would proceed as follows: First, he should be sure the House was operating under the order of business that would permit that class of business to be considered, else he might be interrupted by a point of order. Assured on this point he should seek recognition from the chair.

(B) After recognition the procedure is very simple in our American practice, after being recognized the member would merely announce "a report, sir," or "resolution, sir," whichever it is. He should very briefly state the subject of his report or resolution, **but he does not read the same, that is the business of the secretary.** In the case of a resolution, he may read the short title in which the subject should be clearly and briefly expressed.

(C) Immediately following the statement of the subject, he does not wait for a motion **to "receive"** to be made, nor does he make such motion, but immediately following his statement of the subject, **if no one interposes an objection to receiving, he carries or sends the paper to the chair.**

(D) If accepted by the chair, and no objection is made, this constitutes **reception, of course not adoption.** If objection should be made to receiving the paper, then a motion to receive would be necessary.

MOTION TO READ AND RECEIVE NOT REQUIRED

SEC. 124. When accepted the chair then without motion to that effect directs the secretary to read the paper.

If objection should be made, a motion to read would then be necessary.

(A) In American practice the House is supposed to give unanimous consent to this proceeding, when no objection is made. The motions to "receive" and "read" are presumed to be pending and agreed to **without the formality of a motion and vote.**

(B) If objection is made the question of receiving or reading, as the case may be, **automatically arises,** and is put by the chair, **without co-operation of a mover from the floor.**

(C) In this practice it is best not to object to receiving and reading, but to wait with objections until the paper has been read and the contents of the paper known, then intelligent objection can be made by **raising the question of consideration,** however, **it is in order to object to receiving and reading.** If, after reading, no objection is raised against consideration, it is then in possession of the House and is subject to debate and amendment, and **may be disposed of by the use of the motions in the rule of precedence.**

MOTION TO ADOPT NOT REQUIRED

SEC. 125. **The motion to adopt is not necessary,** that motion is presumed to be pending and the chair puts the question on adoption, without a **motion to that effect.** It will be noted that in our American practice all unnecessary procedure has been eliminated and business proceeds automatically and still protects the members in all their parliamentary rights.[1]

[1] It is not intended to convey the thought that the motion to adopt is not in order, that is, a member offering a resolution or other paper **may not** move its adoption, but that such motion is not necessary. The paper itself forms a basis for discussion and the motion to adopt is presumed to be pending. It is the duty of the chair to put the question on adoption regardless of whether it has been moved or not.

WHEN CHAIR CONTROLS ORDER OF BUSINESS

SEC. 126. In those bodies which do not have a rule governing the consideration of business, the chair would introduce the business filed with the clerk, or on his table using his discretion as to order. This would be accomplished by delivering same to the secretary to be read, at which time the question of consideration could be raised.

ACTION IF CHAIR REFUSES TO PRESENT BUSINESS

SEC.. 127. If for any reason the chair should refuse or neglect to present to the meeting or House business that had been filed, or on his table, a motion would be in order to take such business from the Chair's table and would require only a **majority vote.**

CALLING MEETING TO ORDER AND READING MINUTES

SEC. 128. The chairman should always call meetings to order at exactly the time fixed by rule or the time to which adjournment was made at the preceding meeting. If a quorum be present the chairman should direct the reading of the minutes of the last meeting, at the conclusion of the reading, the chairman should inquire. **"Is there objection to the minutes?"** If no objection is made, he should announce: **"The minutes stand approved as read."** He need not put a question to the meeting on approval, because if no objection is made **they are approved by unanimous consent.** When the chair inquires is there any objection to the minutes, it is then in order for any member to propose corrections and amendments to the minutes which must be agreed to by the House, before the change may be made by the secretary.

PRESCRIBING BUSINESS AND METHOD OF CONSIDERING

SEC. 129. A motion of frequent occurrence in the National House is a follows: "I request unanimous consent

that the House recess at 5 o'clock until 8 o'clock p. m., and that between the hours of 8 and 10 p. m. it shall be in order to take up and consider bills on the calendar that are unobjected to."

UNFINISHED BUSINESS

SEC. 130. Speaker Reed ruled in the 55th Congress **"Any unfinished business is always in order at the time when that class of business is in order. Any other ruling would compel business which has already been considered to give way to business in a prior stage which had not been given any consideration. In other words, the less advanced business would be given priority, instead of the more advanced."** The fact that unfinished business was not taken up does not destroy its status.

ORDERS OF THE DAY

SEC. 131. Generally speaking, any subject assigned for the consideration of the house on a particular day, **by vote of the house,** becomes an "order of the day" for that day.

TERM ORDER DEFINED

(A) The term "order" as used in parliamentary practice is used in three senses: (1) It may refer to the decorum of the body. (2) It may mean a standing order (rule) of the house. (3) It may mean a concrete direction (command) of the house to do some specified thing at a particular time relative to the arrangement and disposal of its business. The last sense—arrangement of business—is the one we have under consideration in this chapter, that is, what is commonly called **"Orders of the day."**

(B) In parliament, all business brought before it, is disposed of by orders, fixing the various subjects for discussion on each legislative day. Each day the house

proceeds to the consideration of its "Orders of the day" **previously made by vote of the house.** Therefore, **orders of the day, refer to those questions or subjects assigned by the house for consideration on a particular day or sitting of the house by order of the house itself, or any program of business arranged by motion and vote of the house.** That is to say, **the house lays down for itself just what business it will consider at each sitting,** by motion and vote of the house.

(C) A bill is read the second time, and upon motion the third reading and consideration of the bill is set for Thursday, that bill becomes an order of the day for third reading on Thursday. In the course of the sitting many bills may be set down for the same sitting and all taken together become the "Orders of the day" for Thursday's sitting.

EFFECT OF POSTPONEMENT OF MATTER BEING CONSIDERED

SEC. 132. **Any matter debating before the house, if it be postponed to a particular day, is by that act converted into an "order of the day" for the day to which it is deferred.** "Orders of the day" are privileged matters for the day they are assigned to. Yet it remains within the power of the house to proceed with other business if it so desire, even to the entire exclusion of the order of the day. The fact that a matter has been assigned for a particular day does not prevent the consideration of other matters on that day, nor is the house bound to give first consideration to the order for that day.

(A) Therefore, if on the day fixed for the consideration of an order and before proceeding with the order, it is moved to take up some other subject, it may be proceeded with and disposed of. However, **the order of the day is privileged and has precedence in the business of the day,** so the motion to take up other business may be superseded by calling for **the orders of the day** or by a

demand for the regular order, which may be made on introduction of the motion or during the consideration of the extraneous matter. The effect of the demand for regular order would be to bring the house immediately to a consideration of its "Orders of the day" and the then pending matter would be suppressed for the time. If, however, you should call for the orders of the day, after other business had been entered upon (taken up), the speaker would put the question, "Shall the house proceed to the orders of the day?"

(B) Mr. Jefferson says: "The only case where a member of parliament has a right to insist on anything, is when he may call for the execution of a **subsisting order of the house."** In the American House of Representatives a member has a right, at any time, to demand the execution of the **regular order, including the rule prescribing the regular order of business.** He does not do this by calling for the orders of the day, but by calling for, or **demanding the regular order.**

(C) Orders of the day as a means for disposing of business was found to be impracticable in our American practice as early as 1818, and not long after that their use, as in parliament, was abandoned. In American practice the calendar and the highly developed order of business prescribed by standing rule, leaves but small place in its procedure for the use of orders as used in parliament. Orders of the day as used in present day American practice may be divided into two classes—**general and special orders.**

GENERAL ORDERS

SEC. 133. General orders in our American practice are usually made by postponing a subject, to a particular day or by adopting a program. On the day assigned for the consideration of a postponed order, they should be taken up under the order of business "Orders of the

day" if such exist, if not, then very properly under the order **unfinished business,** and if no such order, then any member may of right call up the postponed order if no other business is pending, subject, of course, to the objection of the house, if such objections were made the chair would put the **question of consideration** which would decide whether the house wished to take up the subject.

(A) In parliament any program, **or order of business adopted by the house, becomes with its postponed orders, its general orders of the day, and general orders have precedence in respect to the time they were made.**

ORDER OF DAY DISCHARGED

SEC. 134. In parliament when an order has been made for a particular day, the subject must be proceeded with, discharged or postponed. The motion to discharge merely cancels the time fixed for consideration of order. If the motion to discharge prevails and no order for another day is fixed then matter becomes **a dropped order.**

(A) In our American practice we give but little recognition to the motion to discharge and it is seldom used except to take bills from committees. It is not a privileged motion. In America we accomplish the same effect and purpose with the one motion to postpone further consideration. An order of the day may be reconsidered and the time of consideration set for a later day but not for an earlier one. On the day on which the house has postponed a subject, such postponement cannot be rescinded, discharged nor can any other order be made, or proceeding take place inconsistent with the former order. **It being a cardinal parliamentary principle that every order of the house whether affirmative or negative must stand as such during the day on which it is made.** In American practice the motion to recon-

sider is nearly always in order and somewhat modifies the foregoing rule.[1]

(B) The effect of a postponed order is to postpone consideration until the day assigned and so long as the order remains in force it cannot be regularly considered before the time fixed in the order of the house.

SYLLABUS OF SPEAKER'S DECISIONS

SEC. 135. The order of business as fixed by the House may not be disturbed by any matter not provided for in such order of business.

It was decided by Speaker Randall that when a rule prescribes the order for the disposition of business, matter not provided for, could not be introduced, and if introduced would be out of order.[2]

PRIVILEGED BUSINESS

(A) The fact that the House sets aside a day for a specific purpose (special order) does not prevent the House from considering other privileged matter, if the House desire.[3]

CHANGING ORDER OF BUSINESS

(B) A motion to dispense with any order of business is not in order, except under suspension of rules or by unanimous consent.[4]

MAKING ORDER OF DAY

(C) An order of the day is not merely the assigning of a subject for consideration by the Speaker in the process of business, but it must result from a vote of the House upon a motion put from the chair.[1]

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[1] The motion to reconsider is superseded by a motion to adjourn and a report of a conference committee.

[2] H. J., 1st Sess., 46th Cong., p. 1080.

[3] Speaker Gillette.

[4] Speaker Reed, H. J., 1st Sess., 49th Cong., p. 372.

[1] May Parliamentary Practice, p. 249.

EFFECT OF TAKING UP ORDER OF BUSINESS

(D) After the house has proceeded to the consideration of the regular order of business, motions calculated to delay or change the order of business are not in order and **can be offered only by unanimous consent or under** suspension of **the rules.**[2]

(E) In parliament when an order of the day has been read it must thereafter be proceeded with, or appointed for a future day or be discharged. Likewise, when a question is stated by the chair it must be proceeded with or disposed of in one way or another before proceeding with any other business.

DISPENSING WITH REGULAR ORDER

(F) A motion to dispense with the regular order of business is, in fact, a motion to suspend the rules and therefore requires a two-thirds affirmative vote.

REGULAR ORDER

(G) A demand for the "regular order" of business being of high order, supersedes and displaces a question of privilege of no higher order. (Carlisle.)

(H) Two motions to suspend the rules may not be pending at the same time.

(I) When a member claims he has a right to make a motion or introduce business, he of course means that **it is privileged,** because no motion can be made in order in the house **which is not privileged**, if a demand for the regular order is made.

INTERVENING BUSINESS

SEC. 136. It is provided in the parliamentary rules of English and the American legislative assemblies that certain motions may not be repeated, unless there has

[2] Speaker Reed.

been **intervening business or intermediate proceedings,** which latter is the English term. Intermediate proceedings mean a proceeding that can properly be entered in the Journal. The true test would seem to be that if any parliamentary proceeding takes place, the second motion would be in order.

INTERRUPTING ORDER OF BUSINESS

(A) In parliament when the House enters upon the consideration of the orders of the day (calendar) the proceedings therein may not be interrupted by any other business which members may undertake to interpose nor in the interval between the reading of one order and another, except by consent of the House. (This English practice seems to conflict with rulings in our American House.)

ORDER OF LEAVE

SEC. 137. The parliamentary expression, "Order of Leave," merely means that the House by its act has given the privilege or extends **leave** to a member to do some particular thing, specified in the order. **Leave** is usually granted to do those things **prohibited by the rules.** Leave is given a committee to report at any time, to a member to introduce a bill or motion out of order. When **leave is granted** to do something out of order it **becomes an "order of leave."**

REGULAR ORDER OF BUSINESS

SEC. 138. Any motion that is made out of order may be superseded by a demand for the **"Regular order"** which in effect would be a demand that the House proceed with the regular business for that time.

ORDER OF BUSINESS

SEC. 139. Early parliamentary bodies did not provide an order for the transaction of its business but the speaker

was given discretionary and almost arbitrary control of the business to come before the meeting, except the House, on vote, might proceed with such business as they desired to call up.

This practice resulted in a waste of time because of too much debate and contention among the members and soon a settled order of business was established, until today in the parliaments of the world it is the universal practice to establish by rule an orderly method for disposing of all business. In the English House of Commons the order of business is sometimes referred to as the "time table" for the reason each hour of the session is divided and set aside for the consideration of some definite particular class of business.

PRACTICE

SEC. 140. During a session of the House the chair calls for business under each of these heads. When these different orders of business are called for by the chair, which he does by merely announcing "The next order of business is reports of standing committees."

It is in order for any member having a committee report, to seek recognition and make his report. He could not, however, under this order of business offer a substantive main motion in order because the House is proceeding under the fourth order of business and that is the only business that is now in order. However, if a member desired to propose an important motion before reports of committees were received he could accomplish this by consent of the House, as follows: **"I ask unanimous consent to pass to the fifth order of business temporarily."** If no objections were made the chair would declare the meeting is now temporarily operating under the order of business "Motions". The chair recognizes (the gentleman who suspended the rules) and when proposed and considered, he would again declare the order to be reports of committees. Still better,

he could ask "unanimous consent" to make his motion, naming it, without reference to the order of business, and if no objections were offered the order of business would be temporarily suspended and his motion adopted.

Sometimes when important matters are pressing it is desired to pass over several items in the order of business in order to save time and consider an important matter. This is usually accomplished by suspension of the rules or I request "unanimous consent" to proceed to the order of unfinished business. The rule governing the order of business and the rule controlling the use of motions during debate should be studied together for these rules combined present complications not always comprehended by the inexperienced.

PURPOSE OF CONTROLLING ORDER OF BUSINESS

SEC. 141. The purpose of having rules to govern the order of business is to insure regularity and to prevent surprises being sprung on the meeting by asking it to consider matters not previously agreed upon. It also preserves the integrity of the parliamentary rule, one thing at a time. Where there is a rule governing the transaction of business, whenever the meeting enters upon its order of business no business not provided for in the rule is to be brought forward until the completion of the order.

Speaker Thomas B. Reed held in the National House that after the House proceeded to the consideration of its regular order of business, **motions or business calculated to delay or change the order of business are not in order.** Speaker Randall decided "When a rule prescribes the order for the disposition of business, matter not provided for may not be introduced, and if introduced, would be out of order."

Thus it is quite clear that the order of business as fixed by the rule may not be disturbed by bringing forward matter not provided for in the order of business. If it should be found necessary to bring forward business that

is not in order it may be done by suspending the rule providing the order of business.

ORDERS AND RESOLUTIONS DESCRIBED

SEC. 142. Every question when agreed to assumes the form **either of an order, or a resolution** of the House, that is, resolves are strictly speaking **questions resolved in the affirmative.** By its orders the House directs its committees, its members, its officers and the order of its own proceedings, and the acts of all persons within its hall. By its resolutions the House declares its opinions and purposes to the world. (May.)

ORDER OF DAY DEFINED

SEC. 143. Any matter becomes an order of the day, the consideration of which is postponed **by the house to a particular day.**

ORDERS—COMMANDS

SEC. 144. Orders as commands are very sparingly used in this country. Orders coming principally from the Speaker in the advancement of business, *e. g.* After first reading of a bill the Speaker without motion or question put, orders the bill to be read a second time tomorrow. In parliament motions are called resolves, and written motions with them are used for about the same purpose as we use resolutions. Orders in Parliament are used thus: **"Ordered: That the Sergeant-at-arms open the doors of the House at eight o'clock, each legislative day during the session."**

SEC. 145. The printed Calendar in Ohio contains the regular orders[1] of each legislative day, in other words, all bills for third reading, resolutions laid over under the rules, and such other information or business as may be ordered by the House.

[1] Business.

DROPPED ORDERS

SEC. 146. In Parliament, if a matter is under consideration, and adjournment is taken, or it is superseded in any other manner, it is said to be a **"dropped order."** Any matter they take up for consideration and do not conclude, or set a time for its future consideration, becomes a **"dropped order." A dropped order may be revived** for future consideration by a motion to **"Revive and proceed with"** the business that was dropped. (See Motion to revive.)

RESOLUTION NOT IN ORDER

SEC. 147. The House was engaged under the order of business, consideration of bills. A resolution was offered. Objection was made. The Speaker sustained the question of order. (2 Sess., 55th Cong., p. 113.)

SEC. 148. The motion to dispense with any particular order of business is not debatable.

SPECIAL ORDERS

SEC. 149. Special orders are those made upon motion and question and decision of the house to set aside **a particular day and hour** for the consideration of a subject, giving it privilege over all other business for the time specified and continuing such privilege until disposed of, or postponed.

(A) **Special orders always have precedence of general orders.** After a special order has been taken up and is being proceeded with it is subject to amendment and postponement, or it may be suppressed by the usual motions used for that purpose, but the motion to suspend is not in order during its consideration.

(B) Special orders are made by a two-thirds vote of the house, except when reported and recommended by the committee on rules, **in which case only a majority**

vote is necessary. Special orders have precedence of all other business at the time they are set for.

(C) Upon the arrival of the hour set for a special order, the business then before the House, is not thereby suspended, as a matter of course, but the Speaker may, and usually does, if necessary, interrupt a member speaking, and announce the arrival of the hour set apart for the special order. He then waits briefly for a member to move either that the special order be postponed, or that the House proceed to its consideration, or he may move the postponement of the pending matter and that the House proceed to the special order.

(D) If for any reason the chair should fail to announce the arrival of the hour to consider the special order, it is the right of any member, even if another have the floor, to move to proceed with the special order or he may demand the regular order, or move to postpone it. If postponed, it does not come up again as would an ordinary subject postponed, but it would come up again as a special order.

SPECIAL ORDER SUSPENDS ALL OTHER BUSINESS

(E) When the House is engaged in the consideration of a special order no other business is in order during execution of the special order.

(F) Special orders are made under suspension of rules, and of course, unless unanimous consent is given, cannot be made, except while the **motion to suspend is in order.** (1st Sess., 30th Cong., Jour., p. 580.)

SPECIAL ORDERS

SEC. 150. Provides the means by which legislative bodies advance important business and set a definite time for its consideration, thus giving the Special Order special privilege over other pending business. The making of a special order involves the rules regulating the order of con-

sidering business. When a Special Order is made all rules that stand in its way are suspended.

(A) A Special Order requires the same vote that is required to suspend the rules of the House—**two-thirds.**

FORM FOR MAKING SPECIAL ORDER

SEC. 151. Mr. Beck: Mr. Speaker, I move that (naming bill by number) be made a special order for (naming day and hour) or:

Mr. Speaker: I ask unanimous consent to make (naming bill and the hour and day) a special order.

Chair: The gentleman from Montgomery requests unanimous consent, etc. Is there objection? (after pause.) The chair hears none, there being no objection it is so ordered.

MOTION TO MAKE A SUBJECT A SPECIAL ORDER

SEC. 152. Suspend the rules and requires a two-thirds vote, or unanimous consent.

(1) May be reconsidered.
(2) May be laid on the table.
(3) May be postponed.
(4) May not be committed.
(5) Can be amended as to time.
(6) Is debatable, but does not open the main question.

SPECIAL ORDERS—PRECEDENCE OF

SEC. 153. Special orders have precedence of the order of business, provided by the House. All rules standing in the way of a Special Order are suspended when the Special Order is agreed to.

POSTPONEMENT OF SPECIAL ORDER

SEC. 154. It is not in order under the rules to suspend a Special Order, but it may be postponed. The postponement of a Special Order is accomplished thus: "I

move that the further execution of this Special Order be postponed." This motion requires only a majority affirmative vote to be effective.

PRIVILEGE OF SPECIAL ORDER

SEC. 155. Although a special time may be fixed to consider a Special Order, it does not lose its privileged character, if called up at a later hour. (Reed.)

SEC. 156. When a Special Order applies to one day only, if taken up and not disposed of that day, it loses its privileged position thereafter.

COMMITTEE SPECIAL ORDERS

SEC. 157. It is a frequent occurrence in the National House for a committee to have its business made a Special Order. Thus:

RESOLUTION MAKING SPECIAL ORDER OF COMMITTEE BUSINESS

(A) Resolved, that Tuesday, March 18th, be set aside for the committee on Judiciary, for the consideration of such business as such committee may present or call up. That debate on any matter presented by said committee, shall be limited to ———— minutes on each proposition presented, or called up. At the end of such time the previous question shall be considered as ordered on the main question and all pending amendments, if any, and without intervening motion the several questions shall be put and the vote taken.

EFFECT OF FOREGOING RESOLUTION

(B) Under the provision of the foregoing resolution, the committee has unlimited discretion as to matters to be brought forward. It may bring forward business not on the calendar, but still in committee, because the special order suspends all rules. Debate is limited and the

previous question automatically applies. The rule of precedence is suspended and the motions in such rule may not be used, except the motion to amend. If it should be desired to prevent amendment, this could be effectively accomplished by making the previous question effective when the proposition is called up instead of after debate.

(C) When two Special orders are fixed for the same hour, the order last made has precedence.

FORM OF SPECIAL ORDER WHICH PRECLUDES MOTIONS AND AMENDMENTS

SEC. 158. *Resolved,* That House Bill No. 56 be made a special order for Tuesday, March 10, at 2 p. m., and that after one hour of debate thereon the previous question shall be considered as ordered on the bill; that then without intervening motion or amendment the vote shall be taken on the bill as reported from the committee. It was held in Congress that under this resolution not even a motion to reconsider was in order.

SPECIAL ORDER TO CONSIDER CLASS OF BILLS LIMITING DEBATE

SEC. 159. *Resolved,* That on Tuesday, the 10th day of January, immediately following the reading and approval of the Journal, the House shall proceed to the consideration of the several bills on the calendar relative to taxation, and that in the consideration of such bills under this resolution, they shall be taken up in the order in which they stand on the calendar, and one-half hour debate shall be allowed on each bill, with the amendments thereto, such time to be divided equally between those favoring and those opposing the bill.

EFFECT OF LEGISLATIVE DAY ON SPECIAL ORDER

SEC. 160. On the legislative day of Tuesday, April 3, 1888, but in reality the calendar day of Thursday, April 5th, the National House proceeded under the provisions

of a special order which had been set for the calendar day of April 3 and 4. Mr. Lanham raised the point of order that the time for the consideration of the special order had expired. Ruling on the point of order Mr. Speaker Carlisle said: "The chair does not understand the gentleman from Texas to contend that ordinarily the legislative day does not continue until an adjournment; but he contends that under the special order adopted the other day by the House it is the duty of the chair, after a calendar day has expired, to declare the business set especially for that day is terminated. And the gentleman contends for this proposition upon the ground that it was evidently the intention of the House when it made the special order that the committee should have but two calendar days.

"Conceding that such was the intention of the House when it made the order, still it is evident that the intention of the House has been changed, because it has declined to adjourn so as to permit that order to take effect; it has remained continuously in session, thus preventing the legislative day from terminating. The chair cannot adjourn the House; that is conceded. The chair cannot cause the Journal of the House to be read until there has been an adjournment; that is conceded. And under the order which the gentleman from Texas read, the business of the committee on commerce will not come up until after the reading of the Journal; so that if the chair were to sustain the gentleman's point, the committee on commerce would not now be able to call up its business, but the House would remain in session as of Wednesday until an adjournment should take place. Chair overrules the point of order and the House now by its action defeats its order which assigns Thursday to the committee on commerce, just as the House, if it had on last Monday adjourned over until Thursday as it might have done, defeated the whole order giving two days to the committee on judiciary, notwithstanding its original intention to give

those two days. If the House should order that debate close at 12 o'clock tomorrow, or the next calendar day and then afterward determine otherwise and by remaining continuously in session preserve the legislative day and thus defeat the purpose which it had intended to carry out in the first place." Following this decision Mr. Weaver made the point of order that under the special order the House should recess; Speaker Carlisle replied: **"The chair has decided that the continuation of the legislative day which began yesterday defeated the execution of the special order."**

In 1877, Congress, not one but both Houses, remained continuously in session from February 1st to March 2nd, and this entire period constituted legally but one legislative day. (4 pages, 206-7.)

(B) The Speakers of the National House without exception have ruled that there must be an adjournment before the legislative day will terminate, an adjournment does not take place by reason of the arrival of the time for the regular daily meeting of the House.

(C) The difference between a legislative and a calendar day was concisely defined by Mr. Speaker Linn Boyd, when he said:

(D) "There cannot be another meeting of this body without an adjournment and when this House does adjourn, even if it is a week hence, it will meet again as directed by its own order. **The legislative day will continue until the house adjourns,** and when the House, after such an adjournment, meets at 12 o'clock, or at such other time as the House shall fix, it will be the duty of the Speaker, under the rules, **to take the chair, call the members to order, and cause the Journal of the preceding day to be read, and a portion of that Journal must necessarily be a motion and a vote to adjourn; without that it is incomplete.**

"The Speaker could not take the chair at 12 o'clock today for the reason that he was continuing to occupy

it, and the House was continuing to progress in its proceedings upon a legislative day and must continue to do so until it adjourns. One of the three hundred and sixty-five days of the year has passed over, the chair admits; but one of the legislative days allowed to this Congress is now being consumed."

SEC. 161. It is not in order to postpone a "Special Order" providing for the consideration of a class of bills (business), but each member of the class, as it is brought forward, would be subject to the motion to postpone, unless the previous question were ordered. (Cannon.)

(A) When a question comes before the House by the terms of a "Special Order," merely assigning the day for its consideration it may be postponed by a majority vote. (Cannon.)

EFFECT OF MAKING SPECIAL ORDER OF BILLS IN COMMITTEE

SEC. 162. **When a bill still in committee is made a special order for a certain time the effect of the order is to discharge the committee and bring the bill into the House for consideration.** (Speaker Carlisle.)

SPECIAL ORDERS DROPPED

SEC. 163. If a special order is not proceeded with or other action as heretofore explained taken, such as moving to proceed or postpone or attention directed to it by the speaker or members, or the house should negative the motion to proceed to its consideration it is then merely a dropped order, but it is not "dashed" or dissolved, and it may later be moved to proceed to its consideration. If it is not proceeded with at all, or no other disposition of the matter is made then at the time of adjournment, it loses its privileged character thereafter.

CHAPTER V

MOTIONS AND RULES GOVERNING

OBJECT OF PARLIAMENTARY BODY

SEC. 164. The object of parliamentary and deliberative bodies is to **focus the will of the majority on some particular question.** The best way this may be accomplished is by the use of the several forms and motions invented for that purpose and explained herein.

FUNDAMENTAL PARLIAMENTARY FORMS

SEC. 165. **Motions, orders, questions, votes and resolves are the fundamental forms** of parliamentary expression and deliberation. That is, a matter requiring a decision of the House is decided by a question put to the House by the speaker, upon a motion proposed by a member and answered by a majority vote of the House.

DEFINITION OF A MOTION

SEC. 166. **A motion is the parliamentary device by which a proposition is introduced and brought to the attention of the House.** It usually proposes that the Assembly do something, or order something to be done, or express an opinion with regard to some matter or thing, which immediately merges into a question and when put to the question and agreed to, it becomes the act, order or resolution of the body.

The term "vote" is applicable to the result of every question decided by the assembly.

ORDER

SEC. 167. When the House wishes to command, its will is expressed in the form of an order, thus, "Ordered, That etc."

RESOLUTION DEFINED

SEC. 168. **A resolution is a motion, or series of motions,** contained in a different form for the consideration of the House. It may, or may not, be prefaced with a preamble declaring the purpose of such resolution; but it must have a resolving clause, thus, "Resolved, That, etc."

A resolution usually expresses the will, judgment or purpose of the body **and is effective until completely executed.**

MOTIONS AND RESOLUTIONS COMPARED

SEC. 169. Motions are begun with the clause "I move that etc." about the only difference between a motion and resolution in our American practice is to be found in the prefatory words.

MOTIONS

SEC. 170. "I move that the trustees be instructed to rent the town hall for our district meeting Saturday." If you strike out the words "I move that" and insert "Resolved that" you have converted the motion into a simple resolution. (a) A simple resolution of the House or Senate may be converted into a motion or joint resolution by amendment before it is adopted or a joint resolution may be converted into a simple resolution by the same process before adoption, but such action would not be applicable to papers received from the other House. In congress joint resolutions are frequently converted into bills by amendment.

STAGES OF PROGRESS IN PRESENTING, CONSIDERING AND DISPOSING OF A MOTION

SEC. 171. The stages of progress in presenting a motion to the House and securing a decision thereon are:

(1) The member must rise in his place and seek the **chairman's call** as elsewhere described in chapter on debate.

(2) The chairman recognizes the member by giving him the "chairman's call" that is, announcing his name.

(3) Member proposes his motion.

(4) If in order and no objection is offered, the chair states (proposes) the motion in the form of a question.

(5) Debate may now proceed, it is also the time to propose amendments if the question is amendable, or at this point the question may be displaced and be superseded by a proper subsidiary or secondary motion which might result in an indirect answer to the question, e. g. If a motion to lay on the table were offered the vote would be taken on tabling and not on the main question if decided affirmatively the entire subject would go to the table and indirectly the main question would be disposed of without a direct vote.

(6) Chair puts question in original form if unamended, but if amended he puts it in the amended form, that is, "Will the House agree to the motion as amended?"

(7) Answer of the House by vote.

(8) **Declaration of result of vote by the speaker.**

AMERICAN RULE FOR MAKING MOTION

SEC. 172. The rule of our National House governing the making of a motion is simple, efficient and comprehensive. It has been adopted and is followed by substantially all our state parliaments (legislative bodies) and is as follows:

RULE FOR MAKING MOTION

SEC. 173. Every motion made to the House and entertained by the speaker (chair) shall be reduced to writing on the demand of any member **and shall be entered in the journal** (minutes) with the name of the member making it, unless it is withdrawn on the same day. (Rule XVI, Sec. 1.)

INTERPRETATION OF RULE

SEC. 174. The requirement of the rule that motions shall be reduced to writing on the demand of any member has been construed by speakers to apply only to main or substantive motions. It is not elastic enough to reach secondary or incidental motions, except motions to amend, and even then, the rule is not strictly enforced if the amendment is a simple one, such as striking out and inserting one or two words.

PREFATORY WORDS IN MOTION

SEC. 175. Every main motion submitted to the House for its consideration must be prefaced with the words "I move that". Do not make an effort to present your motion in some unusual and nonparliamentary manner, such as "Mr. Chairman I move you etc." or "Permit me to move you" or "I was about to request the indlugence of the House to permit me to move" and still more objectionable "I move a motion" or "I motion the House".

These unparliamentary forms reveal your ignorance rather than accomplishments in parliamentary procedure. It is now firmly established in American practice that the proper form for presenting a motion is simply "I move that etc." The prefatory words in a motion are as essential as the words "Resolve that" in a resolution or "Ordered that" in an order.

REASON FOR PREFATORY WORDS IN MOTION

SEC. 176. The reason for the prefatory words in a motion is for the protection of the House against being forced to vote upon an unsatisfactory motion. These words furnish a guide for amendments. It is a cardinal parliamentary principle that all the words in a motion may not be stricken out but with these prefatory words in the motion, all the motion following the word "that" or the substance of the motion may be stricken out and other words inserted.

AMERICAN RULE FOR STATING (PROPOSING) A MOTION

SEC. 177. The rule of the United States National House of Representatives for stating (proposing) a motion to the House is as follows:

When a motion has been made the Speaker (chairman) shall state (propose) it, or if being in writing shall cause the clerk to read it before being debated **and it shall then be in possession of the House,** but may be withdrawn at any time before a decision or amendment is had thereon. (Rule XVI, Sec. 2.)

INTERPRETATION OF RULE

SEC. 178. It should be observed that there is no requirement in the rule for a second, but the Speaker shall state the question regardless of whether it be seconded or not. The stating (proposing) of a motion to the House is compulsory.

If the chair should arbitrarily refuse to propose a proper motion to the House, the mover may do so himself. On one occasion John Rhett proposed in the National House that John Quincy Adams take the chair of the Speaker. The acting Speaker refused to state the question to the House and Mr. Rhett did so himself and Adams took the chair. It has also been decided by the New Hampshire supreme court that under these conditions of a member stating and putting his own motion, over the refusal of the chair to do so, that such action is permissible and the court will recognize such as legal and valid. Another important matter clearly shown in the rule is that the mover without consent of the House may withdraw his motion before any decision or action is had thereon.

MEANING OF STATEMENT OF MOTION

SECTION 179. The requirement of the American rule is that when a motion is made it shall be stated by the

Speaker (chair). The stating or proposing of a motion is merely the repeating of such motion to the House in as nearly the exact words of the mover as possible. When so stated it is said to become a question and is in possession of the House subject to withdrawal or modification by the mover before being amended or a decision of the House is had thereon.

RIGHT OF CHAIR TO ALTER MOTION

SEC. 180. The rule of Parliament recognized in the American Congress is "If a motion shall appear to the chair to be incorrect in point of form, or contrary to the rules and practice of the House, the chair may state his reasons for not repeating the motion in the exact words of the mover and suggest an alteration which he may adopt without the consent of the mover, or going through the form of taking the question on the alteration of the motion or amendment.

FORM FOR STATING MOTION

SEC. 181. The usual form of stating or proposing a question in the American practice is "The question I have to state (or propose) is, will the House memorialize the Congress, etc."

STATING MOTION BY CHAIR DISCUSSED

SEC. 182. In general the speaker is to put motions to the question in as nearly the exact language of the mover as possible. However, it sometimes occurs that a member not understanding the situation or knowing the proper motion to use to accomplish his purpose, will make a motion that the speaker believes will not accomplish his purpose or he may express his desire in terms unparliamentary. In these cases **it is the right of the speaker to propose the proper question to the House.** To illustrate, a member moves to defer consideration of pending business until tomorrow. There being no such parliament-

ary motion and the speaker realizing the desire to postpone consideration he would properly put the question "Will the House postpone further consideration of the pending business until tomorrow?" Mr. Mooney moves that the House proceed at this time to the consideration of H. B. No. 21 on the calendar. Speaker: Mr. Mooney moves to suspend the rules and take up out of its regular order H. B. No. 21 on the calendar. If it should be moved that the proceedings be not "entered in the journal", the speaker should put the question that the proceedings be expunged from the journal.

MOTIONS ENTERTAINED BY CHAIR

SEC. 183. A motion is considered as entertained by the chair if he accepts and recognizes it as being in order and it is usually in order if it violates no rule or practice of the House or is not clearly dilatory.

MOTIONS TO BE ENTERED IN MINUTES

SEC. 184. Every motion submitted to the House and entertained by the Speaker (chair) shall be entered in the journal (minutes) with the name of the mover, unless it be withdrawn the same day. If for any reason a motion is not entertained by the chair it is not to be entered in the minutes. **This rule covers all motions without regard to how decided.**

RENEWAL OF MOTIONS

SEC. 185. It is a rule of parliament and congress, and a firmly established parliamentary law, "that a motion once carried or rejected by the House, cannot be again questioned (brought up), but it must stand as the judgment of the House." This rule of so much merit and of long standing has been partly nullified in our United States practice by the introduction of the motion to reconsider. This motion to reconsider is entirely ignored or unknown outside of the United States.

A motion must not raise a question substantially identical with one on which the House has given a decision in the same session.

EXPLAINING PURPOSE OF MOTION

SEC. 186. The National House may and sometimes does by a **majority vote,** allow an explanation of a motion or vote to be made and entered on the Journal.

MOTIONS ENTERTAINED

SEC. 187. A motion is considered as **entertained** by the Chair, if he accepts and recognizes it as being in order, and it is in order, if it violates no rule or practice and is not clearly dilatory. (See Dilatory Motions.) **Debate may not begin until the question has been stated (proposed) from the Chair.**

RIGHT TO MODIFY MOTION OR RESOLUTION

SEC. 188. A member having the right to withdraw his motion before a decision is had thereon has also the resulting right to modify his motion before a decision is had thereon, (Speaker Cannon). Speaker Reed made substantially the same ruling in reference to a resolution.

LIMITATION ON WITHDRAWAL OF MOTION

SEC. 189. After a proposition is amended or after the previous question is ordered a motion may not be withdrawn, except by consent of the House; but the mover may withdraw it while the previous question is pending and before the vote is taken on ordering the previous question. Withdrawals are not in order after the previous question has been ordered.

The refusal of the House to lay the motion on the table is sufficient to prevent withdrawal by the mover.

WHEN MOTION IS IN POSSESSION OF HOUSE

SEC. 190. A motion is not in possession of the House and under consideration until it is stated to the House by the chair, until then it may not be amended or debated.

MOTIONS DIVIDED INTO GROUPS

SEC. 191. Motions may be divided into groups: viz. (A) Main or principal motions; (B) Subsidiary or secondary motions; (C) Incidental motions; (D) Privileged motions. In our American practice the important subsidiary motions are known as privileged secondary motions. The important ones are shown according to their rank and privilege in the rule of precedence.

PRINCIPAL MOTIONS

SEC. 192. Principal or main motions are such as present a substantive proposition to the House for its consideration. Motions of this kind are not in order when any other principal or main motion is pending before the House. **Main motions are usually debatable and are superseded by subsidiary and incidental motions.**

SUBSTANTIVE MOTION DEFINED

SEC. 193. The term substantive proposition used in the foregoing paragraph means any motion not secondary or incidental to the proceeding before the House. A substantive motion when agreed to, becomes the act, or expresses the sense of the House but this statement must not be construed as applying to subsidiary or incidental motions.

SUBSIDIARY MOTIONS DEFINED

SEC. 194. Subsidiary motions are such as have been invented **for use in disposing of substantive propositions in the most appropriate manner.** These in their rank and importance are as follows:

1. **Lay on the table.**
2. **Previous question.**
3. **Postpone to a day or time certain.**
4. **Commit or recommit or refer.**
5. **Amend.**
6. **Indefinitely postpone.** The foregoing motions are fully discussed in the rule of precedence, Chapter X.

It is not to be supposed that the foregoing list of six subsidiary motions are the only motions of a secondary nature, **because it is competent for a parliamentary body to frame new motions at any time at its pleasure.** However, the foregoing presents the motions that are approved and in general use by substantially all parliamentary bodies and these are entirely sufficient for all practical purposes.

PURPOSE OF SECONDARY MOTIONS

SEC. 195. Even the inexperienced will detect that the purpose of these secondary motions is to dispose of pending questions which will be fully discussed in the proper place. Two of these motions, indefinite postponement and lay on the table are used to suppress the main question. One to amend, if the question is not satisfactory; one for postponement to a time certain, defers action if the House is not ready to proceed with its consideration. Another of these the previous question is used to suppress debate and prevent amendment. The motion to commit places the matter before a committee for a more deliberate and careful consideration that the House feels it can give. The House may look with favor upon the subject matter presented, but its form may be objectionable and in these cases it is customary to refer to a committee.

INCIDENTAL MOTIONS AND QUESTIONS

SEC. 196. Incidental questions are those arising out of other questions, therefore they have precedence and must

be decided before the questions giving rise to them. Incidental motions are numerous and not easily nor satisfactorily to be classified. The most important of these and those in frequent use are:

1. Questions of order.
2. Appeals.
3. Division of question.
4. Division of House in voting.
5. Parliamentary inquiry.
6. Suspension of rules.
7. Withdraw.
8. Consideration of a subject.

While the right of a member to bring forward business is established, protected and guaranteed, yet it is the inherent right of the House to pursue one of two courses whenever any subject is brought forward for its consideration. First it may proceed to its consideration, or it may refuse to consider by some one objecting or raising the question of consideration.

ONLY ONE SUBJECT TO BE PENDING AT ONE TIME

SEC. 197. A fundamental principle of parliamentary law is that but one subject may be presented for the consideration of the House at one time. This rule, however, does not mean nor apply to motions. In fact, there are many motions that may be pending at one time, otherwise the opportunity for disposing of pending business would be very much restricted. It is not to be construed that two substantive main or principal motions may be pending at one time. They may not, but a dozen subsidiary and incidental motions can be pending at once and frequently are in practice.

SECONDS TO MOTION

SEC. 198. The practice of requiring seconds to motions is still observed in small bodies, but is no longer considered as a vital requirement in parliamentary and large

deliberative bodies. The requirement is ancient, antiquated and now obsolete and has been ignored in the practice of Congress since about 1808 and was dropped from the rules of the House in 1880.[1]

In the ancient practice of the House of Commons of the English Parliament it was provided by rule and practice that all main motions before being put to the question should be debated or seconded and it could not be put unless the House called for the question.

This rule is no longer strictly enforced in that body. In fact unless objection is made from the floor the speaker habitually puts questions without a second. The English House of Lords has never adopted the parliamentary form of requiring seconds. In present practice the Speaker of the Commons will always put to the question, motions regardless of whether they have been seconded or not. Nearly all the state legislative bodies in the United States ignore seconds. The practice of American deliberative bodies of requiring seconds, not only to main, but subsidiary and incidental motions is without parliamentary authority, senseless and without utility. In the days of the infancy of this parliamentary form in the body that gave it birth its application was limited to main motions.

SECONDS TO MOTIONS

SEC. 199. In our **American parliamentary practice,** we many years ago **dropped the useless requirement of seconds to motions,** but they are still used in our **popular** practice, and our American parliamentary writers continue to teach their use, because they do not go **beyond Jefferson** for their **parliamentary information,** and per-

[1] About the time the House of Commons was considering the discontinuance of seconds to motions in the Committee of the Whole, Mr. Hatsell, its clerk said, "There is as good reason for seconds to motions in Committee of the Whole as there is for seconds in the House," meaning, that if dropped in committee it should be done in the House also. The significance of this statement is better understood when we consider the fact that nearly all its business is transacted in the Committee of the Whole.

haps they do not know, that notwithstanding the fact that Jefferson's Manual forms the foundation of the practice of Congress, **yet at least 75 per cent of the principles Mr. Jefferson set forth a century ago,** are **now obsolete in the practice of our National House,** also Parliament. **Upon Jefferson's foundation the National House has builded an efficient American system.** The rules of the National House and very few of our state legislative bodies require by **rule or practice seconds to motions.** This requirement is almost as ancient as the House of Commons, where it originated, and even that body **is gradually by its practice forcing the death of the practice requiring seconds.**

REASON FOR SECONDS TO MOTION

SEC. 200. Speaker Thomas B. Reed, gives the only reason for seconds to motions that has come to our attention, "To assure the assembly that the motion has more than one supporter." The reasons that could be given for their discontinuance are numerous and far outweighs the reason for the use as given by Mr. Reed. The writer is not forgetful that in the discarding of this parliamentary form they discarded about ninety per cent of all the forms the average person has acquired.

MOTIONS NOT TO BE SUPPORTED

SEC. 201. Under our modern American parliamentary practice it is the highly protected right of any member to make a motion and have it submitted for the consideration of the House and it need not be seconded or supported by another member. In our American practice the chair is without authority to refuse to put a motion **because it is not seconded.**

RULE GOVERNING DOUBLE MOTIONS

SEC. 202. The rule governing double motions is laid down in a decision by Mr. Speaker Crisp, of the American

House of Representatives, is as follows: A member being recognized may submit more than one motion in connection with the pending question if the latter motion is of higher dignity in rank than the former. (There can be but little doubt that the speaker in this statement was thinking of subsidiary motions.)

DOUBLE AND COMBINATION MOTIONS DISCUSSED

SEC. 203. It is a general rule with many exceptions in actual practice that a member may not on the same recognition make two motions, or make them in the same breath. In our United States practice we have learned the art of using parliamentary motions to facilitate business. Under the original parliamentary procedure it was strictly held that the House could not vote on two questions at the same time, nor could the chair put two questions to the vote at the same time. In our present day practice nothing is more common. To illustrate, I move to suspend the rules and take the motion of Mr. Jones from the table and agree to same. The chair should put the question on this triple motion thus: "Will the House suspend the rules and remove the motion of Mr. Jones from the table and agree to same?" The motion to suspend the rules and take from the table not being debatable, the foregoing motion would not be debatable. The suspension of the rules is necessary in this case because the motion to take from the table is not in order. If the foregoing triple motion is agreed to, the rules are suspended and the motion of Mr. Jones is removed from the table and agreed to with one and the same vote. The foregoing could be accomplished by unanimous consent.

EXAMPLES OF PRACTICE IN USE OF DOUBLE MOTIONS

SEC. 204. Double motions that are in constant use in the world's greatest parliamentary body—the American House of Representatives are: A member may move to reconsider and then move to lay the motion to reconsider

on the table, but the usual method is to make both motions in the same breath, thus, "I move to reconsider and lay that motion on the table."

The form of stating the question on this motion is, Mr. A moves to reconsider and lay the motion on the table, both questions are stated and put to the question at the same time. The question is put "The question is on the motion to reconsider and lay that motion on the table." If decided affirmatively, the motion to reconsider goes on the table and the matter is decided. If passed in the negative the question on reconsideration is before the House.

(B) A member may submit a report, resolution, motion or amendment and then immediately move the previous question on his report, resolution, motion or amendment, as the case may be.

(C) In the case of a resolution, he may offer it, move its adoption and move the previous question.

(D) A member may offer a resolution and raise the question of consideration on the resolution.

(E) The double motion in most frequent use, and provided for in the rules is the motion to strike out certain words and insert other words.

The reason for permitting the use of double and combination motions is to expedite business. If a division of these motions is demanded and permitted the purpose for using them is defeated, and unless there is a special and urgent reason for dividing them and putting two or more questions, it is better practice to dispose of them as a single proposition. Speaker Blaine refused and denied the right to have this character of motion divided to be put to the question separately.

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[1] The motion may be framed thus, I move to reconsider, and lay that motion on the table.

[2] Form of question: The question is, "Shall the rules be suspended and the bill pass?"

[3] Form of motion: "I move to suspend the rules and discharge the committee on taxation from further consideration of House Bill No. —— and pass the bill."

SERIES OF ACTIONS

SEC. 205. Combination motions are not only permitted by practice but also by rule. Under the rules a motion is in order to move to suspend the rules and pass a bill. The question on this motion is put thus, "Will the House suspend the rules and pass the bill?" If decided affirmatively the rules are suspended and the bill is passed. This motion to suspend the rules and take action on the subject, may be used in conection with other matters as well as bills. A motion to suspend the rules may include a series of actions. As an illustration of the latter statement "I move to suspend the rules, discharge the committee and pass the bill."

Mr. Speaker Reed, than whom none greater in parliamentary accomplishments ever sat in the speaker's chair. entertained this motion, "I move to reconsider the resolution and insert the amendment I send to the desk and readopt the resolution" and he refused to divide the question. Speaker Blaine entertained and justified a similar motion and on a question of order refused a division and separate vote on the several motions.

THE MOTION TO SUSPEND THE RULES MAY INCLUDE A SERIES OF ACTIONS

SEC. 206. The motion to suspend the rules may include a series of actions, such as to suspend the rules and reconsider a vote on a resolution, amend the resolution and readopt it with one and the same vote. The practice set forth in this paragraph is permitted so often that it may be said to be the established practice of our National House. They also permit a motion to **suspend the rules, discharge the committee** and **pass a bill with one vote.**

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[1] Form of question put by chair: "Will the house suspend the rules, discharge the committee and pass House Bill No. ——?" If the state constitutional rules were involved in the suspension, a three-fourths yea and nay vote would be required, otherwise a two-thirds vote.

RULE FOR DIVIDING QUESTION FOR VOTE

SEC. 207. On the demand of any member **before the question is put** a question shall be divided, if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain.

MOTIONS INDIVISIBLE

SEC. 208. There are several combination motions that are not divisible. The motion to commit with instructions may not be divided for the reason if the motion to commit is negatived the instructions necessarily fall.

A motion to discharge one committee and refer to another may not be divided for the reason if the motion to discharge is negatived there would be nothing to refer to the other committee. All combination motions attached to suspension of rules are held in congress to be indivisible. The motion to reconsider and lay on the table is held to be indivisible.

RIGHT TO SPEAK AND VOTE AGAINST OWN MOTION

SEC. 209. It is the right of a member to vote against his own motion but he may not speak against it.

DIGEST OF SPEAKER'S DECISIONS UNDER RULES AND PRACTICE

SEC. 210. The rule provides that the motion to postpone and refer shall not be repeated on the same day, at the same stages of the question. Under the practice, a motion to adjourn may not be repeated after intervening business, such as debate; the ordering of a yea and nay vote; decision of a question of order by the chair; the reception of a message.

The motion to lay on the table may be repeated after intervening business; but the ordering of the previous question; a call of the House; or decision of the chair on a question of order is held not to be such intervening business.

It is essential that the pending matter be carried to another stage in order to permit a repetition of a motion.

DEMANDS ARE NOT MOTIONS

SEC. 211. Members under the rules are required to rise and address the chair and receive the "chairman's call" to make a motion; a **call for adjournment; for the reading of papers; or for the question by gentlemen from their seats are not motions.** Such calls themselves are breaches of order and should not be noticed by a member in possession of the floor nor by the speaker.

MOTIONS PENDING

SEC. 212. The practice of our National Congress in permitting more than one motion to be pending at one time is illustrated in the following example extracted from the journal of the House of the 70th Congress:

"Mr. Green moved that the House resolve into the committee of the whole, and pending that motion I move that the general debate be confined to the bill and the time be equally divided between the opponents and proponents of the bill. Pending both these motions, Mr. Tilson, by unanimous consent, moved that if the consideration of the bill is not completed today, business for tomorrow be dispensed with, until consideration of said bill is disposed of."

SEC. 213. Here are substantially four main motions pending at the same time. The student of common parliamentary law would roar vociferously if he were present when this would occur, but it caused no particular stir in the National House. The speaker simply put the latter motions and then the pending motion to go into the committee of the whole.

WITHDRAWAL OF MOTIONS

SEC. 214. A motion that has been moved and stated to the House by the chair is in possession of the House but the mover may of right withdraw his motion without

consent of the House before a decision or amendment is had thereon, but after a decision or amendment it can be withdrawn only by consent of the House but the National House is usually very liberal in this matter.

RELATION OF WITHDRAWAL TO OTHER PROCEDURE

(A) May be reintroduced.
May not be amended.
May not be debated.
May not be laid on the table.
May not be postponed.
Previous question does not apply.

ACTION ON REQUEST TO WITHDRAW MOTION

SEC. 215. Leave to withdraw is signified not upon a motion, question and vote, as is erroneously stated by some writers, but it is done by the chair taking the pleasure of the House, thus, **"Is it the pleasure of the House that the motion be withdrawn?"** or "Is there objection to withdrawing the motion?" If no one objects leave is granted and the motion is withdrawn. If objection is made then a motion and vote is necessary after a change in the motion.

REQUEST FOR WITHDRAWAL

SEC. 216. A request for the withdrawal of any legislative proposition may not be debated nor can any subsidiary motion be applied to the request.

STATUS OF MOTION WITHDRAWN

SEC. 217. Motions or amendments once offered and withdrawn may again be offered, either by the member withdrawing same, or by another member. The rule that a proposition cannot be twice offered is inoperative in these cases. A motion, resolution, bill or amendment may be

withdrawn by the mover or introducer at any time by leave of the House.

WITHDRAWAL AND SUBSTITUTION OF MOTION

SEC. 218. By leave of the House, a motion may be withdrawn and another motion substituted, in order to meet the views of the members expressed in debate. This is frequently resorted to in order to prevent numerous amendments and facilitates business. However this course is allowed only by leave of the House.

WITHDRAWAL OF AMENDMENTS

SEC. 219. An original motion may not be withdrawn if an amendment to it is pending until the amendment is first withdrawn or negatived, because the question on the amendment stands before the question on the original matter. No motion nor amendment may be withdrawn in the absence of the mover.

AMENDMENT WITHDRAWN BEFORE ORIGINAL MOTION

SEC. 220. In parliament **an original motion** may not **be withdrawn if an amendment** to it is pending, **until the amendment** is **withdrawn or negatived,** as the question on the amendment stands before the question on the original motion. Neither a motion nor an amendment can be withdrawn in the **absence of the mover.**

MOTION TO WITHDRAW

SEC. 221. It is the practice of the American house to permit the withdrawal of papers, except in those cases when the paper has been adversely reported by committee. The motion to withdraw is privileged and is therefore in order at any time.

WITHDRAWAL OF BILL

SEC. 222. A bill under consideration by the House or having been taken up for consideration may be withdrawn at any time before amendment or other action which put it in possession of the House.

SEC. 223. After a proposition is amended it cannot be withdrawn, nor after the previous question is ordered, **except by consent of the House.** However, it may be withdrawn while the previous question is pending and before the vote is taken.

MOTIONS THAT REQUIRE SUPPORT

SEC. 224. In the American House, seconds to motions are not required or recognized, yet there are a very few motions that require support, before being put to the question. A demand for a yea and nay vote must be supported by one-fifth of a quorum.[1] The motion to discharge a committee is to be supported by a majority of those present and also a motion to suspend the rule and pass a bill. That these questions are properly supported is usually decided by tellers. These are the only exceptions where there is even a semblance of the use of seconds to motions.

PROTECTION OF HOUSE AGAINST FRIVOLOUS MOTIONS

SEC. 225. **In our American practice we entirely eliminate seconds to motions and provide instead a different and more effective means for the House to protect itself against frivolous and unimportant matters being forced upon them for consideration, by providing every member with the right to object to the consideration of any main question stated** (proposed) **from the Chair, by raising the "question of consideration."** [1]

[1] Constitutional requirement.

NOTICE OF MOTIONS

NOTICES

SEC. 226. There is no rule providing for notices to be filed with the clerk, consequently they can be given only in open house, and only at such time as independent motions can be made.

WHEN NOTICE OF AMENDMENTS IS RECEIVED

SEC. 226a. Notice of amendments to bills may not be received until the bill or paper proposed to be amended has been read a second time and referred to committee unless the committee stage of the bill was passed over, which is sometimes done by the House.

NOTICE OF MOTION

SEC. 227. The practice of **giving notice of motion** is recognized in Congress. Its use:— Member desires to bring a question before the House for consideration, but prefers that the question be taken up at a future time. Instead of making a motion and postponing its consideration to another day when he desires it to be considered, he serves notice on the House that on a certain day he will make a motion, **naming the substance of the motion** to be made and the time for its consideration.

(A) The notice of intended motion should be carried on the calendar until disposed of. The fact that the member has stated the substance of his motion prevents any other member from making a similar motion effecting the same result, because such action would be a parliamentary discourtesy. But no member should be permitted to make the same **identical motion previous to the time specified** by the member, for making his motion would be obviously unfair and thwart the very purpose for which the notice was given. The protection of the member giving the notice should be insisted upon.

(B) This form of practice is very common in the English parliament. In fact, notice must be given of all main motions, but not so in our American Congress.

FORM FOR NOTICE OF MOTION

SEC. 228. Mr. Speaker: I desire to serve notice on the House that on tomorrow or other day (day named) under the proper order of business or when such motion will be in order, I will make the following motion: **"That the committee on judiciary be discharged from further consideration of H. B. No. 10."**

CALLING UP NOTICE OF MOTION

SEC. 229. In case of the **absence** of a member who has given notice of motion and the arrival of the hour for **making such motion** it is **permissible** for another member to make such motion, providing **authority** has been given by the member in **whose name** the notice stands and **notice given the clerk** of such arrangement.

NOTICE AND FINAL MOTION NOT TO DIFFER

SEC. 230. If when a motion is made it differs materially from the notice previously given, the Speaker should refuse to receive it. Then it can only be received by consent of the House or a renewal of the notice. This rule is strictly applied and enforced as to **notice of amendments.**

RULE FOR DILATORY MOTIONS

SEC. 231. No dilatory motion shall be entertained by the (Speaker) Chair. The rule is merely declaratory of parliamentary law of parliament.

DILATORY MOTION—RULE OF CONGRESS

SEC. 231a. **"No dilatory motion shall be entertained by the Speaker."** In support of this rule the committee in its report had the following to say: "This rule is merely declaratory of parliamentary law. There are no words which can be framed which will limit members to the proper use of 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."

Under the rule when motions or appeals have been made with the evident purpose of obstruction, the Speaker has held them dilatory, on points of order. A good example of dilatory tactics and rulings of the chair, may be found in the following:

ILLUSTRATION OF DILATORY MOTIONS AND RULINGS THEREON

SEC. 231b. "On August 27, 1890, Mr. Brosius presented a resolution directing the sergeant-at-arms to procure the attendance of absent members. Mr. Clark then moved that the House adjourn. Mr. Brosius made the point of order that the motion was a dilatory one and not in order. Speaker Reed sustained the point of order. Mr. Clark appealed from the decision of the Speaker. The Speaker declined to entertain the appeal. The question on the adoption of the resolution was then put by the chair. Mr. Turner then moved to lay the resolution on the table. Mr. Brosius made the point of order that the motion to table was a dilatory one and not in order. Speaker Reed sustained the point of order. Mr. Turner appealed. The Speaker refused to entertain the appeal. Mr. Turner demanded a division of the original question. The Speaker ruled the question was not divisible. Mr. Turner appealed from the decision. The Speaker declined to entertain the appeal. Un-

der certain circumstances the motions to reconsider and adjourn and the question of consideration have been held to be dilatory. The Speaker has also declined to entertain debate or appeal on a question as to dilatoriness of a motion.

DILATORY MOTIONS DEFINED

SEC. 232. Motions, considered as dilatory in General American Practice, are such as are proper parliamentary motions used for the purpose of obstructing or delaying the orderly and expeditious transaction of business. Mr. Reed stated that parliamentary motions are for action, not the stoppage of action. When motions or appeals have been made with the evident purpose of obstruction or delay they have promptly been held dilatory, or points of order. Even the motion to adjourn and reconsideration have been held to be dilatory and an appeal from the decision of the chair on the dilatoriness of a motion is not entertained, if it were it would destroy the purpose of the rule.

DILATORY MOTIONS DISCUSSED

SEC. 233. Repetition of motions with a slight change in phraseology but having the same object in view of a motion previously offered and decided in congress are generally held to be dilatory; e. g. a motion to discharge a committee of a bill has but one object—to take the bill from the committee and place before the House. The House votes in the negative, later, perhaps the same day or at a later time the same effort is made, but the motion is to "relieve" or "instruct" the committee to report. The change in motions is merely one of form, the same object is desired and these latter motions are not in order and are dilatory. They are substantially the motion to discharge upon which the judgment of the House has been expressed. This would also fall under the rule that motions may not be renewed or repeated. Therefore, the speaker in this instance should hold such not in order or dilatory.

MOTIONS CLASSIFIED ACCORDING TO THEIR PURPOSE

SEC. 234. If you do not wish to have a direct vote on the pending main question and desire to suppress it, use: question of consideration or raise a point of order, if it appears to have been out of order, or withdraw motion or lay on the table or indefinitely postpone.

TO POSTPONE ACTION

Use: To postpone to a day certain; to commit; to adjourn; to lay aside without prejudice; or to informally pass.

TO EXPEDITE BUSINESS

Use: To suspend the rules, or to take up out of order, or previous question.

WHEN QUESTION IS UNSATISFACTORY

Use: Divide the question, or refer or recommit or amend.

AVOID A DIRECT VOTE

Use: To postpone indefinitely, or lay on the table, or raise the question of consideration.

IF REVERSAL OF ACTION IS DESIRED

Use: Reconsideration or rescind or expunge.

CHAPTER VI

PRIVILEGED QUESTIONS AND QUESTIONS OF PRIVILEGE DISCUSSED AND COMPARED

SEC. 235. Privileged questions and questions of privilege should not be confounded. There is a very wide and important distinction to be made between these parliamentary terms.

PRIVILEGED QUESTIONS

SEC. 236. **Privileged questions are dependent on and result directly from pending privileged motions.** These motions and questions always relate to the progress and disposition of the business before the House. That is, privileged questions result from the use of privileged, subsidiary or secondary motions. When one of these motions is made it immediately merges into a privileged question. The motions that usually merge into privileged questions are as follows:

1. Questions of adjournment.
2. Questions to lay on table.
3. Of previous question.
4. Questions of postponement.
5. Questions of commitment.
6. Questions of amendment.
7. Questions of indefinite postponement.
8. Questions of consideration and all other motions having to do with the consideration of business. (Reed.)

It should be noted that all the foregoing questions bear the name of the motion which give rise to them, and none

may be put to the question until the motion that gives rise to them has been moved.

QUESTIONS OF PRIVILEGE DEFINED

SEC. 237. **Questions of privilege are such as do not directly relate to the progress and disposition of business** or the main question before the House.

Questions of privilege in the order of their importance are as follows:

1. **To fix a time for a future meeting.**
2. **To adjourn.**
3. **To recess.**
4. **Questions of consideration.**
5. **All questions concerning the rights, privileges and functions of the assembly as a whole.**
6. **Personal privilege, or privilege of the members individually, reflecting on them in their representative capacity, only.**

The questions numbered 1, 2 and 3 have to do with the inherent right of the assembly to bring its labors to a close; without such power being firmly vested in the assembly, it could be kept sitting indefinitely against its will therefore these questions are given high privilege:

TO FIX A TIME FOR A FUTURE MEETING

SEC. 238. **When an organized body adopts a rule or order fixing a time for daily meeting and it is desired to adjourn to meet at a time different from that prescribed in the rule a motion is admitted as a question of privilege** in the English House of Commons and the Federal Congress as follows: "I move that this House on its rising stand adjourned to meet—"

During the life of two or three congresses, the "motion to adjourn and fix a time to meet," was recognized by being placed first in the rule of precedence; before doing this, the motion was not recognized as one of privi-

lege and was received only after a suspension of the rules, but in those bodies not having fixed **the daily hour of meeting the motion to adjourn and fix the time to meet is considered as one of high privilege.** A motion fixing a future time to meet **ranks above the motion to adjourn and may displace it when no rule for meeting exists.**

In general parliamentary practice, at least in Congress, the motion to adjourn and fix a time to meet is not at present in order except by unanimous consent or under a suspension of the rules because it has no privileged status, but a motion to fix a future time to meet is usually admitted when no other business is immediately pending. Form: "I move that when this House adjourns today that it stand adjourned to meet at ———" **(a time different from that fixed in the rule.)** It should be noted that this motion does not adjourn the House, but simply leaves the question of adjournment to the future pleasure of the House and fixes a time for reconvening when the House does adjourn. That is, no matter when the House adjourns it will be to meet at the time previously agreed upon. The foregoing is the proper parliamentary motion when it is desired to meet at a time different than that established by the rules. The motion to adjourn is of very high privilege but loses its privilege when coupled with other matter.

MOTION TO ADJOURN AND FIX A TIME TO MEET

SEC. 239. Before the House adopts a rule or order establishing a regular hour for the daily meeting, the motion to adjourn and fix a time to meet, is recognized of the highest rank, otherwise an adjournment of the House would be a dissolution and they would have no power to reconvene. Under the conditions above cited the motion to adjourn and fix a time to meet ranks above the motion to adjourn; **but when the House establishes a rule fixing the daily hour of meeting they by that act**

fully and completely destroy the high privilege of the motion and when offered and entertained, without objection, the effect is the same as if offered by unanimous consent, or leave of the House. **After the adoption of a rule fixing a daily hour of meeting the motion is no longer in order, except by unanimous consent or after a suspension of the rules for that purpose.** The rule provides that the House meet each day at 1:30, a motion is made to meet at 10:00 a. m. tomorrow, if that motion is agreed to, it indirectly suspends the rule, **but may not be received and put to the question, if objected to.** This motion as now used in the Ohio House gives the body all the color of a country debating club instead of a dignified and learned legislative parliamentary body.

RELATION OF MOTION TO ADJOURN AND FIX TIME TO MEET TO OTHER PROCEDURE AS DECIDED BY SPEAKERS

(When Admitted)

SEC. 240. It is debatable solely with reference to what is involved in the motion,—the time for the future meeting.

The motion may not displace or supersede pending business.

May be repeated after intervening business.

May be amended as to time.

This motion may not fix the same hour as the regular hour provided by rule nor would an amendment to produce this result be in order.

May not be laid on the table, committed or postponed.

The motion to adjourn and fix a time to meet is not in order until the rule fixing the daily hour of meeting is suspended or rescinded.

When there is no rule fixing the time of daily meeting of the body.

The motion to adjourn and fix the time to meet is a highly privileged question and ranks above the motion to adjourn.

MOTION TO ADJOURN

SEC. 241. This motion is fully discussed in Chapter XI under the rule of precedence. This motion being both a privileged question and question of privilege it appears that this motion should be discussed as a privileged question in the rule of precedence.

MOTION TO ADJOURN AND FIX A TIME TO MEET DIGEST OF DECISIONS

SEC. 242. This motion is not in order when a question is debating but may be offered by unanimous consent.

When this motion is admitted, it is debatable solely with reference to what is involved in the motion; it may be amended as to time; the previous question may be applied but other motions in the rule of precedence are not applicable to it.

The motion may not fix the hour established by rule to meet, nor would an amendment to produce this result be in order.

Where there is **no rule** establishing the time of meeting, the motion to adjourn and fix the time, is always in order and has precedence of the motion to adjourn; it may not be reconsidered.

RECESS

SEC. 243. The motion to recess presents a question of very important privilege. The right of an assembly to rest from its labors may not be abridged or diminished. This motion being considered as the transaction of business it has no privileged status when another question is under consideration neither is it in order in the absence of a quorum.

SEC. 244. The principal purpose of the motion to recess is to temporarily suspend business, at the pleasure of the House. The motion is analogous to the motion used in the English parliament, "to adjourn at pleasure," or "at

the call of the speaker." We have never accepted the use of the motion "to recess" as used in parliament. In our practice the exact time of the recess is fixed by the mover. In parliament it was to be left to the discretion of the presiding officer. With parliament the motion to adjourn is a very useful device. They adjourn the House, adjourn debate, adjourn at pleasure.

RELATION OF MOTION TO RECESS TO OTHER MOTIONS AND PROCEDURE

SEC. 245. The motion to recess may not be used in the absence of a quorum because under such conditions the House must adjourn or establish a quorum.

The motion is in order before reading the minutes.

May be amended as to time.

Debatable if no other business is pending.

No motion in the rule of precedence may be applied to it except amend and the previous question.

Requires a majority vote of those present.

EFFECT OF AFFIRMATIVE VOTE ON MOTION TO RECESS

SEC. 246. The effect of an affirmative vote on this motion is merely to bring to a temporary close the business of the House for the time specified, and on reconvening the business proceeds exactly where it was left off, as if no intermission had taken place. The motion to recess is debatable if no other question is pending. Motions in the rule of precedence may not be applied to it. It may not be reconsidered, **because the motion may be repeated after intervening business.**

(A) Less than a quorum may not recess; consequently the motion is not in order in the absence of a quorum.

(B) In Parliament, if it is desired to suspend business for a short time, they **"adjourn during pleasure,"**

or for a half hour, etc. In America we accomplish the same result with the motion **to recess.**

RELATION OF OTHER MOTIONS TO MOTION TO RECESS

SEC. 247. It is not in order during a call of the House or in the absence of a quorum.

Can be amended.

Can be debated if no other question is pending.

May not be committed.

May not be divided.

May not be postponed to day certain.

May not be indefinitely postponed.

May not be laid on table.

Requires a majority vote of those present.

SYLLABUS OF SPEAKER'S DECISION

SEC. 248. The motion to recess is not in order in the absence of a quorum.

(A) The motion to recess is not in order before the reading of the journal (minutes). The motion to recess is in the nature of the transaction of business, and **no business can be entertained before the reading of the journal.** (Carlisle.)

RECESSING INDEFINITELY

(B) In the 68th congress, Floor Leader Longworth offered this motion: **"That the House stand in recess until called to order by the Speaker."** On this occasion the House remained in recess nearly two hours. This procedure is analogous to the English motion to adjourn at pleasure.

CONGRESS TAKES LONG RECESS

SEC. 249. The 40th Congress recessed on the 30th day of March to meet July 3, 1867, at which time it was pro-

vided that if a quorum were not present in each House the Congress would stand adjourned without day. Congress met pursuant to recess on July 3d and remained in session until July 20th, and again recessed under a similar resolution until November 21, 1867.

TERMS "RECESS" AND "ADJOURN" COMPARED

SEC. 250. According to the Century Dictionary the term **"recess"** means "A time of withdrawal or retirement; an interval of release from occupation; **specifically a period of relief from attendance,** as of a school, jury, a legislative body or the assembly, **a temporary dismissal."**

(A) **The term "adjourn" is taken from the French word "jour" meaning a day.** To adjourn a meeting is to suspend the sitting until another day. It is the act of discontinuing a meeting of a public or private body, or the postponement of the transaction of any business until a fixed date or indefinitely.

(B) **Adjournment is the act by which an assembly suspends its sittings in virtue of authority inherent in itself.**

(C) Any intermission in the work of the proceedings of a legislative body may be correctly designated a recess, because its labors are at least temporarily suspended. And this is true whether its work is suspended by motion and vote, or whether it simply adjourned having previously fixed a time for a future meeting or its reconvening. **An adjourned meeting, except it be sine die (without day) is simply a continuation of the sitting of which it is an adjournment.** No sitting of the assembly is terminated, in fact, until an adjournment is effected, decided Speaker John G. Carlisle, which has been affirmed by all succeeding speakers, and was so decided previous to the decision of Mr. Carlisle.

(D) **Adjournment does not dissolve the assembly,** except when no provision has been made for a future sitting, that is if the assembly adjourns without fixing a future time to meet.

(E) It is the practice of our American legislative bodies when they desire to wind up the business of a legislative body to adjourn sine die. This act is considered as a dissolution.

CHAPTER VII

OF QUESTIONS OF CONSIDERATION

RULE OF NATIONAL HOUSE

SEC. 251. **When any motion or proposition is made, the question, "Will the House now consider it?" shall not be put unless demanded.** (Sec. 3, Rule XVI.)

RIGHT TO PROPOSE BUSINESS PROTECTED

SEC. 252. The parliamentary device, **the question of consideration, is designed to, and does, protect the right of every member to propose business, without the consent of a seconder or supporter, and also protects the House in its right, to decide by a majority vote whether it will consider the proposed question.**

RELATION OF QUESTION OF CONSIDERATION TO OTHER PROCEDURE

SEC. 253. Question of consideration must be raised immediately after submission of the question.

May not be reconsidered.

In order though another may have the floor.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question does not apply.

Requires a majority vote.

HISTORY OF
QUESTION OF CONSIDERATION

SEC. 254. The parliamentary device known as the question of consideration grew out of the practice of our National House, and its use **began about 1808,** when the **use of seconds was being discontinued.** Originally the question of consideration was put on every main motion or other proposition that was made; that is, if a motion were made before the Speaker stated it, he would put the question: **"Will the House now consider the question?"** If decided in the affirmative, he would state the question. The practice of putting the question of consideration on all motions, was soon found inconvenient and that it tended to retard business. In 1817 the rule took its present form, and since that time **the question of consideration is only put when a member raises it against a question they do not wish to consider.**

(A) The question of consideration may be raised against any main motion or other business presented for the consideration of the House, which it does not desire to consider.

(B) The need of a parliamentary device such as the American question of consideration was early felt by the English parliament and out of the condition was evolved the English previous question, **which is used to prevent present consideration.**

RAISING QUESTION OF CONSIDERATION

SEC. 255. When a motion or proposition is stated, any member may raise the question of consideration. When the question of consideration is raised, it is the duty of the Chair to put the question: Will the House consider the question?

TIME TO RAISE QUESTION OF CONSIDERATION

SEC. 256. The proper time to raise a point of order or the question of consideration, is immediately following its statement by the Chair. If both should be raised, the point of order would have precedence, because if sustained there might be nothing before the House to consider.

NOT DEBATABLE OR AMENDABLE

SEC. 257. The question of consideration cannot be amended nor can it be debated. It requires a majority vote of those present to prevent consideration. The motions in the rule of precedence may not be applied to it.

PURPOSE OF QUESTION OF CONSIDERATION

SEC. 258. **The question of consideration is the instrument by which the House protects itself against business it does not wish to consider.** It is now never put except on a demand of a member. **The purpose of raising the question of consideration, is to prevent present consideration of any subject brought forward.**

(A) In Parliament they demand the **"Previous Question"** to **prevent consideration,** in this country we raise the **"Question of Consideration"** with the same object in view. The form and use is:

FORM FOR RAISING QUESTION OF CONSIDERATION

SEC. 259. When any main motion or proposition is made, that it is not profitable to consider, or for any reason, it is not desired to consider, the question of its consideration may be raised by any member merely objecting to the consideration, but the usual form is:

Mr. Hill: "Mr. Speaker, I raise the question of consideration."

Speaker: "The question of consideration has been raised, the question is, will the House now consider the motion or proposition? (naming it).

(A) Because this question was not debatable and **decided by a majority vote,** John Randolph, of Virginia, characterized it as "An **engine of oppression** in the hands of the **majority."** In reply to Randolph, Speaker Henry Clay said: "When I came into the House, this rule was a novel one to me, but subsequent observation satisfied me of its wisdom, and removed whatever doubts I entertained originally of its propriety. **"The right of one or two members, to compel a body to consider a question,** which, on account of time, its manner, or its matter, they do not think proper to debate upon can only be sustained by a reversal of the rule that the **majority** of the members is to govern, and would, as to that particular subject, make the mover and seconder superior to the whole body.

SYLLABUS OF SPEAKER'S DECISIONS UNDER THE RULE

SEC. 260. The question of consideration may not be demanded on a proposition after debate has begun.

(A) The question of consideration may be raised after a motion to lay on the table has been made and supersedes it.[1]

(B) A member may demand the question of consideration although the author or another person in charge of the matter may claim the floor in debate.

REPETITION OF QUESTION OF CONSIDERATION

SEC. 261. The question of consideration may be raised each day. For instance, the House might refuse one day to consider a question and yet the next day the gentleman could call it up again, when the business of the House might be in such condition that the House would be willing to consider it.[2]

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[1] Speaker Stevenson.
[2] Speaker Thomas B. Reed.

(A) The question of consideration may be demanded against a question of highest privilege, such as the right of a member to his seat.

(B) If the House vote **not to consider a matter of privilege,** it may be called up again on the same day, and the question of consideration may again be demanded.

(C) The intervention of an adjournment does not destroy the right to raise the question of consideration, but when the question of consideration is undisposed of at the time of adjournment, it does not come up as unfinished business on a succeeding day.[1]

(D) Although business may come up by reason of being **specified in a special order, yet the question of consideration may be raised against it.** The question of consideration may not be demanded against a class of business in order under a special order or rule, but it may be demanded against each separate bill individually as it is brought up. (Reed.) When a special order provides that immediately upon its adoption, a certain subject shall be considered, the question of consideration may not be **raised against that proposition.**

(E) The **refusal to consider** does not **amount to rejection.** It may not be demanded after debate has begun. The motion to lay on the table or the demand for the previous question undecided does not prevent the demand for the question of consideration. (Cannon.)

(F) When the question of consideration is pending a motion to refer is not in order.

(1) The question of consideration, **may not be reconsidered,** it is not in order against the motion to **discharge a committee,** neither may it be demanded against any motion relating to the order of business; it may not be raised against any of the motions contained in the **rule of precedence.**

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[1] Speaker Carlisle.

(G) **The question of consideration is only applied to main questions.**

(H) This practice of the American Congress is undoubtedly derived from the practice of the English House of Lords.

(I) The question of consideration may not be raised after previous question is ordered.[2]

(J) The question of consideration is in order against considering unfinished business.[1]

(K) On motion to go into the committee of the whole house to consider a bill of the House, the House expresses its wish as to consideration by a vote on this question and the question of consideration may not be demanded against the bill.[2]

WHEN OBJECTION IS IN ORDER

SEC. 262. Objection to any procedure of the House, to be in order must be raised, when the matter objected to happens. It cannot be raised subsequently. The question of consideration may not be raised on any matter, after the Previous Question has been ordered.

RIGHT TO RAISE QUESTION OF CONSIDERATION

SEC. 265. A member's right to raise the question of consideration is not cut off by the introduction of a question of high privilege, such as to adjourn, but is in order when the matter again comes before the House but does not recur as unfinished business.

The intervention of an adjournment does not destroy an existing right to raise the question of consideration.

The question of consideration is frequently decided without a direct vote upon the question "Will the House proceed to consider the proposition?", that is when the

[2] Speaker S. J. Randall.
[1] Speaker Carlisle.
[2] Speaker Gillette.

House gives unanimous consent to consider say a bill with committee amendment pending, such action would preclude the question of consideration or a point of order against the amendment.

When a special order provides that immediately upon its adoption a certain bill shall be considered, the question of consideration may not be raised against such bill.

The question of consideration cannot be raised against a proposition that is before the House merely for reference.

The question of consideration may not be raised on a matter relating to the order of business; this particular decision resulting from this motion, "I move to discharge the committee and that the House proceed to its consideration."

QUESTION OF CONSIDERATION

SEC. 266. In the early practice of our Federal Congress even before the adoption of a rule it was the custom of the presiding officer when any proposition was introduced or main motion was moved to ascertain if the House was willing to consider the question or motion, that is, they put the question of consideration.

In the revision of the rules in 1890 the House adopted the following rule: "When any motion or proposition is made the question 'Will the House now consider it?' shall not be put unless demanded or the Speaker deems it advisable."

This rule does not destroy the parliamentary device, but merely modifies its use and restricts its use to the requests of members. (Reed.)

The question of consideration is a powerful instrument to prevent a direct vote. It may be placed like a barrier in the way of the consideration of any main question. The motions and questions above referred to are effective instruments to be used by members who do not desire to go on record as voting for or against the main question.

CHAPTER VIII

QUESTION OF PRIVILEGE

SEC. 267. From the beginning of our National Congress it has been the practice to give questions of privilege precedence of all other business. The practice was based on the usage of the English Parliament as recorded in the rule of Mr. Jefferson as follows: "A matter of privilege arising out of any question or from a quarrel between two or more members or other cause supersedes the original question and is first to be decided." The difficulty has always been to decide just what **constitutes privilege.**

In the early years of our United States parliamentary practice questions of privilege were moved and disposed of according to this English rule. The precedence of questions of privilege seems to have been admitted as a matter of course and were given consideration before all other questions, except the motion to adjourn.

Very soon members began to take advantage of the high rank of questions of privilege and began to seek recognition for all kind of speeches. This annoyance or abuse continued until 1880, when Congress was forced to adopt a rule classifying and defining privilege basing the same on previous rulings of the speakers and it has remained substantially the same since its adoption to the present time.

UNITED STATES RULE RELATING TO QUESTIONS OF PRIVILEGE

SEC. 268. **Questions of privilege shall be first, those affecting the rights of the House collectively, its safety, dignity and the integrity of its proceedings; second, the rights, reputation and conduct of members individually**

in their representative capacity only, and shall have precedence of all other questions except the motion to adjourn.

The foregoing rule defines accurately, closely and clearly just what may be brought forward as questions of privilege and has put an end to much controversy and unnecessary debate.

Questions of privilege as provided by the rule are of two kinds: Those relating to the House and those relating to members individually. Therefore, questions of privilege fall under the two divisions as defined in the rule.

PRIVILEGE OF THE HOUSE

SEC. 269. The rule is construed to mean that all such questions involving the House collectively must be in writing to be in order. In a decision relating to the privilege of the House, Mr. Speaker Cannon held:

QUESTION OF PRIVILEGE OF HOUSE MUST BE IN WRITING

"If the gentleman will offer his question of privilege in writing in a motion or resolution he will then conform to the rules and then for the first time the chair can make a ruling as to whether the gentleman presents a question of privilege and is in order. The question has been raised that the gentleman does not present a question of privilege. If the gentleman is so unfortunate as not to be able to embody in a resolution in writing for the information of the House his question of privilege, then he is unable to conform to the rules, as the chair understands the matter."

QUESTION OF PRIVILEGE OF HOUSE PRECEDED BY RESOLUTION

SEC. 270. A member arose to a question of privilege of the House and immediately proceeded in debate. His right to do so was challenged on the ground that the gen-

tleman must first introduce a resolution. The speaker sustained the objection.

QUESTION OF PRIVILEGE OF HOUSE DEFINED

SEC. 271. **A question of privilege that concerns the House is one that concerns the exercise of its functions in accordance with the principles which govern parliamentary bodies.** Every parliamentary body must have rules for its government and upon adherence to those rules depends its success as a parliamentary body.

MEANING OF INTEGRITY OF PROCEEDINGS

SEC. 272. Mr. Speaker Carlisle held ""Integrity of proceedings' means simply its unity, the completeness and the truth of the proceedings of the House when the proceedings of the House as recorded by the clerk, show, truthfully and correctly, what actually occurred, there can be no question of privilege about it."

SYLLABUS OF SPEAKER'S DECISIONS

SEC. 273. A motion to correct an error in referring a bill to a proper committee presents a question of privilege. A proposition to correct an error in a message to the senate presents a question of privilege.

It is held in the English Parliament that membership in Parliament begins with election and is at that time to all intents and purposes a member and may be appointed on a committee but he may not vote until he is sworn. (Jefferson)

A communication from a person not a member criticising a member for words spoken in debate should not be received by the House. It is a gross violation of privilege to read a letter from a person impugning the honor of a member.

WHAT CONSTITUTES PERSONAL PRIVILEGE

SEC. 274. Speaker Charles Crisp held "The language that may be replied to, as a matter of personal privilege, must reflect upon a member in his representative capacity. A member may desire to reply to something that some member has said on the floor but that does not constitute a question of personal privilege. The language complained of must be something **that reflects on the gentleman in his capacity as a representative."**

PRIVILEGE OF MEMBERS

SEC. 275. Privilege of members, commonly called personal privilege, to be in order must be a matter reflecting upon the member's conduct or reputation individually in their representative capacity only.

SPEAKER'S DECISION UNDER RULE

SEC. 276. Ruling on the method to be employed "in presenting a question of personal privilege, Mr. Cannon decided in presenting a question of personal privilege, it is not required in the first instance to make a motion or introduce a resolution in presenting a case involving personal privilege."

NOT A QUESTION OF PRIVILEGE

SEC. 277. A motion was made to go into the committee of the whole; thereupon Mr. Bailey as a question of privilege submitted the following resolution:

"That the heroic struggle of the Cuban people against the force of arms and the horrors of famine, has shown them worthy to be free, etc."

A question of order was raised that the resolution was not in order and did not present a question of privilege.

The Speaker sustained the question of order and said:

QUESTION OF PRIVILEGE DEFINED

(A) **"A question of privilege which concerns the House is one which concerns the exercise of its functions in accordance with the principles which govern parliamentary bodies.** Every parliamentary body has to have rules for its government; otherwise it would have no government at all, and upon adherence to those rules depends its success as a parliamentary body. The point of order is sustained."

QUESTION OF PERSONAL PRIVILEGE

SEC. 278. Ruling on the method to be employed in presenting a question of personal privilege, Mr. Cannon said: "In presenting a question of personal privilege it is not required in the first instance to make a motion or offer a resolution in presenting a case involving personal privilege."

SYLLABUS OF SPEAKER'S DECISIONS UNDER RULE

SEC. 279. The rule requires a member to confine his remarks to the matter which concerns himself personally.[1]

(A) In presenting a case of personal privilege arising out of charges made against him, the member must confine his remarks in debate to the charges.[2]

(B) A question of privilege being considered by the House which relates to the conduct of several members, one of them may not claim the floor by asserting personal privilege.[3]

(C) In order to furnish a basis for a question of personal privilege, a newspaper charge against a member should present a specific and serious attack upon his representative character, in such way as to affect his standing as a representative. Comment of newspapers on matters

[1] Burrows.
[2] Reed.
[3] Carlisle.

that cannot be brought before the House for its action are not questions of personal privilege.[4]

(D) Language that may be applied to a matter of person privilege, must reflect on the member in his representative capacity.[5]

ABUSE OF PERSONAL PRIVILEGE

SEC. 280. Very often a member who is unable to gain the floor in a legitimate manner, rises to a question of Personal Privilege, and when recognized, proceeds to discuss the pending question, or to **defend some one** other than himself. When this occurs, a point of order should be raised by a member and sustained by the chair, who should immediately order such member to take his seat. Sometimes members feel it their duty to **defend city, state and national officers** of their party, when given floor for **personal privilege. All this is against order.**

SEC. 281. Perhaps there is no parliamentary device more abusively used than is personal privilege. It has been commonly erroneously supposed that because of its high privilege it could be interjected under any and all conditions of business and would be in order. This is true if the member has a genuine case of personal privilege to present to the House, otherwise not. Personal privilege to be in order must be a matter of an injurious nature affecting his character or reputation or comfort as a member of the body. **The fact that an officer of the House kicked an insulting member out of the House might present a strong case of personal privilege worthy of immediate consideration by the House, but the fact that the Speaker refused to award a member recognition would not be a question of personal privilege** of this kind, nor could he gain a right to hold the floor in debate by asserting personal privilege. In cases of this kind of abuse, a good presiding officer quickly inter-

[4] Keifer.
[5] Keifer.

rupts the offending member and recognizes another to address the House.

QUESTIONS OF PRIVILEGE—WHEN IN ORDER

SEC. 282. A question of privilege may not interrupt a roll call; or take a member from the floor, if he has been recognized in debate; but it may interrupt the ordinary legislative business, even after the previous question has been ordered on a pending bill. During a call of the House or in the absence of a quorum, only such questions of privilege as relate to the immediate proceedings may be brought up. It may be raised in the committee of the whole as to a matter occurring in that committee, yet a breach of privilege occurring in the committee of the whole relates to the dignity of the House and is so treated.

SYLLABUS OF SPEAKER'S DECISIONS

PERSONAL PRIVILEGE BASED ON NEWSPAPER CHARGES

SEC. 283. When a member in a newspaper article makes charges against another member in his individual and not his representative capacity, the question of privilege should be submitted to a committee to decide as to whether a question of privilege is involved.[1]

(A) A member is not entitled to raise a question of privilege on account of a newspaper article relating to his conduct while a member, but not as a member.[2]

(B) A charge made outside the House of disreputable conduct against a member before he became a member, does not involve a question of personal privilege.[3]

(C) A newspaper article criticizing members generally involves no question of privilege.[4]

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[1] Hinds.
[2] Speaker Pennington.
[3] Speaker Crisp.
[4] Speaker Colfax.

(D) A newspaper article in the nature of a criticism of members' acts in the House does not present a question of personal privilege.[5] (This decision was also affirmed by Speaker Cannon.)[6]

(E) A newspaper article criticizing a member personally and not officially does not present a question of privilege. A member who gets into a personal controversy not connected with his official duties, may not present the question to the House as a matter of privilege.[7]

PERSONAL PRIVILEGE ARISING IN DEBATE

SEC. 284. A real question of personal privilege arising in debate is in order, and supersedes the pending question even after the previous question is ordered on the pending question.

(A) A question of personal privilege may not take a member off the floor and comes too late if the chair has recognized a member.

BONA FIDE PERSONAL PRIVILEGE

SEC. 285. The decisions and practice of Congress hold very closely to the thought that in a bona fide question of personal privilege, the attack must be made upon the member in his representative capacity. Questions of personal privilege may not be raised in the committee of the whole but must be presented directly to the House.

Law and usage of parliament as recorded by Jefferson is a matter of privilege arising out of any question or from a quarrel between members, or any other cause, supersedes the pending question.

Members of legislative bodies should not fall into the error of confounding personal privilege with personal explanation. A true case of personal privilege is in order

[5] Speaker Reed.
[6] Speaker Reed.
[7] Speaker Gillette, Feb. 7, 1923.

at any time and takes precedence of all other business, except a question involving the privilege of the House and personal privilege to be in order must be something that reflects on the member personally in his capacity as a member. In cases of doubt the speaker submits the question to the House whether the member submits a question of privilege. When a member is recognized on a question of personal privilege he should state it, but before proceeding further or in debate he should await the decision of the House or speaker as to whether he in fact presents a question of privilege. Personal explanations are more elastic and the member is given wide latitude. Unanimous consent is necessary to make a personal explanation.

RECOGNITION FOR PERSONAL PRIVILEGE

SEC. 286. If a member receives the chairman's call on the assertion of personal privilege, and such member abuses the confidence of the speaker by proposing a motion or proceeding in debate, his motion would be out of order and the speaker should not put such motion introduced in this manner. If the member is proceeding in debate or anything else other than his personal privilege he should be called to order and required to take his seat. This method of obtaining the floor in small bodies, lodges, societies, etc., is repulsive and obnoxious in dignified bodies and particularly legislative bodies.

It is extremely doubtful if a question of personal privilege could ever arise in an ordinary deliberative body, because a question of personal privilege to be in order must effect the member adversely in his representative capacity and therefore such could not occur in ordinary business. In fact, questions of personal privilege should be ignored in all but representative and legislative bodies. Its use in small deliberative bodies is almost always employed to obstruct business or to force recognition, a gross misuse of the practice.

METHOD EMPLOYED IN PRESENTING A MATTER OF PERSONAL PRIVILEGE

SEC. 287. When a member arises seeking recognition for the purpose of presenting a question of personal privilege and is recognized, the speaker when recognizing the member usually says "The gentleman will state his question, not debate it." The only thing the member is recognized to do is to state the question of personal privilege to the House after stating his personal privilege, the speaker must decide whether the gentleman has a bona fide question of privilege before he may proceed in debate. If the speaker decides him out of order he may appeal to the House and until decided the member has no right to debate the question because it is not properly before the House until it is decided to be in order. If ruled out of order as a question of privilege the member may then ask leave of the House (unanimous consent) to make a personal explanation. Members should avoid confounding the terms personal privilege and personal explanation, the latter giving wide latitude in its presentation, the former being much restricted to prevent unnecessary harangue. Members should remember that in a regular parliamentary body, such as legislative, they may not claim the floor for personal privilege to gain recognition for debate, as is done in debating clubs, and if they do, and a member proceed in debate before it has been decided whether he is in order the Speaker should demand that such member be seated and if he persists in proceeding and ignores the Speaker's command the Speaker would be justified in calling upon the sergeant-at-arms to remove the offending member. In view of the fact that many members coming to the legislative body have previously belonged to organizations that observe what is called common parliamentary law where members are permitted to urge personal privilege on any pretext they may desire and must be recognized. It might be wise to relax the rule slightly with the new members

until they come to realize the difference between the real and the shadow. This could be done by suggesting to a member who rises out of order on a question of privilege that it would be in order for him to ask unanimous consent to present a personal explanation.

NOT PERSONAL PRIVILEGE
(Precedent)

SEC. 288. General Sherwood arose to a question of personal privilege and stated that he desired to correct some statements made on the floor by members in referring to the Grand Army of the Republic. It was objected **that the correction of statements of members on the floor is not a question of personal privilege.** Speaker Clark sustained the question of order.

PERSONAL PRIVILEGE

SEC. 289. The fact that one member has characterized the statement of another as "an absolute unqualified falsehood" does not permit the latter to take the floor on a question of personal privilege. The statement of a member that "I would need a crooked and weak spine to walk in all the crooked paths in which (the other member) would lead me" does not permit the other member to rise to a question of personal privilege.

Mr. Jones rose to a question of personal privilege, citing a scurrilous newspaper article from a paper in his home city. Mr. Madden raised the question of order that no question of personal privilege was presented. The speaker overruled the question of order and said "The chair is quite clear in his mind that an imputation that the action of a member of this house is dictated by envy and malice clearly raises a question of personal privilege."

BASIS FOR QUESTION OF PERSONAL PRIVILEGE

SEC. 290. **A member is not entitled to the floor on a question of personal privilege, unless the subject which**

he proposes to present relates to himself in his representative capacity.

PERSONAL EXPLANATION

SEC. 291. Frequently the inquiry is made, is it competent for a member to make a personal explanation? The answer was given by Speaker John Davis in the National House in answer to a question of order. "There is no such thing in parliamentary procedure as a **personal explanation.** Such procedure is **merely tolerated by unanimous consent. No personal explanation could be made within any strict rule of the House,** and if tolerated at all, **it must be by either unanimous consent or by a suspension of the rules** relating to the order of business."

PERMISSION TO EXPLAIN NOT TRANSFERABLE

SEC. 292. "Permission to make a personal explanation **is not a transferable right.** A member in making a personal explanation has the largest latitude, **but must confine himself to that which is personal to himself.** A member having the floor to make a personal explanation **may not be interrupted** while he keeps within parliamentary bounds."[1]

QUESTION OF PERSONAL INTEREST

SEC. 293. It is a rule of Parliament strictly enforced and also of Congress, not to accept the vote of a member upon a question in which his private interests are concerned.

RULE OF HOUSE

SEC. 294. **"No member shall vote on any question in the event of which he is immediately or particularly interested."**[1]

[1] Speaker Colfax.

(A) In a decision under this rule Speaker Henderson held: "Each member must be the judge for himself as to his personal interest. The power of the House to deprive a member of his right to vote on any question is very doubtful."

SYLLABUS OF SPEAKER'S DECISION UNDER RULE

SEC. 295. When the subject matter before the House affects a class rather than individuals the **personal interests of a member who belongs to the class** is not such as to disqualify him from voting.[2]

(A) "The chair may not deprive a member of his constitutional right to represent his constituency."[3]

(B) In a case involving the right of several members to a seat, members may vote in the case of their **associates,** but not in their **own.**[4]

(C) In matters of personal interest in voting, it is the uniform practice and ruling of the speakers to permit each member to be the judge of his personal interest himself.

RULE OF PARLIAMENT

SEC. 296. A rule in Parliament touching personal interest is: "No member may be present when a question or any business concerning himself is debated, nor is any member to speak to the merits of such business till he withdraws. If a charge against a member arises out of a committee report, or examination of witness, by the House, the member knows from that, to what point he is to direct his exculpation, and he may be heard as to those points before any question is moved or stated against him. He is then to be heard as to those points before any question is

[1] Rule VIII, Sec. 1.
[2] Speaker Blaine.
[3] Speaker Randall.
[4] Speaker Jones.

stated or moved against him, and he is then to withdraw. If the question is itself the charge, as for breach of order or matter arising in debate, the question must be moved,—himself heard and then he withdraws.

PERSONAL INTEREST

SEC. 297. The rule of parliamentary law as to the conduct of a member when his private interests are concerned in the question, is discussed by Jefferson, as follows: "When the private interests of a member are concerned in a bill or question he is to withdraw, and where such an interest has appeared, **his vote is disallowed** even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principles of the social compact which denies to any man to be a judge of his own cause, it is for the honor of the House that this rule of unanimous observance should be strictly adhered to."

CHAIR'S PERSONAL INTEREST

(A) The Speaker leaves the chair during the transaction of any business concerning himself, even the reference of a paper (see Sec. 52).

PARLIAMENTARY INQUIRY

SEC. 298. Parliamentary inquiries are in fact **requests for information from the chair.** If a member is in doubt relative to the effect of any action of the House, or any proposed action, he may arise to a parliamentary inquiry and request the information from the chair. **A parliamentary inquiry is in order at any time.**

FORM FOR PARLIAMENTARY INQUIRY

SEC. 299. Mr. Creighton: Mr. Speaker: I rise for a parliamentary inquiry.

Chair: The gentleman will state his question.

Mr. Creighton: What is the pending question and its exact status?

(A) **A parliamentary inquiry is always in order, except it is made for dilatory purposes. It is not debatable nor subject to any other motion. It is a privileged matter.**

PARLIAMENTARY INQUIRY—IN NATIONAL HOUSE

SEC. 300. Member: Under the rules I presume the bill will be open for amendment?

Speaker: The chair of course, does not know what the intention is. Unless the House adopts the previous question and thereby shuts off amendment, of course, it will be open to amendment.

Member: I am trying to get clear in my mind what the rules of the house are as to an amendment to a bill being considered by the house.

Speaker: The house has the right at any time if no one moves the previous question and the house adopts it, that of course cuts off amendment. The chair cannot prophesy whether there is any intention to do that or not."[1]

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[1] Speaker Gillette.

CHAPTER IX

OF QUESTIONS

DEFINITION OF QUESTION

SEC. 301. A question is the parliamentary form or device by which a proposition is presented to the House for debate, amendment and the determination of what its opinion or judgment may be upon that particular matter.

(A) Every member has the right, when in order, to make a motion. When a motion is made it merges into a question which is immediately stated by the chair in as nearly the exact words of the mover as is possible, and without being seconded. After it has been stated (proposed) by the chair it is in possession of the House and it must be disposed of in some way before the House may proceed with any other business.

In the early practice of the Parliament of England in the House of Commons a second was required for every substantive motion before it could be proposed to the House but this requirement did not extend to merely formal motions such as are known as subsidiary motions. This same observation applies to the American Congress previous to 1808. At present none of these great parliamentary bodies require seconds, in fact, the House of Lords has never recognized the rule for seconds to motions.

PUTTING OF QUESTIONS

SEC. 302. There is no general rule that would prevent the putting of the question in the negative form. **But the general American practice is that all questions shall be put to the house in the affirmative,** and if decided by the house in the negative such negative decision is as

much the judgment or decision of the house as an affirmative vote would have been. So if it is permitted to put the question in the negative form and it should be decided negatively, the decision of the house would be considered as affirming the proposition. In parliament it is permitted and not an uncommon practice to put the question in the negative form, in fact, it is provided by rule in a few instances that it shall be so put. It is provided by rule that when the previous question is moved (the purpose being to have the main question put) the chair puts the question negatively, thus: That the main question be **not now put.** In the case of amendments, a member moves to strike out certain words (a negative proposition). The question put is that the words proposed to be rejected **stand as part of the bill,** an affirmative proposition. In order that the member attain the purpose of his motion he must get a negative decision.

PRACTICAL SUGGESTION TO BEGINNERS

SEC. 303. The confusion which must arise from any irregularity in the manner of putting questions and amendments is often plainly exemplified in public meetings where fixed principles and rules **are not observed or understood.** Persons in the habit of presiding at public gatherings of any kind should make themselves familiar with the rules of Congress which tested by years of experience, have been proven simple, and efficient in practice and logical in principle.[1]

PUTTING QUESTIONS IN PARLIAMENT

SEC. 304. In the House of Commons of the English Parliament, it is provided by ancient usage that main motions must be seconded, but in actual practice the

[1] The real cause of the public criticism of our American procedure by parliamentary writers is found in the fact that the critics do not understand the rules of procedure.

rule is not now rigidly enforced. **In fact, unless objection is raised from the floor, the Speaker habitually puts motions without a second** but if objected to, seconds are required, and if not seconded, after objection is made, the motion falls and is not put to the question.

(A) In the early practice of the House of Lords when a motion was made, it was not seconded, but a motion was made and question put "that the proposed motion be agreed to." In the Commons the motion merges into the question without any other formality, except the second, which is rarely required.[2]

(B) A practice analogous to that of the Lords, prevailed in our National House for many years; that is, when a motion was proposed, the question of whether the House would consider it, was at once put by the Speaker, thus: "Shall the motion be now considered?" In the present practice of the House the Question of Consideration is never put, except when demanded from the floor. Likewise in the House of Lords the motion to "agree to a motion" has been discontinued and now when a motion is made they, like the American House, put the question, without second or other formality.

QUESTION

SEC. 305. A question results from a motion proposed by a member or from any other matter introduced by a member for the consideration of the House. All matters merge into questions to be put by the speaker before the House may discuss it or express an opinion.

SEC. 306. A question is the device by which a motion or subject is presented to the House for consideration, debate and amendment and affords the opportunity for the House to give its answer or express its determination, judgment or opinion on the motion or subject.

[2] Chairman's Hand Book.

MOTION MERGES INTO QUESTION

SEC. 307. Every member has a right, when in order, to make a motion, and when made it merges into a question and it is immediately proposed (stated) by the chair without a seconder. After it is proposed by the chair, it is said to be in possession of the House, **and must be disposed of in some way before the House may proceed to other business.**

PUTTING OF QUESTION

SEC. 308. The general rule is that all questions shall be submitted to the House in the affirmative, and if decided in the negative, such negative decision is as much the judgment of the House as an affirmative vote. So if the question should be put in the negative form, and it should be decided negatively, such decision would be considered as affirming the proposition. That is if it were moved to disagree to an amendment and it were decided negatively, the chair would declare the amendment agreed to. However, the better practice would be to put the question in the affirmative, will the House agree to the amendments.

STATEMENT OF QUESTION

SEC. 309. It is the right of members to have questions clearly stated to them, and if in doubt any member may have it restated as many times as he may desire. It is the invariable practice to repeat the question before calling for the vote, so the House may know exactly what it is called upon to decide.

PUTTING DIVIDED QUESTION TO VOTE

SEC. 310. When an amendment is divided into several parts, each part or division is treated and put to the question as a separate and distinct amendment without regard to its relation to other parts or divisions, each division must stand independent of the other as if they had been offered sepa-

rately, or at different times from the floor of the House. Each part or division when stated by the chairman is then open to debate and amendment.

SEC. 311. When each division has been put to the question and decided upon separately, it is not then necessary to put the question again on the entire amendment or question as a whole, but in the case of a substitute being adopted, the vote on agreeing to the substitute is not sufficient. A final vote must be taken on the original amendment as amended by the substitute.

CONSIDERING QUESTIONS BY SECTIONS OR SERIATIM

SEC. 312. In considering a question by sections or paragraphs the American mode of procedure is not to put the question on each section or paragraph as considered. But they wait until the final section or paragraph is considered and then put the question on the entire question as a whole, which is again open to debate and amendment. However, it is not objectionable to take a vote on each section or paragraph when considered. In the latter case the form of putting the question in the English House of Commons is preferable because it expresses exactly what the House wishes to do, thus, "Shall the section (naming it) stand as part of the question or resolution?"

If one or more parts are negatived or for any reason the question should be taken on the proposition as a whole, it should be put to the question minus the rejected parts.

DIVISION OF QUESTION

(See Division of Amendments.)

MODE OF PUTTING QUESTION ON AMENDMENTS

SEC. 313. The regular form of putting the question on amendments in parliament is for the speaker to rise and preface his remarks thus: The original question was (stating it) that we petition the general assembly, since which an

amendment has been proposed by Mr. ——— to strike out the words "general assembly" and insert in lieu thereof "national congress". The question I have to propose is that the words "general assembly" be stricken out and the words "national congress" be inserted instead. Those in favor of the question, etc.

SEC. 314. When an amendment is offered in the American House of Representatives, the clerk reads the words to be stricken out and the words to be inserted, and then the speaker puts the question on the amendments. This is considered sufficient, because the members have the printed bills on their desks.

WHEN QUESTION IS PUT BY THE CHAIR

SEC. 315. When it is apparent debate on any question is concluded and no one seeks recognition for further debate, the chair may put the question in its original form if unamended, if amended, then in its amended form for their determination. In our American practice it is a breach of order **to cry from your seats, "Question!"**

PUTTING QUESTION ON A SUCCESSION OF AMENDMENTS

SEC. 316. Amendments are to be disposed of by a question like ordinary secondary motions, they are in fact subsidiary motions and must be disposed of before the original question. Whether an amendment is agreed to or not the main or original question is finally to be put. If an amendment is not agreed to, it is dropped, and the main or original motion is put once more.

All confusion in putting the question on a succession of amendments may be avoided by a strict adherence to the order of succession, example: A main question is proposed to which an amendment is proposed which is followed by an amendment to the amendment. This may be followed by a substitute for both amendments and to this an amend-

ment may be offered. A tertiary amendment (that is, in the third degree) is not in order.

Here the rule of perfecting the original question before proposing it to the House would operate, and the rule of succession would be to first put the question on the amendment to the amendment to the original question, then the question on the primary amendment as modified by the secondary amendment.

In this case the proposed substitute and the amendment pending to it are to be disposed of, therefore, the order of succession is slightly bent. Now would follow the question on the amendment to the substitute, then on the substitute and finally on the original as amended by the substitute.

WHEN QUESTION IS FULLY PUT

SEC. 317. The law of parliament and congress is that a question is open to debate until the question is fully put, that is, both the affirmative and negative of the question. In the practice of parliamentary bodies using roll calls (yea and nay vote) both the affirmative and the negative of the question are put at the same time, the rule in this case is that when the question has been put and the yeas and nays ordered and the clerk begins the call and one vote has been given by a member and recorded, further debate is precluded, but if a member arise, before a response is given and is recognized, it is his right to proceed to debate the question.

PUTTING DIVIDED QUESTION TO VOTE

SEC. 318. When a question is divided into several parts, each part or division is treated and put to the question as a separate and distinct amendment without regard to its relation to the other division or part, each division must stand independent of the other, the same as if they had been offered separately. In congress a question is divided upon the demand of a member by the speaker, if divisible into substantive propositions.

STATEMENT OF THE QUESTION

SEC. 319. The statement of a question is its proposal to the House in as nearly the exact words of the mover as possible. It is the right of any or all members to have the question stated and if in doubt a restatement may be demanded by any member. However, it should be the constant practice of the chair to restate the question before calling for a vote so the House will know exactly what it is called upon to decide.

CHAIR MAY NOT REFUSE TO PUT QUESTION

SEC. 320. In Parliament it is considered a breach of order for the chair to refuse to put the question on a motion that is in order, and this is true in Congress. In the National House the Speaker, being a member, has the same right to object as have other members.

On one occasion in the National House the presiding officer refused to entertain motions and put questions. John Rhett offered a motion and John Quincy Adams arose in his place and put the question to the house.

QUESTIONS THAT MAY NOT BE DIVIDED

SEC. 321. The rule relating to the division of a question is that it may be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain.

After a question has been put it is too late to demand a division or to divide the question.

It is too late to demand a division after the previous question has been ordered.

A resolution effecting two individuals may be divided although such division may involve a reconstruction of the text, decided Speaker Keifer. However, Mr. Hinds says, "It would be better practice in this case to reconstruct the text by an amendment of the two branches rather than by interpretation by the chair.

It is not in order to demand a division of related subjects. The motion to suspend the rules and do a certain specified thing, such as to suspend and pass a bill is not divisible. A motion to lay a resolution or bill and pending amendment on the table may not be divided. A single proposition with modifications may not be divided. A motion to lay a series of resolutions on the table is not divisible.

A motion to strike out and insert is not divisible, but the matter it is proposed to insert may be divided.

In voting on the question of third reading, engrossment and passage of a bill, a separate vote on the separate proposition may not be demanded or divided for such vote. A motion to commit with instructions is not divisible. A motion to discharge a committee of a proposition and refer same to another committee is not divisible.

The motion to commit with instruction is not divisible.

In the first instance if the question were divided and the House refused to discharge, there would be nothing to commit and the second part of the motion would fall. The question could not be taken first on commitment because there is nothing to commit until the House acts favorably on the motion to discharge.

In the latter case if the question be first taken on the motion to commit and the House refuses, the instructions would fall, because there is nothing left with which to connect the instructions.

The practice of the National House judging from decisions of its eminent speakers is not to divide connected motions submitted to the House as a single proposition and it is decidedly better practice not to divide them for a vote and thereby avoid difficult complications that may arise. Treating double and combination motions as a single proposition expedites business.

SEC. 322. A motion to amend by striking out the enacting clause would evade a direct vote on the bill and if decided in the affirmative would have the effect of killing the bill. The motions above referred to are effective instru-

ments to be used by members who do not desire to go on record as voting for or against the main proposition. By the use of these motions the obnoxious question is removed from before the house by an indirect method and no vote is recorded on the main question. The question of consideration is a powerful instrument to prevent a direct vote. It may be placed like a barrier in the way of consideration of the question on the main motion.

SEC. 323. The foregoing method of defeating a proposition is not, as commonly supposed, discourteous to the mover. It is considered to be and is a more polite method for the house to show its opposition or hostility to a proposition than would be a direct negative.

DUTY OF SPEAKER TO PUT QUESTION

SEC. 324. In parliament it is considered a **breach of order** for the Speaker to **refuse to put a question,** which is in order and this is true in Congress. In our National House the Speaker being a member, he may like other members object to a motion. It has happened in the American House, on refusal of presiding officer, to put a question, that the member making such motion has been permitted to put the question.[1] The present rule of Congress relative to putting the question is as follows:

RULE FOR PUTTING MAIN QUESTION

SEC. 325. **The Speaker shall rise to put a question, but may state it sitting; and shall put questions in this form, to-wit:**

SEC. 326. **"As many as are in favor (of the question stated) say Aye"; and after the affirmative voice is expressed, "as many as are opposed say No." If the Speaker doubts or a division is called for, the House shall divide; those in the affirmative of the question shall**

[1] John Q. Adams.

first rise from their seats, and then those in the negative. If he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one from each side of the question to tell (to count) the members in the affirmative and the negative, which being collected, he shall rise and state the decision.[2]

PUTTING QUESTIONS ON AMENDMENTS IN AMERICAN HOUSE

SEC. 327. When an amendment is offered the clerk reads the words to be stricken out and the words to be inserted, then the Speaker puts the question on the amendments. This is considered sufficient, because the members have the printed bills on their desk.

PARLIAMENTARY EXPRESSIONS

SEC. 328. In American Parliamentary practice the old form of declaring a vote is "agreed to," or "carried" is seldom or never used in our modern American practice. When a vote on a question is taken resulting either in the affirmative or negative, the chair declares, "The ayes or nays have it," (as the case may be) **"It is so ordered."** That is, according to the expressed will of the House. The chair does not order the secretary, or clerk to "read" a communication, or other paper, but directs him to **"report"** the desired business. When so ordered the secretary understands he is to read.

WHEN QUESTION IS PUT BY THE CHAIR

SEC. 329. On conclusion of debate on any question the Chair puts the question in the manner described in the preceding sections, in its original form, if unamended; if amended in its amended form for the determination of the House.

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[2] Rule I, Sec. 5.

STATING AND PUTTING QUESTION

SEC. 330. The **putting** of a question should not be confused with the **statement** of a question. **A question is STATED for debate and amendment, it is PUT for the purpose of voting and determination of the will of the House.**

QUESTION FULLY PUT

SEC. 331. The parliamentary rule is that a question is open to debate until the question is fully put, that is, both the affirmative and negative of the question. In the practice of those bodies using roll calls (yeas and nays) both the affirmative and negative of the question are put at the same time, and the rule in this case is, when the question has been put for a roll call vote and the clerk begins the call and one vote has been given by a member, further debate is precluded. But if a member arise before a response is given and is recognized, it is his right to proceed to debate the question.

DIVISION OF COMPLICATED QUESTION FOR VOTE

SEC. 332. The older practice of Parliament was to permit the division of a complicated question by the House on motion. This practice never worked satisfactorily and it was **changed** to the present practice which is clearly described in the following rule of the Commons:

(A) "When two or more separate propositions are embodied in a motion or an amendment, the Speaker is to call the attention of the House to the circumstances; and if objection be made, the Speaker shall put the question on each proposition in its turn separately."

(B) In our American practice a question is only divided upon demand of a member, and then only if divisible into substantive propositions.

SEPARATE VOTE ON SECTIONS, PARAGRAPHS OR PARTS OF BILL, RESOLUTION OR QUESTION

SEC. 333. It is in order and the right of a member to **demand a separate vote on any section, paragraph** of a bill or resolution or any part of any amendment or question, subject of course to the rules of division.

TEST TO DETERMINE DIVISION OF QUESTION

SEC. 334. A division of a question being demanded, Speaker Howell Cobb ruled: "The question is not divisible, for the reason that two substantive and distinct propositions could not be made, either of which, the other failing, could stand for itself; and this is the test by which a division of a question must be determined."

INFORMAL PUTTING OF THE QUESTION

SEC. 335. Mr. Jefferson's rule for the informal putting of questions which govern the practice of the House is: "In small matters, such as receiving reports, petitions, withdrawing motions, reading papers, etc., the Speaker most commonly supposes the consent of the House where no objection is expressed, and does not give them the trouble of putting the question formally." Mr. May is more comprehensive in describing the practice of Parliament. He says: "It is a very customary usage in Parliament for the Speaker, being assured that the House comprehends the proceedings and consents thereto, to declare that a motion springing from the ordinary course of business is agreed to, without formally putting the question thereon to a vote, this action may not subsequently be questioned. Frequently in the due course of business, the Speaker will on his own accord propose to the House a question (relating to the progress of business) for its consideration, without the co-operation of a mover from the floor. (That is, the Speaker may put questions consequent on the business then in hand without waiting for a motion.)

MOTIONS TO TAKE UP A QUESTION OUT OF ORDER

SEC. 336. Suspends the rules and therefore requires a two-thirds vote.

May be reconsidered.

May be renewed after intervening business.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question does not apply.

In order whenever a principal motion is in order.

EQUIVALENT QUESTION

SEC. 337. The rule governing equivalent questions in parliamentary practice is more clearly stated by Jefferson than any other parliamentary writer. He says: **"Questions are perfectly equivalent when the negative of one amounts to the affirmative of the other and leaves no other alternative (choice)."**

(A) Perfect illustrations of the working of this principle are as follows:

SEC. 338. If a motion to reject a bill on first reading is negatived the bill passes to its next stage, second reading without motion that it be read a second time. (In regular parliamentary procedure a bill may not be read a second time except upon motion and vote of the house.) The negative of striking out amounts to the affirmative of agreeing and therefore to put the question on agreeing after that of striking out would be to put the same question, in effect, twice over. The question which arises on a conference report is concurrence and the negative of concurrence amounts to the affirmative of non-concurrence, no motion is put afterward on the latter motion. When the House refuses to agree to a Senate amendment it is equivalent to disagreeing and the latter

motion is not put. In the case of the motions to agree and, disagree, either of them concludes the other necessarily, for the positive of either is exactly equivalent to the negative of the other and no other **alternative** remains. So on a motion to disagree to amendments reported by the committee of the whole, if decided in the negative, **the result is equivalent to agreeing to the amendment.** The practice of parliament in relation to equivalent questions is clearly shown in the following precedent as given by Mr. Hatsell:

PRECEDENT

SEC. 339. In 1698, at the opening of parliament in the commons, Mr. Lytle and Mr. Foley were nominated for Speaker, no other nominations being made. The journal says the question was put "Shall Mr. Lytle be elected Speaker?" (He being the first person nominated.) This question was decided in the negative and without further question being put Mr. Foley was declared elected. In 1701, Mr. Lytle was again nominated as was also Mr. Harley. The question was put "Shall Mr. Lytle be elected Speaker?" The journal says, "which was decided in the negative," and adds "so Mr. Harley was chosen Speaker" (and without further question being put).

(A) From the foregoing it is indicated that **the English practice is to put the question on the first person named and the negative of one is considered equivalent to the affirmative of the other, no alternative remains as the time for nomination had elapsed. This principle it seems would be applicable in the case of reference of matters to a committee,** especially where the rule provides that the question is to be put on the first committee named and but two committees are suggested. **If the question on the first committee is negatived the bill would go to the other committee without further question being put.** The rules of the National House, however, provide that the question shall be put on

the last committee named as indicated in the following precedent:

ILLUSTRATION OF PRACTICE

SEC. 340. In the Twentieth Congress before the House adopted the rule that the Speaker should refer all matters to committee, a petition was presented, followed with a motion to refer to a select committee. Thereupon it was proposed to send it to the committee on Revolutionary Claims (a standing committee). The journal entry in this case is **"The last named committee being negatived, the petition was referred to a select committee** and the journal shows this was done without further question being put."[1]

(A) When two committees are named and neither are satisfactory to the House, such as are satisfactory should be proposed before the chair proceeds to put the question.

(B) If a motion to reject amendments from the committee of the whole is negatived, the amendments are thereby agreed to. (H. J. 1st Sess. 21st Cong., p. 292.)

PUTTING QUESTION ON COMBINATION MOTION

SEC. 341. Two or more motions may be put to the question at one time. It is the custom for the Speaker of the United States House of Representatives in certain cases to put one or more questions at once. If double or combination motions are proposed, it is the custom to treat them as one question, or a single proposition, and so to put it. Thus, a member moves to recede and concur with an amendment. The question on these motions is not divided and put to the question, first on receding, and then on the amendment and finally on concurring; but the question is put as a whole, thus, "Will the House recede from its disagreement, amend the amendment and concur in the Senate amendments as amended?" "I move to suspend the rules and adopt the

[1] H. J., 1st Session, 20th Congress, p. 75.

resolution." "I move to strike out and insert." The question is on agreeing to strike out and insert. I move to amend and upon the amendment I move the previous question. Question, "Will the House order the previous question and agree to the amendments?" In all these cases and many others one vote decides all questions at one time. "I move to reconsider, and lay the motion to reconsider on the table."

MOTION TO TAKE UP QUESTION OUT OF REGULAR ORDER

SEC. 342. This in an incidental motion but it is not in order when another question is under consideration. It indirectly at least effects a suspension of rules and therefore requires a two-thirds vote.

May not be debated, amended, postponed, tabled nor committed.

Previous question does not apply.

May be reconsidered.

In order only when a main motion is in order.

AUTHORITY TO TAKE UP QUESTION OUT OF ORDER

SEC. 343. It is not in order for a member to take up a legislative question out of order unless authority for doing so has been given by the committee that reported the bill.

CALLING FOR QUESTION

SEC. 344. There is no procedure in our American practice that recognizes "a call for the question." Such calls are in fact breaches of order and should go unnoticed by the chair. If a member thinks debate should be closed and the vote taken they should proceed in an orderly manner to make their desire known by using the parliamentary forms provided for that purpose in the previous question. The impatience of one or more members calling for the question is not sufficient reason for the chair to arbitrarily close debate. Under these conditions if the chair thinks the order

of the House would be better preserved by bringing the House to a vote he may inquire, "Does any member desire to speak or offer amendment?" If not, the chair will without objection put the question. If no objection were made he would have general consent to put the question. In the United States Senate where they do not permit the use of the previous question, the members may cry "Vote! Vote!"

PARLIAMENTARY INQUIRY

SEC. 345. Parliamentary inquiries are in fact requests for information from the chair. If a member is in doubt relative to the effect of any action taken or about to be taken by the House or how to proceed properly it is his right to rise for a parliamentary inquiry and request the desired information from the chair. In this he need not wait for recognition from the chair before stating the purpose of his rising. A parliamentary inquiry is in order at any time if the information desired effects the pending business. It is not debatable nor can any subsidiary motion be applied to it.

DIVISION OF QUESTION—RULE

SEC. 346. On the demand of any member, before the question is put, a question shall be divided, if it include propositions so distinct in substance, that one being taken away a substantive proposition shall remain. (Rule of House XVI, Sec. 6.)

PRACTICE UNDER THE RULE

SEC. 347. Any member may demand a division of a question if divisible, and the chair decides as to its divisibility and divides it, subject of course to appeal to the House.

The demand is not in order after the question is put, but should follow the statement of the question by the chair.

A question may be divided into several parts providing always that each part contains a substantive proposition for the decision of the House.

The motion to strike out and insert is not divisible. (Rule.)

A motion to amend by inserting or adding is divisible if it contains more than one substantive proposition.

In passing on a demand for a division the chair should consider only substantive propositions and not the merits of the proposition presented. It is most proper also that the division should depend on grammatical construction, rather than on the legislative proposition involved. (Blaine.)

When a motion is made to lay several connected propositions on the table, a division is not in order. (Henderson.)

On a motion to commit with instructions, it is not in order to demand a separate vote on the instructions, or various branches thereof. (Stevenson.)

FORM USED FOR PARLIAMENTARY INQUIRY

SEC. 348. Mr. Jackson: Mr. Speaker, I rise for a parliamentary inquiry.

Chair: The gentleman will state his question.

Mr. Jackson: What is the pending question and its exact status?

Chair: The question before the House is on the resolution of Mr. Sheppard, to which an amendment is pending and a motion that the resolution do lie on the table. If the motion to lay on the table prevails the entire matter is removed from the consideration of the House.

If a parliamentary inquiry would require a decision from the Speaker he is not to answer because there is no appeal from his decision on a parliamentary inquiry.

EXAMPLE OF PARLIAMENTARY INQUIRY IN CONGRESS

SEC. 349. Member: Under the rules I presume the bill will be open for amendment?

Speaker: The chair, of course, does not know what the intention is unless the House adopts the previous question

and thereby shuts off amendment, of course it will be open for amendments.

Member: I am trying to get clear in my mind what the rules of the House are as to amendments to a bill being considered by the House.

Speaker: The House has the right at any time if no one moves the previous question and the House adopts it, that of course cuts off amendment. The chair cannot prophesy whether there is any intention to do that or not.

EQUIVALENT QUESTION

SEC. 350. No writer has to date improved upon the clear statement of Mr. Jefferson in describing equivalent questions. Jefferson says, "Questions are perfectly equivalent when the negative of one amounts to the affirmative of the other and leaves no alternative (choice)."

Perfect examples of the wording of this parliamentary principle are as follows: If a motion to reject a bill on first reading is negatived, the bill passes to its next stage, second reading, without motion that it be read a second time, because refusal to report after first reading is equivalent to voting the bill be read a second time and no other choice remains. The negative of a motion to strike out amounts to the affirmative to agreeing and therefore to put the question on agreeing after that of striking out would be to put the same question twice over. When the House refuses to agree to a Senate amendment it is equivalent to disagreeing and the latter motion is not put.

In the case of the motion to agree and disagree either of them concludes the other necessarily, for the positive of either is exactly equivalent to the negative of the other and no other alternative remains, so a motion to disagree to amendments reported by the committee of the whole, if decided in the negative, the result is equivalent to agreeing to the amendments.

WHEN AND HOW TO DEMAND A DIVISION OF QUESTION

SEC. 351. Members who desire to demand a division of the question or division vote of the House, would save the chair much embarrassment and confusion in the House by specifying the kind of division desired, the simple cry for a division is scarcely sufficient for the chair to know what you desire divided. Much confusion resulting from the cry for a division may be obviated by giving attention to the proper time to call for a division. If a division of the question is desired it should be called for before the question is proposed by the chair, that is immediately following its introduction and reading. If a division of the House is desired it should be demanded immediately following the putting of the question. However, the writer thinks a much better and less confusing practice would be to specify the kind of division desired, thus I demand a division of the question or a division of the House.

AMERICAN RULE GOVERNING THE DIVISION OF A QUESTION

SEC. 352. On the demand of any member, before the question is put, a question shall be divided, if it include propositions so distinct that one being taken away a substantive proposition shall remain. (Rule XVI, Sec. 6.)

DIGEST OF SPEAKERS' DECISIONS UNDER THE RULES

SEC. 353. After a question has been **put** it is too late to **divide it.** It is not **too late** to demand a division after the previous question has been ordered.

Speaker Keifer decided that a resolution affecting two individuals, could be divided although such division may involve a reconstruction of the text, but the better practice Mr. Hinds thinks is to reconstruct the text by amendment of the two branches, rather than by interpretation by the chair, but merely formal words, such as resolved, may be supplied by interpretation by the chair.

It is not in order to demand a division of related subjects. When a motion is made to lay several connected subjects on the table, a division is not in order.

The motion to commit with instructions is not divisible nor any of its branches.

The motion to suspend the rules and do a certain specified thing, such as to pass a bill, is not divisible.

The motion to strike out and insert is not divisible, but the matter proposed to be inserted may be divided.

A motion for the previous question on all motions and amendments and the bill to passage or rejection is not divisible.

A motion to lay a bill or resolution and pending amendment on the table, may be divided.

A division may not be demanded after the yeas and nays are ordered.

The combination motion to discharge a committee and refer the matter to another committee is not divisible. First a division would destroy the real purpose of this motion which is to expedite business, again it is not divisible because two substantive propositions might not be left to place before the House. If the House should refuse to discharge the committee, the motion to commit to another committee would fall because there would be nothing to commit. It is better practice to vote on the motion as a whole, and if objectionable vote it down.

SEPARATE VOTE DEMANDED ON SECTIONS

SEC. 354. It is in order and the right of a member to demand and have a separate vote on any section, part or paragraph of an amendment or other question, subject of course to the rules governing divisions.

A motion to order the previous question on the amendment and original proposition is not in order because if the House refused to order it on the amendment and ordered it on the main question it would preclude placing the

amendment on the original question and of course would fall.

TEST TO DETERMINE DIVISION OF QUESTION

SEC. 355. A division of a question being demanded, the question is not divisible, unless two substantive and distinct propositions remain, either of which, the other failing, will stand by itself; and this is the test by which a division of a question must be determined. (Speaker Cobb.)

RENEWAL OR REPETITION OF A QUESTION

SEC. 356. The law of the Parliament of England is as follows relative to the renewal of a motion or question: **"A question once carried in the affirmative or negative, cannot be questioned again in the same session, but must stand as the judgment of the House." This is also the rule of Congress.**

The foregoing rule is necessary to prevent contradictory decisions, to prevent surprises and to afford proper opportunities for determining the several questions as they may arise. If the same question could be proposed again and again, a session would have no end, or only one question could be determined and it would be resolved first in the affirmative and then in the negative, according to the accidents to which all voting is liable. But, however wise the general principle of the rule may be, if it were too strictly applied, the discretion of the body would be confined and its votes would be subject to irrevocable error. A vote may therefore be reconsidered, rescinded or vacated, notwithstanding the rule.

It seems that the real test of admissibility is that a new bill or question must differ in such manner from the old one, if repeated, as to be free from the objections that were fatal to the first. Speaker James Blaine held that the change of one word was sufficient to admit a resolution.

The constitution of a deliberative assembly is such that it may occasionally be constrained by its own rules to come

to a determination which does not express its deliberative sense and if such determination could not under any circumstances be reconsidered, or vacated, it would appear that the rules of proceeding would be the means of obstructing, rather than facilitating the will of the House.

EXCEPTIONS TO ABOVE RULE

SEC. 357. There seems to be some exceptions to the foregoing rule, in other words, one case in which it is not applicable is, where a bill is introduced in one House by message, if rejected by that House, it may then with slight changes sufficient to make it a new or different bill, be introduced again in that House.

Speaker Banks of the United States House of Representatives interpreted this English rule as follows: "The language of this rule, that a bill or question once rejected cannot again be brought in, refers to the provisions of the bill and to bills on the same subject."

The general and accepted practice of both Parliament and Congress under this rule, may be summed up as follows: A bill or question having been once rejected or laid aside permanently by either house, a similar but not identical bill or question may be introduced and be in order.

EVASION OF RULE

SEC. 358. Mr. Hatsell records a case where a member changed the word leather to skins and tanned hides and again introduced the bill. Speaker Onslow said that this was unparliamentary but permitted the introduction.

INFORMAL PUTTING OF QUESTION

SEC. 359. Mr. Jefferson's rule for the informal putting of the question which governs the practice of Congress is "In small matters, such as receiving reports, petitions, withdrawing motions and reading papers, etc., the Speaker (chair) most commonly supposes the consent of the House

where no objection is expressed and does not give them the trouble of putting the question formally."

SEC. 360. Mr. May is more comprehensive in describing this practice of Parliament, he says "It is a very customary practice in Parliament for the Speaker, being assured that the House comprehends the proceedings and consents thereto, to declare that a motion arising from the ordinary course of business is agreed to without formally putting the question thereon to a vote, this action may not subsequently be questioned.

SEC. 361. Frequently in the course of business the Speaker will of his own accord propose to the House a question, relating to the progress of business, for its consideration without the cooperation of a mover from the floor. That is the Speaker (chair) may put the question consequent on the business then in hand, without waiting for a motion.

PROPER TIME TO RAISE QUESTION OF ORDER

SEC. 362. The rule seems to be well established that a question of order must be raised before debate begins. The asking of a question and the answer relative to an amendment is debate, and a question of order thereafter comes too late.

MAIN QUESTION DEFINED

SEC. 363. The main question embraces all questions upon which the previous question can be moved and the main question ordered. In any proceedings of the House, therefore, it would be competent for the main question to embrace, first the original main question, next the amendments to the original proposition to perfect the matter, and third a substitute and the amendment to that. (Randall.)

IMMEDIATE PENDING QUESTION

SEC. 364. The immediate pending question is the last question stated by the chair, and in order, and it remains so

until decided or is superseded by a question of higher privilege, or one having precedence.

SUPERSEDING PENDING QUESTION

SEC. 365. A motion and the question growing out of it, may be disposed of without a direct vote of the House. It may be evaded or replaced by another question so that the pending question is superseded. A direct vote on a question may be avoided by moving to indefinitely postpone the main question. In this instance the vote would be taken on the motion to indefinitely postpone but the direct effect of an affirmative vote would be to reject or kill the main question. A motion to postpone decided affirmatively would lay the main question aside temporarily, to be revived at a later time. A motion to lay on the table, would avoid a direct vote on the main question, if affirmed would practically kill the main question, because it requires the assent of all present to take from the table, except the motion to take from the table could be offered under suspension of rules.

RULE FOR PUTTING MAIN QUESTION

SEC. 366. The speaker (chair) shall rise to put a question, but he may state (propose) it sitting and shall put the question in this form to-wit:

"As many as are in favor of the question stated say aye and after the affirmative voice is expressed, as many of you as are opposed say no." If the speaker (chair) doubts or a division is called for the House shall divide, those in the affirmative of the question shall first rise from their seats and then those in the negative. If he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one from each side of the question to tell (count) the members in the affirmative and the negative, which being collected, he shall rise and state the decision.

SEC. 367. The foregoing is the rule but in recent years the manner of stating the question has been somewhat

changed and the writer believes for the better. That is under present practice a question is put in the form of an interrogation, thus: "Will the House agree to lay the motion on the table?" "Will the House suspend the rules?"

DUTY OF SPEAKER TO PUT QUESTION

SEC. 368. In parliament it is considered a breach of order for the speaker to refuse to put a question which is in order, and this is true in congress. In congress on one occasion when the chair did refuse to put a question, the member making the motion put the question, took the vote and declared the result.

PENDING QUESTION

SEC. 369. A question is pending from the time it is proposed by the chair until it is put by the chair for a vote.

CHAPTER X

MOTIONS DISPOSING OF BUSINESS

(Rule of Precedence)

SEC. 370. It is worth repeating here for emphasis that when a proposition is submitted to the House by a member in order, it must be proposed by the chair for the consideration of the House, and it must be acted upon and disposed of in some manner before the House may proceed with any other business. It might be the House would not care to take up the serious consideration of the matter presented. If so the subject could be temporarily deferred or set aside by objecting to its consideration, or by raising the question of consideration. (See question of consideration.)

HOW RANK AND PRECEDENCE OF MOTIONS ARE DETERMINED

SEC. 371. In all American legislative (parliamentary) bodies it is usual not only to specify by rule the particular motions that may be used for the disposition of business, but also to provide the order in which they may be moved on the pending proposition and put to the question, so as to separate one from the other **and all be pending at the same time.**

AMERICAN RULE OF PRECEDENCE AND RANK OF MOTIONS

SEC. 372. When a question is under debate (consideration) no motion shall be received but the following:

1. Adjourn
2. Lay on table

3. Previous question, **which several motions shall be decided without debate**

4. To postpone to a day certain

5. To commit—refer

6. To amend

7. To postpone indefinitely

The foregoing motions shall have precedence in the order named, and motions to postpone to a day certain, to refer or to postpone indefinitely shall not again be allowed on the same day at the same stage of the question. After the previous question shall have been ordered on any question, one motion to commit shall be in order and the chair shall give preference for such motion to the opposition. (Rule XVI, sec. 4)

JEFFERSON'S RULE OF PRECEDENCE

SEC. 373. The rule of precedence dates back before the time of Mr. Jefferson, the pioneer American parliamentary writer. In the time of Mr. Jefferson the rule was in a state of development. The rule Mr. Jefferson discussed contained but four of the subsidiary motions. The rule now in use contains seven motions. The additions to the rule have caused much of the discussion of Mr. Jefferson relating to them, to become obsolete in present practice.

DIFFICULTY IN MASTERY OF PARLIAMENTARY RULES

SEC. 374. One of the greatest difficulties in the mastery of parliamentary motions is that the writers on common parliamentary law do not present this scientific rule, either they do not know of its existence, or do not understand it sufficiently to write on it intelligently. Yet if you follow them through pages and pages, you will find them agreeing with every principle set forth in this rule, but not so scientifically or concisely set forth.

UNIQUE EFFORTS TO EXPLAIN RANK OF MOTION

SEC. 375. Parliamentary writers have resorted to many devices to simplify the correct use of these motions. Some of these are at least unique, others are without merit, and most of them fail of their purpose and complicate rather than simplify and are confusing to the inexperienced. Before us we have one writer using a stairway the steps of which represent certain motions and this establishes the rank of the motion. Still another uses different colored circles which go through the names of motions. Still another presents a tree with large wide spreading branches which represent the rank of motions. Here are three with tables (which are more sensible) by which one with time and patience can ultimately reach a conclusion of the proper motion to move for a certain purpose. Recently we were informed that some one has devised what they call the "block system of parliamentary law," which we have neither had time nor inclination to investigate. There is another that requires learning the meaning of innumerable symbols.

All these various schemes to produce something different for the student of parliamentary law serve but one purpose and that to confuse and make more difficult. The writer of these pages after a close examination and extended careful consideration of all these various methods is convinced that the rule herein presented of the National House of Representatives, is the simplest and most scientific arrangement and control of parliamentary motions yet devised. It is arranged scientifically and logically and pronounced by that great parliamentarian, Thomas B. Reed, to be ideal. It is easily understood and answers the question When? How? What?

PURPOSE OF RULE

SEC. 376. The foregoing rule of precedence and the motions contained therein exhibit the framework of all parliamentary action and is therefore **the most im-**

portant rule in the system of general United States parliamentary law.

It provides the working device for the disposition of all business that comes before the House. The application of this rule is confined to those cases where a question is under consideration. The student should note carefully the order of the rank and precedence given the motions in the rule, also that they have precedence exactly in the order named in this rule and without regard to the order in which they are moved. If the student will master this rule and the motion in it he will rarely or never be lost in a parliamentary body.

SEC. 377. The motions in the rule of precedence are commonly referred to as subsidiary motions but in general United States parliamentary practice they are referred to as privileged-secondary motions. The latter term being more descriptive than is subsidiary, and, under this rule are given privilege.

APPLICATION OF SUBSIDIARY MOTIONS TO EACH OTHER

SEC. 378. The rank and precedence of the subsidiary motion is not to be construed as referring to the use of the motions in their application to each other, but to their proper use in disposing of the pending main question. Generally these motions are not applicable to each other except in the cases herein specifically set forth.

RANK OF MOTION

SEC. 379. The rank of motions in the rule of precedence of the United States House of Representatives was worked out and formed by experience of a century of practice, and finally was produced by the most brilliant parliamentarian in the country. The rule is founded on and conforms to, in its essential features the general parliamentary law. It presents in clear and concise manner the use of mo-

tions that have annoyed writers and almost caused students to despair of learning the art.

The rule specifically declares that the privilege of these motions is confined to those instances where a question is under consideration. This is not an arbitrary clause.

If we examine the motions in the rule we find that with the exception of the motion to adjourn it would be useless to move any of these motions if no question was under consideration. What would it profit to move to lay on the table if there was nothing before the House to lay on the table. So it is perfectly obvious that the only time these subsidiary or privileged secondary motions could be employed, would be when a question is under consideration. Also these motions cover almost every need of the assembly in its deliberations and for this reason, motions not enumerated in the rule are not in order except motions given privilege by special rules, and motions having to do with the progress of business.

RULE OF RANK AND PRECEDENCE OF MOTIONS

SEC. 380. Now that we have at least noted subsidiary or privileged secondary motions, the question will naturally arise how are we to determine the proper time and place and rank of these motions. This question is the stumbling block of nearly all students of parliamentary law and nearly all writers on common parliamentary law fail us miserably on this important rule in our United States parliamentary system. The rule of the rank and precedence of motions.

PRECEDENCE OF MOTIONS

SEC. 381. It has been elsewhere shown that when a proposition is made by a member it must be proposed by the presiding officer as a question for the decision of the assembly, and it must be disposed of in some way before the House can proceed with any other business.

(A) **In American legislative bodies, it is usual and customary not only to specify by rule the particular motions which alone may be used for the disposition of business, but also to designate the order in which they may be severally moved and put to the question, so as to separate one from another, and all be pending at the same time.**

(B) In presenting the American method employed in disposing of business after it has been introduced for the consideration of the House, we are brought to a discussion of the **"rule of precedence,"** which is the most important rule in our American practice and perhaps the rule that is the least understood. If the reader will devote his time to a mastery of the **rule of precedence** he will rarely or never be lost in a parliamentary body. **This rule forms the foundation of the practice in all our American legislative bodies,** about the only variation in the rule being in the rank of the motions. It is well to know the purpose of a motion, but a more desirable and necessary thing to know is the **effect of an affirmative or negative vote on that motion** as it stands related to the question and to other motions in the rule.

(C) All business is **disposed of** in the manner best suited to the convenience of the House by **using the motions contained in the rule of precedence** and these motions are controlled by their relations one to the other in the rule, and not by their use in the English Parliament.

(D) Motions in the rule of precedence have precedence exactly in the order of their arrangement and without regard to the order in which they are moved.

(E) The foregoing is perhaps the most important rule in our parliamentary system, inasmuch as **this rule furnishes the working device for the disposition of all business that may be brought before the assembly. The student should note carefully and learn the order of rank or precedence given motions in the rules,** also that the motions herein enumerated are the **only allowable**

motions, when a question is under consideration, except incidental motions growing out of the proceedings.

(F) This method of governing the use of parliamentary motions is strictly of American origin, and was perhaps, introduced first in the Continental Congress.

(G) The motions given in the foregoing rule, are to be understood in their American parliamentary sense and thus applied. The purpose and use of these several motions is fully explained in subsequent chapters.

SUBSIDIARY MOTIONS NOT AMENDABLE

(H) The motion to adjourn, to lay on the table and the previous question, are in order in their simple form, and cannot be **amended or altered,** the motion to postpone to a day certain may be amended by changing the day; commit; may be amended by adding instructions; the motion to amend may be amended, but the motion to indefinitely postpone does not admit of amendment.

(I) The previous question may be applied to any of these motions **that are debatable, or amendable.**

(J) Except as herein set forth the rule is that these motions may not be applied **to one another,** but should be directed to the **main or principal question.**

PURPOSE OF MOTIONS IN RULE OF PRECEDENCE

SEC. 382. The purpose of these motions is to dispose of business under consideration, or to amend or modify such questions, so if decided in the affirmative the effect is to amend, modify or dispose of the main question, if decided in the negative the main question retains the same status it had before the secondary motion was made.

PRIVILEGED-SECONDARY MOTIONS DISCUSSED

SEC. 383. The general parliamentary law is that the question **first moved** is the **question first put,** there are,

however, some **exceptions** to the rule, and these exceptions are known as **privileged-secondary motions** and are made such by the **American rules.** They are inclined to and arise out of other questions; they take place of and are **decided before the main question;** they are of **different rank among themselves and have freedom one over another.** The rules of both Houses of our American legislative assemblies establish a class of privileged questions and give precedence to one privileged motion over another in their application to the main motion.

(A) It should be noted that the highest rank and privilege is given to the motion to **adjourn.** But it does not follow that aside from the question of adjournment there is no gradation as to priority among privileged questions established by the rules. Parliamentary rules and usage give them priority, one over another. Thus the question of tabling though the last moved, supersedes the question of amendment, postponement or commitment.

APPLICATION OF SUBSIDIARY MOTIONS TO EACH OTHER

(B) Again amendment and commitment competing (pending) the latter question though last moved is put first. It will be perceived that with the exception of the motion to adjourn the entire class of privileged questions has reference to the **original or primary question,** usually called the main question, that is, their object and effect is to amend, postpone, commit, table or dispose of such main question. The point, however, frequently arises whether one privileged motion can be moved on another; that is, whether it is admissible—a privileged question being before the House—to move another privileged question having reference to it, and not the main question.

(C) For example, a motion is made to table, commit or postpone the main question—is it admissible to lay on the table such motion to table, commit or postpone, instead of the main question? Parliamentary **law**

forbids it not only because of the absurdity of thus separating the incidental from the main motion, but because to lay on the table the motion to commit, table or postpone is indirectly to reject it, and the same result can be obtained much better by a direct vote on the main question.

(D) To avoid embarrassment and complication which inevitably must result from the **piling** of **one privileged question on another,** it is not admissible to move to amend, table, postpone or commit the question of adjournment, or the previous question, or for laying on the table or for a call of the House.

SEC. 384. The member should keep in mind always when using these motions, that the rule specifically provides that **they are in order and rank just in the order they are set down in the rule.** (This rule obtains with slight changes in order of motions in all our American legislatures.)

When one of these motions is made, while the motion of higher order or rank is pending, **the motion of higher rank must be disposed of before the motion of lower rank may be put to the question. But any motion standing above in the list or of higher rank or order may be made, and at once supersedes the motion of inferior rank.**

IMPORTANT PRINCIPLE TO BE OBSERVED IN USING SUBSIDIARY MOTIONS

Another important principle to be remembered relative to the precedence of motions is this: When one of these motions is made, **none of those standing behind it or below it in the list can be made and put to the question while one of higher rank is pending. The motion of higher rank must always be put first no matter how many are pending.**

ONLY SIMPLE FORM OF MOTION IN ORDER

SEC. 385. In examining the rule of precedence and the use of the motions contained therein, it should be observed that the rule is emphatic, that when a question is under debate, the only motions that may be received or are in order, are the motions enumerated in the rule. **All these motions to be in order must be moved in their simple form, example, "I move to lay on the table,"** etc., **would be the simple form,** but I move to lay on the table until tomorrow at 10 o'clock, would couple the simple motion with other matter, and in this form it would **lose its privilege under the rule and would not be in order.**

(A) If it should be urgent while a question is under debate to offer a motion not enumerated in the rule, such motion may be moved only **after a suspension of this rule** to admit the motion, or by unanimous consent. Because of the combination and consequent restrictions placed upon these English secondary motions, or American privileged-secondary **motions,** they have come in our American practice to have, as before stated, **an entirely different meaning, application and effect.** We have practically discarded the term subsidiary and now recognize them all as highly "privileged"—secondary motions.

WHEN PRIVILEGED MATTERS LOSE PRIVILEGE

SEC. 386. The including of matter not privileged destroys the privileged character of the bill or motion. A privileged proposition may not be amended by adding thereto matter not privileged or germane to the original proposition. (H. J. 2nd Sess. 58th Con. p. 89.)

WHEN PRIVILEGED-SECONDARY MOTIONS MAY BE USED

(A) Under the rule of precedence it has been held in Congress that a question is **sufficiently under debate**

to admit the **use of these motions, when the question has been stated by the chair for the consideration of the House.**

MISUSE OF ENGLISH MOTIONS

SEC. 387. A few of our **American parliamentary** writers complain of, and charge a **misuse** of the English motions in our **American practice.** A sufficient and correct answer is, they do not understand the American rule. The objection might be good if we were using the English motions, but inasmuch as we only borrowed the names and not the English motions, the objection is not sound. Our concern should be to know the use of the American motions without special regard for the name they bear or their relation to English motions. The American previous question has been adopted by Parliament, all but the name, they call it **"Closure motion."**

(A) The development of the American rule of precedence in a century of practice has evolved a different meaning and effect in the use of these motions.

(B) The name given a motion to distinguish it from others, is of but little importance, as is evidenced in the English previous question. The desirable thing to know is, the use, purpose and effect of motions in practice.

"GAG" RULE MOTION

SEC. 388. One American writer refers to our motion to **lay on the table as "gag rule."** His objection to this motion is that its effect is to defeat or "kill" the pending proposition. This is not a sound objection, for the reason, this action cannot be taken without the **consent or agreement of a majority** of those voting.

(A) The principle of decision in all legislative and deliberative assemblies is the **majority shall rule,** except, sometimes by special rule it is provided that certain im-

portant questions require a greater vote for determination than a majority.

(B) If a majority of the House desire, at any stage of the consideration of a proposition to discontinue such consideration finally, it should have effective means of accomplishing that result, at its own discretion.

(C) In fact all legislative bodies have a means to dispose of objectionable matter permanently and without pursuing it to the end of the usual parliamentary route, and without taking a direct vote on the main question. In America we have made this convenient device, the motion to lay on the table. In Parliament they accomplish a like result by a motion to **postpone to a day after final adjournment.**

RELATION OF MOTIONS IN RULE OF PRECEDENCE TO EACH OTHER

SEC. 389. The purpose of giving rank and privilege to the motions enumerated in the rule of Precedence commonly called secondary motions is to dispose of the main question and not pending privileged-secondary motions. So it is the general rule not to permit the use of these motions to dispose of other motions mentioned in the rule should they be pending, except in cases herein mentioned, because there is nothing to be gained by the improper use of these motions, example, a main question is pending, to which an amendment is offered, then a motion is made to postpone or lay on the table or commit the amendment instead of the main question. In this instance the motion, if entertained and decided affirmatively, would have the same result as if the motion had been properly directed to the main question, that is, **in either event the result is the same, the main question and all pending motions would be laid on the table, postponed or committed** as the case might be.

SEC. 390. Suppose a main or primary question is pending and it is moved to amend the pending question. May

either of the motions to postpone, or commit be applied to the motion to amend? They may not. But the amendment may be amended, laid on the table or the previous question moved.

(A) A motion to commit may not be laid on the table, committed or postponed (either motion). It may, however, be amended or the previous question moved.

(B) Either motion to postpone pending may not be committed, laid on table or postponed. The motion to postpone to a day certain may be amended and the previous question moved on it. The motion to indefinitely postpone does not admit of amendment, but is debatable, therefore, the previous question would be in order on this motion, but not postponement, commit or lay on the table. The motion to adjourn is not subject to any of the privileged-secondary motions.

(C) The motion to lay on the table may not be laid on the table, amended, committed or postponed nor the previous question moved on it.

(D) The previous question may not be laid on the table, postponed, amended or committed. It not being debatable or amendable, the previous question does not apply.

(E) Generally speaking the previous question may be moved on any of the privileged-secondary motions that are debatable or amendable, for this reason, the discussion of the use of these motions by the House and Senate at the time Mr. Jefferson wrote and as discussed by him is now antiquated and obsolete.

WHEN RULE OF PRECEDENCE IS INOPERATIVE

SEC. 391. According to a decision of Mr. Speaker Randall and later affirmed by Speaker Reed and others the rule of precedence is inoperative when no business is before the House. That is its application is confined to those instances wherein a question is under debate. **It has been held and affirmed and continually reaffirmed**

by the speakers of the National House that a question **ceases to be under debate after the ordering of the previous question.**

MOTIONS OF HIGHEST PRIVILEGE

SEC. 392. There are other motions and questions that are given very high privilege by special rules in addition to those enumerated in the rule of precedence. The privilege of these motions is not confined to the time a question is under debate but they are usually in order at any time. These motions in the order of their importance are: adjourn, question of privilege involving the House, questions of personal privilege, reconsideration, questions of consideration and call of the House. The motion to adjourn has the highest privilege but is not, as commonly supposed, always in order. (See Sec. 432.) The motion to reconsider has high privilege for entry but is superseded by the motion to adjourn and a conference report. Questions of privilege supersede all questions but the motion to adjourn and the precedence as between a question of personal privilege and privilege involving the House is governed by recognition, but personal privilege will not supersede a question of privilege involving the House nor can two questions of privilege be pending at the same time.

(A) Additional motions should not be added to the rule of precedence to give them privilege; this should be done by special rule. Speaker Reed says the rule of precedence as now formed is ideal.

A call of the House yields to no motion but to adjourn.

QUESTIONS OF EQUAL PRIVILEGE COMPETING

SEC. 393. When two questions of equal privilege are competing the question of precedence is decided by the chairman's recognition. (Gillette.)

CHAPTER XI

RANK, SUCCESSION AND PRECEDENCE OF MOTIONS IN THE RULE

SEC. 394. The experienced parliamentarian is provoked to laughter when he hears the inexperienced in a heated agitation about two motions pending at one time. Usually both are right and both are wrong. There is no principle of parliamentary law more firmly established than the rule that only **one main or principal motion** can be pending at once. To state the rule clearly, **two subjects may not be presented for the consideration of the House** but this rule in no way refers to the use of privileged secondary motions used to dispose of other motions or business, of necessity many questions may be pending. If this were not true we would have no means of disposing of the main or principal motion except by a direct vote on that question. There are many subsidiary motions (in American practice) called privileged-secondary motions that were wisely invented to successfully dispose of main motions when presented and it will be shown that all these may be pending at one time.

Let us suppose a meeting of the Buckeye Republican Club of Columbus, Mr. Arnold, after being recognized by the chair moves "That Attorney General Bettman be invited to address the club next Thursday evening." Then the following motions may be offered and be in order unless the chair would arbitrarily refuse to permit the motion, viz.:

(7) Indefinitely postpone.

(6) To amend.

To amend the amendment. Here a question of order might arise as to the relevancy of the amendment, followed by a decision of the speaker.

(5) To commit.

To amend the motion to commit by adding instructions.

It is necessary that the instructions be germane, a question of order might be raised here on that subject.

(4) To postpone to a day certain.

To amend the motion as to time.

(3) The previous question.

(2) To lay on the table.

(1) To adjourn.

It should be noted that this procedure is all applied to the main or primary motion.

There are still other incidental motions that might be added but the foregoing are sufficient to illustrate our point.

The motions as above given, you will note, have been named in the reverse order of their rank. This was necessary, for had they been moved in the order set down in the rule, the motion to adjourn would have been first moved and the chair would have put it to the question for the reason all the other motions stand below the motion to adjourn and after it is moved none of the remaining motions may be moved in order. The rule is that these motions shall have precedence exactly in the order of their arrangement in the rule, therefore, they must be put to the question and disposed of in the reverse order given above, or in the order of their precedence: First, the chair should put the question on adjournment, that motion being of first rank. If this motion were decided affirmatively it would adjourn the House and carry the pending business to the next meeting. No, the adjournment would not place the pending business on the table of the House. If the motion to adjourn were decided in the negative, the business would be resumed at the exact point it was interrupted.

The next motion to be disposed of would be to lay on the table, it being second in rank in the rule. If this motion were affirmed the main question and all amendments and

pending motions would go to the table with it. If the motion to lay on the table were lost, the next question to put would be the previous question, the third motion in rank. If this motion is decided in the affirmative, all debate and amendment would be cut off, and the question would be put immediately on the amendment to the amendment and then on the amendment, and finally on the main question. Except that in those cases where no debate has been had on the main question, **a very limited debate is permitted after the previous question is ordered.** Thus it will be observed from the illustration that many motions may be pending at one time so long as each succeeding motion is superior to the ones preceding it.

EFFECT OF AFFIRMING PREVIOUS QUESTION

SEC. 395. If the previous question were affirmed or lost the remaining motions would be put to the question and disposed of in the order of their precedence without debate.

It should always be kept in mind that rank and precedence given to motions is merely to govern their application to the pending main proposition and does not refer in any sense to their application to each other and are not generally to be applied to each other except in specific cases herein referred to.

QUESTIONS OF EQUAL PRIVILEGE COMPETING

SEC. 396. When two questions of equal privilege are pending (competing) the question of precedence is decided by the chairman's recognition (call), that is the question put by the member first recognized is to be first decided.

OTHER UNCLASSIFIED PRIVILEGED MOTIONS

MOTION TO LAY ASIDE

(Privileged)

SEC. 397. The motion to lay aside a pending proposition is in constant use in Parliament, the United States Senate and committee of whole, in the House. The rules give this motion no privilege, it seems to be considered an incidental motion and is in order when business is debating in the House.

(A) It is used thus: I move to **"lay aside the pending bill temporarily, without prejudice."**

(B) The treatment and effect of this motion when unqualified is substantially the same as the motion to postpone or to informally pass, as used in some states. If qualified with the words "temporarily without prejudice," it would insure the right of the mover to call the matter up again at his discretion when other business was not pending. If made in reference to a bill being considered, such bill would retain its place on the calendar.

MOTION TO INFORMALLY PASS

(Privileged)

SEC. 398. The purpose of this motion is to temporarily prevent taking up a question on the calendar, for consideration.

(A) This motion should be made when the clerk announces the number of the bill and before it is read the third time, or it may be made before such announcement by the clerk. It is not in order after third reading, for then the bill is off the calendar, and of course could not be informally passed on the calendar when it has been taken off and is being considered by the house. When the bill has been read and is being considered the proper motion is to

lay aside without prejudice, which would retain its place on the calendar.

FORM OF MOTION TO INFORMALLY PASS

SEC. 399. "I move that (giving number of bill) be informally passed." It is not necessary to say retain its place on the calendar, this is implied in the motion, if agreed to, the bill should retain its place on the calendar.

BILLS PASSED OVER

SEC. 400. In the first session of the 69th Congress a bill had been taken up and was being considered. It was moved that the bill be passed over. Objection was made that it was too late to pass over the bill, debate having been begun on it. Speaker Longworth ruled: **"It is too late to pass over the consideration of a bill after debate has begun on it."**

MOTION TO DISPENSE WITH CONSTITUTIONAL READING

(Privileged)

SEC. 401. I move to dispense with the reading of the bill required by the constitution and that the bill be immediately engrossed and placed on its passage.

MOTION TO TAKE FROM SPEAKER'S TABLE

(Privileged)

SEC. 402. It frequently occurs that there is business on the Speaker's table the House desires to take up and consider. Under these conditions when no other business is pending, a motion is in order to take business from the Speaker's table, and only a **majority vote** is necessary to make such motion effective. (See Speaker's Table.)

MOTION "BE NOT ENTERED ON JOURNAL"

SEC. 403. It sometimes happens that a motion or resolution is offered in the House that is objectionable in point of form or substance and even though correct in form it is thought advisable not to act upon same directly and enter it in the journal. When this occurs a motion is in order that the motion or resolution **"be not entered in the journal."** When the Speaker puts the question on the foregoing motion it is thus: "That the proceeding be expunged from the journal." If decided affirmatively **neither the motion nor any other proceeding in connection with the original motion is entered in the journal.** In the case of a bill the motion and question would be for rejection. In both these cases an affirmative two-thirds vote is required.

SEC. 404. It sometimes occurs that a member will make a motion that is not in order, but is not objectionable, and the Speaker may not desire to exercise his right and rule it out of order. In a case of this kind, the Speaker could inquire, "Is there objection to entertaining the motion of Mr. Jones?" If no one objects, he would have unanimous consent to put the motion, and a later objection could not be raised.

MODE OF SECURING ACTION ON MOTION OUT OF ORDER

SEC. 405. Mr. Speaker: I ask unanimous consent to reconsider the vote by which the bill of the Senate No. ——— was lost.

I ask unanimous consent to discharge the committee on Judiciary from further consideration of the bill of the House No. ———.

MOTION TO DISSOLVE
(Privileged in Joint Session)

SEC. 406. This motion as its name implies, effects a dissolution. Its principal use is in a joint session of the

two branches of the assembly. A joint session does not adjourn when its business is completed. The proper motion is "I move the joint convention dissolve." The joint convention may recess or adjourn to a time certain, but the simple motion to adjourn may not be used.

TAKING BILL FROM CALENDAR AND RECOMMITTING

(Privileged)

SEC. 407. **A motion to take a bill off the calendar and refer it to a committee is privileged and requires but a majority vote of those present.**

CHAPTER XII

OF MOTION TO ADJOURN

EFFECT OF ADJOURNMENT

SEC. 408. When a member simply moves to adjourn he means until the next day at the hour prescribed by the rules for the daily meeting.

USE OF ADJOURN IN PARLIAMENT

SEC. 409. The law of Parliament is, a motion to adjourn simply takes place of all others, for otherwise the House could be kept sitting against its will and indefinitely; yet this motion may not be received after another question has been actually put or while the House is voting, nor while a member is speaking.

ADJOURN (CONGRESS) AFTER DAILY HOUR IS FIXED

SEC. 410. The motion to adjourn may not be qualified as by specifying to a particular day or hour.

When the House has not fixed an hour for daily meeting the motion to adjourn may fix it.

Before the House has fixed the hour of daily meeting the motion providing for adjournment to a given hour is in order.

The motion to adjourn is in order only in its simple form.

PRECEDENCE OF

SEC. 411. Questions of privilege have precedence of all motions except to adjourn. Motion to adjourn has the highest privilege when a question is under debate.

IN GENERAL

SEC. 412. Before the reading of the minutes a simple motion to adjourn is in order, but a motion to adjourn and fix the day or hour to which to adjourn, being the transaction of business, is not in order.

ADJOURNMENT

IN RELATION TO QUORUM

SEC. 413. The motion to adjourn is in order in the absence of a quorum, but not the motion to adjourn and fix the time to meet nor the motion to recess not even by unanimous consent. The former has been held not to be the transaction of business, but the two latter, to fix the time to meet and recess are regarded as being the transaction of business.

ADJOURN IN GENERAL

SEC. 414. Before the reading of the journal (minutes) the simple motion to adjourn is in order.

No debate is in order pending the motion to adjourn.

ADJOURNMENT

SEC. 415. Neither House during a session of the assembly may adjourn for more than three days, Sundays excepted, without the consent of the other House.

Adjournments for more than three days of one or both Houses is provided for by adopting a concurrent resolution. When the two Houses can not agree on the time of adjournment of a session, the governor may adjourn them.

When through an erroneous announcement of a vote on adjournment the House disperses, when actually it had voted not to adjourn, the House when it next meets is nevertheless a new legislative day.

The hour at which the House adjourns each day is entered on the journal.

By usage, not rule, the House receives requests for leaves of absence and reports of committee on enrolled bills, pending the announcement of the vote on the motion to adjourn.

It is customary for both Houses to notify the governor of their intention before adjourning sine die.

Resolutions fixing the time of sine die adjournment may be rescinded. This adjournment resolution is privileged.

The hour fixed for final adjournment having arrived, even in the midst of a roll call, the speaker may declare the House adjourned.

HIGH PRIVILEGE OF MOTION TO ADJOURN

SEC. 416. The motion to adjourn has the highest privilege when a question is being considered (debated) and with certain exceptions hereafter pointed out it has the highest privilege under all other conditions.

WHEN MOTION TO ADJOURN IS NOT IN ORDER

SEC. 417. The motion to adjourn is not in order unless the chair recognizes the member who makes it. That is, a member may not rise to his feet and move to adjourn, unless he has been given the floor by the chair's call (recognition). It is not in order after another question has actually been **put** to the House, or while the House is engaged in voting; it may not take a member from the floor.

RELATION OF OTHER PROCEDURE TO MOTION TO ADJOURN

SEC. 418. It is renewable after intervening business.

It is not debatable.

No motion in the rule of precedence can be applied to it because all stand below it.

In order in its simple form only.

Now comes a friend from the local debating club who proudly asserts that parliamentary law is nothing

more than common sense, and that there is no reason at all why the motion to adjourn should not be debated. He is partly right, in the English parliament this motion is debatable but if you will turn to the American rule you will find it provides the motion is not debatable, and regardless of our individual opinion that should settle the question. **When no question is under debate the motion to adjourn may not displace a motion to fix a time to which to adjourn when admitted.**

DIGEST OF SPEAKERS' DECISIONS UNDER RULE OF PRECEDENCE

SEC. 419. The motion is in order before reading the minutes.

When the hour of meeting is not fixed, the motion to adjourn may fix it. You may move to adjourn to meet at a fixed time.

The motion may not be amended.

Question of privilege and the motion to reconsider yield to it.

It is not in order after the House votes to go into the committee of the whole.

It may not interrupt a member who has the floor.

The motion is never in order in committee of the whole.

ADJOURN—PRACTICE OF ENGLISH PARLIAMENT

SEC. 420. In the midst of debate on any question any member may move that this House do now adjourn as a distinct question which supersedes that already under consideration. This motion cannot be made while a member is speaking but can only be offered by a member who being called by the speaker in the course of debate is in possession of the House. If this be resolved in the affirmative, the House must immediately adjourn, and all the business for that day is at an end. In the Commons the motion for adjournment in order to supersede a question

(to be in order at once) must be simply that the House do now adjourn, nor is it allowable to move that the House adjourn to any future time specified nor move an amendment to that effect to the question of adjournment,

When it is desired that the House adjourn to a day beyond the next sitting day, a motion is made that this House on its rising (adjournment) do adjourn until the special hour or day. The House of Commons does not fix by rule a daily hour for meeting on Saturday. (May, former clerk of Parliament p. 267).

SEC. 421. Motion to reconsider can not be applied to a vote on a motion to adjourn because when the speaker declares the result of the vote and rises from his chair, the House is adjourned and is no longer competent to do business. The fact that it adjourned is evidence that its business for that particular sitting is completed and unless it has come to a previous resolution as to a future time to meet it has no power to bring itself together again.

AFTER THE DAILY HOUR HAS BEEN FIXED BY RULE

SEC. 422. Just as soon as the assembly determines upon an hour for daily meeting, the privilege of the qualified motion to adjourn and fix a future time to meet is destroyed and is no longer in order. The motion to adjourn and fix a time for a future meeting is of very high privilege indeed takes precedence of the simple motion to adjourn when no time for a future meeting has been fixed.

PURPOSE OF MOTION TO ADJOURN

SEC. 423. In the early practice of the House it was decided that when the motion was made, no other motion or business could be interjected pending the putting and taking of the question, but we find in later practice this rule has not been so rigidly enforced and minor matters of important and pressing business are disposed of pending the motion to adjourn, such as signing a bill by the speaker, excuses from attendance, etc.

REPETITION OF MOTION TO ADJOURN

SEC. 424. There must be intervening business before the motion to adjourn may be repeated, such as debate, although no question has been put or decided in the meantime, ordering a vote on a question is such intervening business to justify a repetition of the motion to adjourn. A decision of the chair on a question of order. An amendment by a member is sufficient to justify a repetition of the motion. It is not the length of time that elapses that justifies the repetition of a motion, there must be intervening business.

EFFECT OF ADJOURNMENT ON PENDING BUSINESS

SEC. 425. The effect of adjournment on pending business is merely to postpone the matter under consideration until the next regular meeting when it would, without motion, come up as unfinished business, or it could be called up under the order of business to which it relates.

MOTIONS UNDECIDED AT ADJOURNMENT

SEC. 426. Speaker Gillette decided that a motion relating to the order of business pending at adjournment does not recur as unfinished business on a succeeding day. Such motions expire with adjournment, as in the case of a motion to recess and motions incidental to the order of business.

WHEN IS HOUSE ADJOURNED

SEC. 427. Is the House adjourned as soon as the motion to adjourn is decided affirmatively? It is not. There is no adjournment until so declared by the chair and he leaves the chair.

SINE DIE ADJOURNMENT

Sec. 428. A sine die adjournment simply means that the assembly does not fix a future time to meet, therefore, such adjournment practically dissolves the assembly and it has no power to come together again during the term for

which it was elected. It can only come together again as a legislative body upon the call of the governor, and such call is wholly discretionary with the governor and in most states he dictates just the legislative business that may be considered by the assembly when acting under his call.

RELATION OF OTHER MOTIONS TO MOTION TO ADJOURN

SEC. 429. Becomes the principal motion.
May be renewed after intervening business.
May not be debated.
May not be amended.
May not be laid on the table.
May not be postponed.
May not be committed.
Previous question does not apply.

MOTION TO ADJOURN HAS HIGH PRIVILEGE

SEC. 430. The motion to adjourn has the highest privilege when a question is under debate, but with certain restrictions hereinafter noted, it has the highest privilege under all conditions.

SYLLABUS OF SPEAKER'S DECISIONS ON MOTION TO ADJOURN UNDER RULE OF PRECEDENCE

(1) Questions of privilege and the motion to reconsider yield to the motion to adjourn. (Crisp.)

(2) A conference report may defer it only until the report is before the House. (Reed.)

(3) It is in order after the yeas and nays or vote are ordered and before the roll call is begun. (Sherman.)

(4) It is in order before the reading of the journal. (Reed.)

(5) **When the hour of daily meeting is not fixed by rule the motion to adjourn may fix it.** (Cannon.)[1]

[1] This of course is true in established bodies meeting at a time fixed by rule, as in the case of legislative bodies. According to the ruling of Speaker Cannon, when the daily hour of meeting is not fixed the motion to adjourn may fix it.

(6) The motion to adjourn is not **debatable.** (Cannon.)

(7) Speaker Crisp ruled that the motion could not be amended.

ADJOURN AND RECESS—USE OF

SEC. 431. The purpose and principal use of the motions to **adjourn** and **recess** is to bring to a close, or as Mr. Cushing puts it "break up a sitting of the House." When members are weary and desire to terminate the business of the day and suspend operations until another regular meeting, or wish a cessation of business until another day for any other reason, they move "to adjourn," but if only temporary respite is desired, say for a few minutes or hours, then the proper motion would be to recess for a time to be specified in the motion or adjourn at pleasure.

MOTION TO ADJOURN—WHEN NOT IN ORDER

SEC. 432. A motion to adjourn may not be received after another question is actually put, or while the House is actually voting; it may not be made during the verification of a vote, or while the assembly is dividing; a motion to adjourn may not **take a member from the floor.**

(A) The motion to adjourn may not interrupt a member who has the floor; the call of the yeas and nays, or the actual act of voting by any other means.

SEC. 433. When the House has fixed the daily hour of meeting the motion may not be amended by specifying a particular day; (Crisp) or stating the purpose of adjournment. (Reed.)

SEC. 434. When the hour of daily meeting is not fixed, the motion to adjourn may fix it.

SEC. 435. It is not in order in committee of the whole. The committee of the whole does not adjourn, it

Rises, that is, they move the committee **Rise** and the chairman report.

MOTION UNDECIDED AT ADJOURNMENT

SEC. 436. **The motion to adjourn under the rule of precedence is privileged only in its simple form, "I move to adjourn."** If a subject is under consideration and a member should move to adjourn to meet tomorrow at 9:00 o'clock, according to the rulings of the National speakers, it would not be in order and a simple motion to adjourn would supersede it.

(A) A motion to adjourn in memory of, or out of respect to, etc., is not in order. This result may be accomplished in an orderly manner by the member stating that he is about to move to adjourn out of respect to, etc., and then make the simple motion to adjourn.

(B) When it is desired to meet at a time different from that provided by the rules, a member should at an opportune time when no business is pending, move that when the House adjourn today that it be to meet Tuesday at 10. a. m.

(C) Motion to fix the hour to which to adjourn.

ADJOURN DEBATE

(See under that title head.)

CLOSE DEBATE

(See under that title head.)

CHAPTER XIII

MOTION TO LAY ON THE TABLE

SEC. 437. The motion to lay on the table is second in importance in rank and supersedes all other motions except to adjourn. When this motion has been entered against the main motion it cuts off the use of the previous question, postpone, commit, amend, indefinitely postpone, until the motion to lay on the table is decided. None of these motions may be applied to the motion to lay on the table.

RELATION OF OTHER MOTIONS TO MOTION TO LAY ON TABLE

SEC. 438. May be renewed after intervening business.

Disposes of the subject finally.

Takes with it everything adhering to the subject except in cases of appeal and, cases hereinafter mentioned.

If a motion prevails to lay a pending amendment to a bill or resolution on the table it carries the bill or resolution with it.

May not be debated.

May not be amended.

May not be laid on the table.

May not be committed.

May not be postponed.

Previous question does not apply.

Requires majority vote.

Form: I move that the question be laid on the table, or I move that the question lie on the table.

MOTION TO LAY ON TABLE—ENGLISH USE

SEC. 439. In the Parliament of England the motion to lay on the table is used to merely postpone the con-

sideration of a question to a more convenient time. They may lay on the table for a definite or indefinite time. The rules and practice provide that certain business at specified stages of its progress shall go on the table without a motion to that effect. The act of laying on the table is not evidence of unfriendliness, but merely a postponement; accordingly, it was necessary to provide a means of bringing this business before the body for consideration again, whenever the House would decide to renew its consideration, hence we have the **motion to "revive and proceed with"** or the American motion to **"take from the table."** [1] In our American practice the motion to lay on the table has become a **parliamentary instrument of real utility.**

LAY ON TABLE—AMERICAN USE

SEC. 440. Without any express rule on the subject other than its relation in the rule of precedence, by long practice, the National House has given the motion to lay on the table a use entirely different from that of Parliament. It is now the motion by which the House puts away a bill, motion, appeal or other business finally. Any matter laid on the table by a **majority vote** of the House is practically passed on adversely. This practice has undoubtedly arisen from the fact that the rule of precedence recognizes and gives a **privileged status to the motion to lay on the table,** but such rule **does not recognize the motion to take from the table.** Hence the motion to take from the table **is never in order when a question is under consideration.** Accordingly, if a motion to take from the table were made, a single member objecting and asking that business proceed in regular order prevents the entertaining of the motion, and against

[1] If the motion "to take from the table" has ever been recognized in parliament its use is very obscure. We have never found it and even Jefferson does not directly refer to such a motion. Americans have assumed as a matter of course that it is a resultant of the motion to lay on the table.

such objection the motion may be entertained only on suspension of the rules and decided **affirmatively by a two-thirds vote.**

SYLLABUS OF SPEAKER'S DECISION UNDER RULE OF PRECEDENCE

SEC. 441. The motion to lay on table is in order before the member entitled to prior recognition for debate has begun his remarks. (Crisp.)

(A) Although a proposition may be privileged for consideration under the rules, yet a motion to lay it on the table is in order, such action being one form of consideration. (Reed.)

(B) The motion to lay on the table may be repeated after intervening business. (Boyd.)

(C) It may not be applied to a motion relating to the order of business. (Reed.)

(D) It is in order against a motion to **discharge a committee** but **may not be applied to the motion to suspend the rules.** (Cannon.)

(E) The motion to lay on the table is not in order if the previous question has been demanded, and the yeas and nays ordered on the demand; neither can it be **applied to the demand for the previous question.** (Davis.)

(F) The motion to lay on the table has the precedence given it by the rule, but it may not be made **after the previous question is ordered,** nor after the yeas and nays are ordered on the motion for the previous question. (Macon.)

(G) When a bill or other proposition is laid on the table, **pending motions connected therewith, go to the table also.** (Taylor.) **Later rulings make a few exceptions to this rule.**

PRECEDENCE OF MOTION TO LAY ON THE TABLE

SEC. 442. A motion to lay the main question on the table is in order while the motion for the **previous question is pending** and takes precedence, but a motion to lay on the table the previous question is not in order. (H. J., 1st Sess., 61st Cong., p. 236.)

PRECEDENCE AND PRIVILEGE OF MOTION TO LAY ON TABLE

SEC. 443. A motion to lay on the table is in order before the member introducing the matter has proceeded in debate even though he has been recognized for debate.

(A) Mr. A. offered a resolution. Before Mr. A. has proceeded in debate on the resolution, the speaker recognized Mr. B. who moved to lay the resolution on the table. Mr. A. objected and claimed the right of the floor in debate, that is, the right of prior recognition and argued that he could not be taken from the floor by a motion to lay on the table. The speaker overruled the question of order (which was practically to decide that **the motion to lay on the table is in order before the member entitled to the floor has begun his remarks).** (Gillette, Aug. 20, 1921.)

PARLIAMENTARY TRICKS

SEC. 444. Frequently we see in the press that some member in order to defeat a proposition to him obnoxious, resorted to a "parliamentary trick." The writer is willing to admit that he does not understand what parliamentary procedure could be classed as a "trick." Any member is **at liberty at any time to make an adverse motion, if such motion is in order, but any motion to be effective must be supported by a majority. So to say a "trick" has been played is merely to state that the membership was ignorant of the effect of a motion.** It is no fault of the member who moves the House that they do

not understand the effect of his motion. The mover of an adverse motion is merely exercising his right as a member when he uses the proper parliamentary devices to defeat a proposition. Of course, in this matter the experienced member has the advantage of the inexperienced. For this reason new members should guard against **voting in the affirmative** on certain motions which are usually made to defeat or delay propositions. The motions most frequently used are: To lay on the table; to postpone indefinitely and the previous question.

If the member desires to defeat a measure, then he should vote for the motions "To lay on the table" and to "Indefinitely postpone;" otherwise vote no. It is better to take no chances. Once a bill is voted upon adversely and removed from the consideration of the House, it is a difficult process to revive it. If you are willing to forego further discussion and amendment to a proposition, you may safely vote for the previous question, otherwise, protect yourself by voting no. When a lengthy complicated amendment or a substitute is offered on the floor of the House **it is the safest and best plan to vote for commitment of the entire subject.**

BLANKET USE OF MOTION TO LAY ON TABLE

SEC. 445. A member may move that bills of the following title (naming them) be laid on the table.

QUESTION OF PRIVILEGE OF HOUSE MAY BE LAID ON TABLE

SEC. 446. A question of privilege of the house being presented in the proper form of resolution it was moved to lay it on the table. Speaker Gillette ruled: "The house has a right to lay this matter on the table if it prefers to, the motion is in order and has precedence."

WHEN MOTION TO LAY ON TABLE IS DILATORY

SEC. 447. The house was considering a bill when an amendment was offered. It was then moved to lay the amendment on the table, which motion was defeated. Then a motion was made to adjourn, which was also defeated. This was followed by a motion to lay the bill on the table. It was objected that this latter motion was dilatory, inasmuch as it would accomplish the same purpose as the motion to lay the amendment on the table. The speaker sustained the point of order and said: "The speaker will ask the gentleman from Mississippi a question. A few moments ago, an hour or so, the gentleman made the motion to **table the amendment,** when the parliamentary inquiry was made as to what would happen if that motion prevailed. The chair replied and correctly that the tabling of the amendment carried with it the bill and that was the end of the whole matter. That motion was to table the amendment, but the effect of it was to kill the bill, if it carried. Now the gentleman moves to table the bill which has precisely the same effect. There cannot be any two opinions about that." (H. J., 1st Sess., 64th Cong.)

EXCEPTIONS TO RULE LAYING ON TABLE

SEC. 448. The journal does not accompany a proposed amendment to the table.

(A) The original question does not accompany an **appeal.**

(B) A resolution does not accompany another resolution with which it is connected, or a preamble.

(C) The motion to lay on the table a motion to reconsider a vote by which an amendment to a resolution has been agreed to would not carry the resolution to the table.

(D) The motion to lay on the table may not be amended; or applied to the motion for the previous ques-

tion or to suspend the rules; or to commit after the previous question is ordered; or to any motion relating to the order of business; **except the motion to discharge a committee.**

(E) It may not be applied to the simple motion to refer (commit) or the previous question.

(F) The general trend of rulings in the National House indicates that it is not permissible to lay on the table subsidiary or privileged motions used for the disposal of business.

(G) The proceedings on a bill at any stage of its progress may be interrupted, by its being ordered to lie on the table.

(H) It is in order to lay on the table a House bill returned with Senate amendments.

(I) Bills of the other House with amendments and message may be laid on the table.

PURPOSE AND USE OF AMERICAN MOTION

SEC. 449. When a question is pending and the House desires to reject it without taking a direct vote on the subject, they move to lay it on the table, the effect of such motion being the final adverse disposition of the question, or they may indefinitely postpone. In choosing between these two motions, the member should remember that the former motion is not debatable and the latter is debatable and opens the entire subject to debate. The motion to lay on the table has precedence.

LAYING APPEAL ON TABLE

SEC. 450. It is the practice of the American house to dispose of appeals from the decisions of the speaker as quickly as possible. **This they do by moving that the appeal lie on the table.** If this motion is decided affirmatively, the decision of the speaker is sustained and stands as the judgment of the house. The pending proposition

upon which the appeal is based nor the original proposition do not lie on the table with the appeal, as in the case of an amendment and bill, therefore it is safe to order an appeal to lie on the table.

SEC. 451. If a motion to instruct conferees is laid on the table the bill does not accompany it.

SEC. 452. **A motion relating to and fixing the order of business cannot be laid on the table.**

LAY ON TABLE

Legitimate Motion

SEC. 453 The motion to lay on the table is a legitimate motion and members should not be sensitive or feel offended because another member seeks to bring debate to a close or to finally indirectly dispose of the pending proposition by a motion to lay on the table.

EFFECT OF MOTION TO LAY ON TABLE DECIDED AFFIRMATIVELY

SEC. 454. If a motion to lay on the table is agreed to it carries with it all questions connected with the special question upon which it is moved. If it be moved on the main question, then all amendments go with it; if moved on the amendment then the main question goes to the table also. This upon the very solid grounds that you cannot go on with an amendment when the main subject is no longer before the House and cannot go on with the main question when there exists amendments liable to be called up at the pleasure of the House. When a question laid on the table is again called up it comes before the assembly precisely as it was prior to the motion to lay on the table, with all the amendments and motions then pending. The motion to take from the table is not a privileged motion. (Reed.) The absurdity of a rule modifying this wholesome rule to the effect that laying an amendment on the table does not prejudice the main question must be apparent to all who

digest the foregoing discussion by Speaker Reed. Such rule is merely an invitation to members to defeat the efforts of the House to perfect a bill with amendments by laying them on the table knowing that such will not effect the bill. This was plainly evidenced in the last Ohio House where the motion was used constantly to defeat amendments, in fact amounting almost to a filibuster and was used for the most part to take the place of the previous question.

RELATION OF OTHER MOTIONS TO MOTION TO LAY ON TABLE

SEC. 455. It will be perceived that the motion to lay on the table ranks second in the above rule. When it is pending there is but one motion that can be made in order and put to the question and that is to adjourn. The previous question, postpone to day certain, refer, amend and indefinitely postpone stand below it and may not be moved on the main question nor on the motion to lay on the table. However, if the question is debatable or amendable the rule is relaxed to permit the use of the previous question to stop debate or the motion to amend.

SEC. 456. The motion to lay on the table may be renewed after intervening business.

Effect of affirmative vote is to kill or dispose of the subject finally. It takes to the table everything adhering to the subject except in cases of appeal and cases hereinmentioned.

If the motion prevails to lay an amendment pending to a bill, motion or resolution on the table it carries the bill with it. If the pending main question is laid on the table it carries with it to the table all pending motions. Form of motion: I move that the question be laid on the table or the question do lie on the table.

ENGLISH USE OF MOTION TO LAY ON TABLE

SEC. 457. In the Parliament of England the motion to lay on the table, is used merely to postpone the considera-

tion of a question to a more convenient time. The act of laying on the table in that body is not an act of unfriendliness but merely a postponement. Accordingly it was necessary to provide a means of bringing business laid on the table before the body again at a future time, when the House was willing to renew its consideration. Hence there was evolved in parliament the motion "to revive and proceed with" or the American corruption of this motion "to take from the table". It is quite obvious that the motion "to postpone to a day certain" would accomplish all that the motion "to lay on the table" does and without the necessity of a motion to go to the business of a future day. In our American practice the motion to lay on the table has become a parliamentary motion of real worth and utility.

EFFECT OF LAYING ON TABLE

SEC. 458. Any matter laid on the table by a majority vote of the House is passed on adversely. Now let us inquire about this practice and see how much the volume of business has to do with it. Before the student reads further we would suggest he turn to the rule of precedence and refresh his memory. How boldly the words stand out, no motion shall be received but the following: That rule does not contain the motion "to take from the table", therefore, it is not in order when a question is debating, except under suspension of rules or by unanimous consent. Is it not clear that the reason the placing on the table kills is merely the fact that it is difficult to reach in order, accordingly, if a motion is entered to take from the table and an objection is offered the motion cannot be received or put to the question. Thus the new effect of this motion is not a matter of design, but results from a sensible construction of the rules. The effect of the motion gives it a thousandfold more merit. A matter laid on the table can only be reached by unanimous consent or a suspension of the rules.

DIGEST OF SPEAKERS' DECISION ON MOTION

SEC. 459. Although a matter may be privileged for consideration under the rules, yet a motion to lay it on the table is in order, such action being one form of consideration.

It is in order before the member entitled to prior recognition for debate has begun his remarks.

It may not be applied to a motion relating to the order of business, but is in order against a motion to discharge a committee, but may not be applied to a motion to suspend the rules.

It is not in order after the previous question is moved, neither can it be applied to the previous question.

The motion has the precedence given it in the rule, but it may not be made after the previous question is ordered.

When a pending subject is laid on the table pending motions, except in the cases previously mentioned, go to the table with it.

A motion to lay the main question on the table is in order while the motion for the previous question is pending and takes precedence, **but a motion to lay the previous question on the table is not in order.**

A question of privilege involving the House may be laid on the table.

EXCEPTION AS TO WHAT GOES ON TABLE WITH MAIN QUESTION

SEC. 460. The journal (minutes) does not go on the table if a proposed amendment is laid on the table. The original question does not accompany an appeal.

USE OF AMERICAN MOTION TO LAY ON TABLE

SEC. 461. The use of this motion has been briefly referred to heretofore. When a question is under debate and the House wishes to reject or dispose of it without taking a direct vote on the question they move to lay it on the table.

In parliament they obtain the same result by a motion to postpone to this day six months or one year, a time when they know parliament will not be in session and if they agree on the motion the matter is never revived, this is another of those supposed gag motions. The effect of laying on the table being the final adverse disposition of the question. It is true the same result could be obtained by using the motion to indefinitely postpone, but the difficulty in using this motion is that it opens up the entire subject to debate, which might be prolonged and delay business. The motion to lay on the table is the best motion to use because it is not debatable.

The motion to lay on the table may not be moved on any of the motions in the rule of precedence except the motion to amend.

LAYING APPEAL ON TABLE

SEC. 462. A motion relating to and fixing the order of business may not be laid on the table, which would include such motions as suspension of rules, or a motion to dispense with the order of business, or to pass over, or to pass from one order of business to another, to a motion to make a special order.

CHAPTER XIV

OF THE PREVIOUS QUESTION

SEC. 463. The motion for the previous question ranks third in the order of precedence. When it is moved on the main question it precludes the motions to postpone to a day certain, to commit, to amend and to indefinitely postpone, but the motion to adjourn may be moved and supersedes the previous question and the motion to lay on the table is in order, and is to be put pending the previous question and supersedes it.

RELATION OF OTHER PROCEDURE TO PREVIOUS QUESTION

SEC. 464. May be reconsidered once only.

Requires a majority vote.

Renewable after intervening business.

The motion is not debatable.

The motions in the rule of precedence may not be moved on it.

Applies to and takes precedence of all debatable questions and is in order to prevent amendment of undebatable questions. It may be moved on a pending motion or amendment without including the main proposition, or it may include all matters pending.

FORM OF MOTION FOR PREVIOUS QUESTION

SEC. 465. If it is desired to stop debate on pending motions and amendments and not on the main question it should be framed thus, "I move the previous question on the pending amendment" or amendments or motions, as the case may be, definitely naming just the purpose of your

motion, but if it is desired to stop debate and bring the House to a vote on the main proposition, then the motion would be "I move the previous question on the amendment, motion and main question to its rejection or adoption." If this motion is affirmed and there has been previous debate on the main question, debate is closed and further amendments precluded, and a vote is at once taken on the pending motions and amendments in the order of their introduction and finally on the main question.

HOW TO PUT PREVIOUS QUESTION

SEC. 466. The previous question is always put in the affirmative, thus, "The previous question has been moved, **will the House order the previous question?"** The previous question is ordered when the House by an affirmative majority vote on the motion for the previous question orders debate to close.

RULE GOVERNING THE USE OF THE PREVIOUS QUESTION

SEC. 467. There shall be a motion for the previous question, which being ordered, by a **majority of the members voting, if a quorum be present,** shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate pending question on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions, allowable under the rules or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the main proposition to its rejection or adoption. It shall be in order pending the motion for, or after the previous question shall have been ordered on its passage, for the speaker to entertain and submit a motion to commit, with or without instructions to a standing or select committee. (House rule XVII, sec. 7.)

All incidental questions of order arising after a motion is made for the previous question and pending such motion,

shall be decided, whether on appeal or otherwise, without debate. (Sec. 2.)

Limited debate, to be equally divided one-half to those in favor and one-half to those opposed, on any proposition upon which there has been no debate. (House rule XXVII, sec. 3.)

PURPOSE OF PREVIOUS QUESTION

SEC. 468. The previous question in American practice is used exclusively to close debate and prevent amendments and **this is the only motion used in the House to close debate,** but in the committee of the whole where they do not permit the use of the previous question they use the ordinary motion **"to close debate"** which is not in order except in committee of the whole.

EFFECT OF PREVIOUS QUESTION ON RULE OF PRECEDENCE

SEC. 469. Speaker John G. Carlisle held in the National House that "When the previous question has been ordered on a pending question, then none of the motions in the rule of precedence are in order, for the reason there is then no question under consideration. That is when the House by an affirmative vote on the previous question closes debate the motions in the rule of precedence lose their privilege.

ORDERING PREVIOUS QUESTION

SEC. 470. The meaning of the term "ordering the previous question" is merely that the majority of the House desire the question under consideration to be put to a vote.

PREVIOUS QUESTION EXHAUSTED

SEC. 471. When a vote taken under the operation of the previous question is reconsidered, the main question stands divested of the previous question and may be debated

and amended without reconsideration of the vote ordering the previous question. The previous question is exhausted by the vote on the motion on which it is ordered and consequently a motion to reconsider the vote on the main question is debatable. (Reed.)

DIGEST OF SPEAKERS' DECISIONS RELATING TO PREVIOUS QUESTION

SEC. 472. When the House adjourns before voting on a proposition on which the previous question has been ordered, the question comes up at the next meeting immediately following the reading of the minutes superseding the regular order of business. (Reed.)

The motion to lay on the table may not be applied to the motion for the previous question nor is the motion to lay on the table or postpone in order after the previous question is ordered.

The motion to commit may be amended after the previous question is ordered by adding instructions, unless the previous question is moved on the motion to commit. (Cannon.)

When the previous question has been moved and is pending, a motion to amend is in order by unanimous consent. (Gillette.) In this case of course the question would be first put on the amendment and then the previous question would follow.

The motion to suspend the rules is in order after the previous question is ordered. (Carlisle.)

A motion may be withdrawn after the previous question has been ordered on it. (Henderson.)

The motion to commit is not debatable after the previous question is ordered. Under the rule one motion to commit is in order after the previous question has been ordered, but when the previous question has been ordered on a bill and amendment, the motion to commit should be made after the vote on the amendment. (Crisp.)

It does not matter how brief debate has been before ordering the previous question, the slightest debate precludes debate after the previous question is ordered. (Gillette.)

MOTION TO COMMIT PROVIDED IN RULE FOR PREVIOUS QUESTION

SEC. 473. The motion to commit provided for in the rule for the previous question is not debatable, but is amendable, unless the previous question is ordered on it.

DIGEST OF SPEAKERS' DECISIONS UNDER RULE

SEC. 474. The previous question applies to a question of privilege the same as to any other question.

The previous question may be moved on the motion to commit and the main motion.

It is applied to questions that are undebatable but amendable, in order to prevent amendment.

It is in order for a member to offer an amendment or motion and at once move the previous question on such amendment or motion.

Speaker Gillette held, "That a member could move the previous question on an amendment he proposed to offer and before offering it if he offered the amendment immediately.

The moving of the previous question does not deprive a member of his right to raise the question of consideration.

PREVIOUS QUESTION PENDING

SEC. 475. When the previous question is pending, that is before the vote is taken on ordering the previous question, it is in order to reconsider former votes taken on the main proposition.

EFFECT OF PREVIOUS QUESTION IF NEGATIVED

SEC. 476. Whenever the House shall refuse to order the previous question, that is negative the question, the consideration of the subject is resumed as if the previous question had not been moved.

The fact that a question was decided under the operation of the previous question does not prevent debate on the motion to reconsider.

AMENDMENT RECEIVED PENDING PREVIOUS QUESTION

SEC. 477. By unanimous consent an amendment may be received pending the putting of the previous question, but not after it is ordered.

RECONSIDERING VOTE ON PREVIOUS QUESTION

SEC. 478. The vote ordering the previous question may be reconsidered, but not after it is partly executed. In the reconsideration of the previous question but a single vote is taken, viz.: "Will the House reconsider the vote ordering the previous question?" if decided affirmatively the subject is divested of the previous question and is open for debate and amendment. (Reed.)

RELATION OF OTHER MOTIONS TO PREVIOUS QUESTION

SEC. 479. May be reconsidered.
Requires a majority vote.
May be renewed after intervening business.
May not be debated.
May not be amended.
May not be laid on the table.
May not be postponed.
May not be committed.

Applies to and takes precedence of all debatable questions.

A call of the House is not in order after the previous question is put and carried.

FORM OF MOTION FOR PREVIOUS QUESTION

SEC. 480. The form of motion when it is intended to affect the pending motions or amendments and not the bill, is as follows: **"I move the previous question on the pending amendment or amendments, or motion or motions,** if more than one amendment or motion, definitely specifying which one."

(A) Where it is intended to bring a vote on the pending matter **including the main question,** the motion should be: **"I move the previous question on all amendments and the bill to its passage or rejection."** If this motion is sustained and there has been previous debate it immediately **closes debate and prevents further amendments** and forces a vote, first on the pending amendments in the order of their introduction and then on the bill or main question.

PREVIOUS QUESTION HOW PUT

SEC. 481. The previous question in our American house is always put in the affirmative and the members vote directly for what they desire. When the motion has been made, the Speaker says: "The previous question has been moved, **'as many of you as are in favor of ordering the previous question will say aye, as many as are opposed say no'."**

MOVING PREVIOUS QUESTION ON SEVERAL STAGES OF BILL

A bill was reported from committee of the whole. Mr. Hitt moved the previous question on the bill to its engrossment, third reading and passage, which was agreed to. The bill was then ordered to be engrossed and read a third time.

PREVIOUS QUESTION
(English Use)

SEC. 482. The previous question as used in the English Parliament is an ingenious method of avoiding a direct vote upon any question that has been proposed, but its technical name does little to elucidate its operation. (May.) If the statements of the English parliamentary writers are to be accepted then its previous question was to say the least, a very awkward device. Until very recent years, Mr. Palgrave says those members who proposed the motion moved that the original question be **now** put, and then voted against their motion to attain the desired end, which was to prevent the putting of the question. The question was put in the **affirmative** though the purpose of the mover was to get the decision in the **negative.** This was a perplexing method and seemed senseless. In recent years, Mr. Palgrave discovered in an old journal the question recorded with the word **not** inserted in the question by mistake and recommended its general adoption by parliament, which they accepted. Accordingly the present form of the question is: That the question be **not** now put. This is a complete reversal of the form of the question, but it now shows clearly the object of the motion, so now those who move it vote aye and those who oppose it vote no. In the English practice the previous question is always moved as an amendment to the main question. The change in the form of the previous question suggested by Mr. Palgrave to the English Parliament had been provided by rule in the Congress of the Confederation in 1778 in an effort to make the motion intelligible.

PREVIOUS QUESTION—(AMERICAN CLOSURE)[1]
(Rule of National House)

SEC. 483. There shall be a motion for the previous question, which, being ordered by a majority of members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate pending question or questions upon which it has been asked and ordered. The previous question may be demanded and ordered upon a single motion, a series of motions allowable or be made to embrace all authorized motions allowable under the rules, or an amendment or amendments or be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order pending the motion for, or after the previous question shall have been ordered on its passage for the Speaker to entertain and submit a motion to commit, with or without instructions to a standing or select committee. In cases where no debate has been had on a pending main proposition and the previous question is ordered, forty minutes' debate shall be allowed.

(A) A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the Speaker that a quorum is not present.[2]

(B) Under this rule of the National House, it should be noted that limited debate is allowed whenever the previous question is ordered when there has been no debate, but if there has been debate, **even though very**

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[1] The United States senate has no effective closure motion. Debate in that body is closed only when the members become exhausted with much speaking.

[2] The latter sentence in par. A of this rule, resulted from a decision of its speaker. It is a sane provision. No business can be transacted in the known absence of a quorum. To deny a call of the House because debate has been closed, merely defers the call until the vote is taken and when such vote discloses the absence of a quorum then a call of the house must be had and the vote repeated. Common sense would dictate that it is better practice to secure a quorum through a call of the house before taking the vote. Also in these cases to disclose the absence of a quorum by count of the speaker. His announcement of the absence of a quorum under any condition should automatically force a call of the house.

brief, before ordering the previous question debate is not allowed.

(C) If the forty minutes are denied it should be, because the ordinary debate was on the merits of the main question. Debate may not be demanded on incidental motions but is confined to the main question. (Cannon.)

(D) The forty minutes may not be demanded on a proposition which has been debated in the committee of the whole (Crisp); nor on a conference report if the subject matter was debated before being sent to conference. (Reed.)

(E) The forty minutes are divided one-half to those favoring and one-half to those opposing.

(F) It may be demanded while members still desire to offer amendments, but it may not be ordered on a question that is both unamendable and undebatable. (Keifer.)

(G) The provisions of the rule define clearly the application of the American previous question and with considerable accuracy It is ordered on **undebatable questions to prevent amendments.**

PURPOSE OF PREVIOUS QUESTION

SEC. 484. The previous question in American assemblies is used exclusively to close debate and prevent amendments. When the House thinks a proposition has been discussed sufficiently and feels that the proposition is in good form to conclude their consideration of it and take the final vote, they demand or move the previous question. If affirmed it cuts off further debate and amendment but if affirmed before any debate has been had on the original proposition then limited debate is permitted on the original question. **If any previous debate has been had then the House is brought to an immediate determination by vote on the question upon which it was moved,** except under the rule a motion to commit is received and first voted on, this on the ground

that if the bill was not perfected and in proper form, the committee could make it so before the House takes final action.

EFFECT OF PREVIOUS QUESTION ON MOTIONS IN RULE OF PRECEDENCE

SEC. 485. When the previous question has been ordered on a pending question none of the motions in the rule of precedence are in order for the reason there is, then, no question under consideration. (Carlisle.)

MEANING OF ORDERING THE PREVIOUS QUESTION

SEC. 486. The meaning of the term "ordering previous question" is merely that the majority desire the question under consideration to be put to a vote.

SYLLABUS OF SPEAKER'S DECISIONS UNDER RULE OF PRECEDENCE

SEC. 487. The previous question may be moved on a single motion, on a series of allowable motions, on an amendment or amendments, and on the bill to its final passage or rejection. (Hinds.)

(A) A call of the House is not in order after the previous question is ordered. (Cannon.)

(B) After the motion for the previous question is made, all incidental questions of order, whether on appeal or otherwise, are decided without debate. (Reed.)

(C) The previous question may be applied to a question of privilege the same as to any other question. (Reed.)

(D) The previous question may be moved on both the motion to refer and the pending bill or resolution. (Cannon.)

(E) The previous question covers the main question but does not apply to incidental questions arising therefrom. (Hinds.)

(F) The previous question may be applied to undebatable questions in order to prevent amendments. (Hinds.)

(G) It is in order for a member to make a motion **and thereupon demand the previous question on his motion.** (Reed.)

(H) The demand for the previous question does not deprive the member of his right to raise the question of consideration. (Cannon.)

(I) It is in order to move the previous question on several stages of a bill, thus, I move the previous question on the bill to its engrossment, third reading and passage.

PARTIAL APPLICATION OF PREVIOUS QUESTION

SEC. 488. A bill with numerous amendments was reported, when the previous question was moved on all the amendments up to line 17, page 29. Objection was made that it was improper to separate a motion for the previous question. The speaker overruled the objection.

(A) In the National House it was held to be in order to move the previous question on an amendment, the mover had not offered but proposed to offer immediately.

PREVIOUS QUESTION PENDING

SEC. 489. When the previous question is pending, it is in order to move the reconsideration of the vote on engrossment, but it is not debatable.

EFFECT OF PREVIOUS QUESTION WHEN NEGATIVED

SEC. 490. Whenever the house shall refuse to order the main question, that is negative the previous question, the consideration of the subject is resumed as if the motion for the previous question had not been moved.

(A) The fact that a measure was decided under the operation of the previous question does not prevent debate on the motion to reconsider.

HOW TO MOVE PREVIOUS QUESTION

SEC. 491. The previous question having been demanded and ordered without specific reference to "final passage" or to an amendment, it is held to embrace all authorized motions or amendments and includes the bill to its passage or rejection. The motion that caused the foregoing decision was as follows: "I move the previous question." The speaker continued: "It is an unfortunate habit to simply move the previous question, instead of moving the previous question on the bill and amendments."

AMENDMENT RECEIVED PENDING PREVIOUS QUESTION

SEC. 492. A bill was under consideration when it was moved that the previous question be ordered on the amendment and bill to its final passage. Pending the putting of the question Mr. M., by unanimous consent, moved to amend. The amendment was first agreed to and then the previous question was put.

RECONSIDERING PREVIOUS QUESTION

SEC. 493. **The previous question may be reconsidered, but not after it is partly executed.** In the reconsideration of the previous question but a single vote is taken, viz.: **"Will the house reconsider the vote on ordering the main question?"** If decided affirmatively the question is divested of the demand for the previous question and is open for debate and amendment.

When the vote whereby the previous question was ordered is reconsidered, the motion may be withdrawn.

PREVIOUS QUESTION EXHAUSTED

SEC. 494. When a vote taken under the operation of the previous question is reconsidered, the **main question stands divested of the previous question** and may be debated and amended without reconsideration of the

motion for the previous question. The previous question is **exhausted** by the **vote on the motion on which it is ordered** and consequently a motion to reconsider the vote on the main question is debatable. (Reed.)

(A) When the House adjourns before voting on a proposition on which the previous question has been ordered, the question comes up at the next meeting immediately after reading the journal, superseding the regular order of business.

SYLLABUS OF SPEAKER'S DECISIONS UNDER RULE OF PRECEDENCE

SEC. 495. The motion to lay on the table may not be applied to the motion for the previous question. (Reed.)

(A) The motion to lay on the table is not in order after the previous question is ordered. (Cannon.)

(B) The motion to postpone is not in order after the previous question has been ordered. (Crisp.)

(D) The motion to commit may be amended after the previous question is ordered by adding instructions, unless such amendment is precluded by moving the previous question on motion to commit. (Cannon.)

(E) The motion to suspend the rules is in order after the previous question has been ordered. (Carlisle.)

(F) A motion may be withdrawn after the previous question has been ordered on it. (Henderson.)

(G) The motion to commit is not debatable after the previous question has been ordered. Under the rule one motion to commit is in order after the previous question is ordered. (Carlisle.)

(H) When the previous question has been ordered on a bill and amendment, the motion to commit should be made after the vote on the amendment. (Crisp.)

(I) After the previous question is ordered the motion to commit may be amended, by adding instructions, unless precluded by previous question, on the motion to commit.

EFFECT OF PREVIOUS QUESTION

SEC. 496. The previous question when ordered on the main question carries the bill or resolution through the amendment stage. It may be asked and ordered upon a single amendment, a series of amendments or motions, or it may be made to embrace all authorized motions or amendments, and include the bill to passage or rejection. After it is ordered, a motion to lay on the table, or to postpone, may not be applied to the main question, that is the ordering of the previous question brings the House to a direct vote on the immediate pending question; except where there has been no debate on the main question, in which case limited debate is permitted on the **main question** but not on pending incidental motions.

(A) **It does not matter how brief debate has been before ordering the previous question, the slightest debate precludes debate after the previous question is ordered.**

PREVIOUS QUESTION UNSUPPORTED

SEC. 497. The early requirement of the House that a demand or motion for the previous question should be supported by three members, is now obsolete in the practice of the National House. The motion or demand is now received and put to the question as other motions and regardless of supporters.

HISTORY OF PREVIOUS QUESTION

SEC. 498. The previous question is said to have been introduced originally in England, in 1604, by Sir Henry Vane for the purpose of suppressing subjects of a delicate character relating to high personages or which might call forth observations of a dangerous tendency. (Bourinot, 326.)

EFFECT OF ENGLISH CLOSURE MOTION

SEC. 499. In the practice of the English House of Commons, if a member desires to prevent amendment to any particular section or paragraph of a bill or other paper under consideration, he moves to strike out the first word of the section or paragraph, then before taking his seat he moves the closure (American Previous Question) on his amendment. This action if decided affirmatively effectually closes the section or paragraph against any further amendment. (May.)

BLANKET MOTION FOR PREVIOUS QUESTION

SEC. 500. On a preceding day the previous question was ordered on seventy bills. The following day Speaker Reed announced that the unfinished business coming over from the previous day and on which the previous question had been ordered would be laid before the House. A question of order was made that the business was not in order. (Reason not stated.) Speaker Reed said, **"This proceeding is entirely in accordance with the language of the rule.** When the previous question is ordered upon a bill to its passage, it then becomes the order of the House and supersedes almost everything. But, of course, the rule actually contemplated that this should be done in reference to a single bill. In this instance it has been done in regard to seventy bills in a lump. The only way that could be done was by unanimous consent and there is no way this business could come before the House if a single member had objected. Nevertheless, the practice is by no means a desirable one. The business of the House ought not to be forestalled in that way. The chair has no way to prevent it except by some one present objecting. It is the first time this has happened in congress. Whenever the previous question is ordered it is equivalent to a direction to lay all business aside and proceed to the consideration of these bills. Whether the practice is desirable is for the House to decide. It is difficult to see how any

other ruling could be made. The clerk will report the first bill." (H. J., 2d Sess., 55th Cong., p. 663.)

THE MOTION TO REFER AFTER PREVIOUS QUESTION

SEC. 501. The motion to commit provided for in the rule for the previous question is not debatable, but is amendable, if the previous question is not ordered on it.

(A) The motion to commit after the previous question is ordered, applies to resolutions, the point of order being raised that it only referred to bills.

(B) Mr. Speaker Carlisle ruled that **"The term 'bill' as used** in this rule **is a generic term and includes all legislative propositions which could properly come before the House."**

(C) The previous question having been ordered on a motion to agree to a Senate amendment to a House bill, a motion to commit is in order. (Reed.)

(D) The motion to commit may not be applied to a motion to amend the journal. (Reed.)

(E) The motion to refer provided in this rule may be made pending the demand for the previous question on the passage. (Cannon.)

CHAPTER XV

OF MOTIONS FOR POSTPONEMENT

APPLICATION OF MOTIONS IN RULE

SEC. 502. The motion to postpone to a day certain ranks fourth in the rule of precedence and when moved it supersedes to commit, amend or indefinitely postpone. If it were moved to postpone a pending main subject, the motions to refer, amend and indefinitely postpone would not be in order until after the motion to postpone was disposed of, but it would be in order to move to adjourn or lay on the table or for the previous question. None of these motions in the rule of precedence may be applied to the motion to postpone directly, except the previous question and to amend.

It should be noted the motion under discussion is to postpone to a day (not hour) certain. The motion must be applied to the whole and not a part of the pending proposition.

USE OF MOTION TO POSTPONE TO DAY CERTAIN

SEC. 503. When a proposition is introduced or brought forward which it seems useless or inexpedient at that time to consider or it is deemed advisable to discontinue a present consideration for that day, the motion to postpone if affirmed will effect your purpose.

RELATION OF OTHER PROCEDURE TO MOTION TO POSTPONE TO DAY CERTAIN

SEC. 504. It may be reconsidered.
May be renewed after intervening business.

Is debatable as to propriety of postponement but does not open the merits of the main question.

May be amended by changing day.

Requires a majority vote to postpone, except as hereafter stated.

FORM OF MOTION

SEC. 505. In using the motion to postpone to a day certain, it is not customary to fix a day, but it is in order so to do, and is frequently done.

The usual form of the motion is "I move to postpone further consideration."

If affirmed the debate is adjourned to another day.

MOTIONS TO POSTPONE

SEC. 506. As indicated in the rule of Precedence, there are two distinct motions to postpone. One to postpone to a day (not hour) certain, and one to postpone indefinitely. Each of these motions is in order when a question is under debate. The motion to postpone to a day certain, being of the highest rank. Each of them must be applied to the whole and not part of the pending proposition.

If a motion is received to postpone to a certain hour of another day a two-thirds vote shall be required to agree to the motion. However, this rule is frequently relaxed to permit a simple motion to postpone for a few minutes or hours during the same day, but not another day.

MOTION TO POSTPONE TO A DAY CERTAIN

SEC. 507. When a proposition is introduced or brought forward, which it seems useless or inexpedient at that time to consider, or if it is deemed advisable to discontinue a present consideration, it may be removed from before assembly for the day by an affirmative vote on the motion to postpone to a day certain.

RELATION OF OTHER MOTIONS TO MOTION TO POSTPONE TO A DAY CERTAIN

SEC. 508. May be reconsidered.
May be renewed after intervening business.
Is debatable as to propriety of postponement.
May be amended by changing time.
May not be laid on the table.
May not be postponed.
May not be committed.
Previous question applies but does not affect other pending motions.

Requires majority vote.

(A) Special orders are made under a suspension of rules, and by a two-thirds vote, which should be required if a motion were received to fix definitely the hour of consideration.

(B) Postponement to a day certain, leaves the order in such shape that the time of consideration on the day named is discretionary with the House. That is, they may take up the business on the day named to suit their convenience. The simple motion requires only a majority vote.

(C) The motion to postpone is debatable within very narrow limits, but may not touch the main subject (Blaine.)

(D) The motion to postpone is not in order after the previous question is ordered. (Reed.)

(E) The motion to indefinitely postpone may not be applied to the motion to dispense with or suspend the rules. (Hunter.) It is not in order to indefinitely postpone a special order providing for the consideration of a class of business, but each member of the class may be postponed when it is brought up separately for consideration. (Reed.)

(F) It may not be applied to any of the motions in the rule of precedence, or any motions relating to the order of business. (Cannon.)

(For the reason, if the previous question is ordered, debate has been closed, except now, by special rule, the House permits limited debate after ordering the previous question, but only in those cases where the question has not been debated.)

EFFECT OF POSTPONEMENT OF SUBJECT

SEC. 509. When the consideration of a subject is postponed to a particular day, upon the arrival of that day, it is entitled to be called up for consideration, provided that no question of privilege or question of higher dignity is before the House to be taken up. In the case of a committee report postponed to a day certain and failure to consider it on that day, makes it a report undisposed of and first to be considered when committee reports are again in order. (Cong. Digest.)

MOTION TO POSTPONE INDEFINITELY

SEC. 510. The motion to postpone indefinitely is an American motion, but probably had its foundation in the English motion to "Postpone beyond the life of the session." It is an adverse motion used to suppress or reject. The rule providing for and regulating the use of this motion, first appears in the rules of the National House, in the year 1806, after this time it is found in constant use. The rule provided: **"When a question is postponed indefinitely it shall not be acted upon again during that session."**

RELATIONS OF OTHER MOTIONS TO MOTION TO POSTPONE INDEFINITELY

SEC. 511. May not be reconsidered.
Debatable and opens the main question to debate.
May be renewed after intervening business.
May not be amended.
May not be laid on the table.
May not be postponed.

May not be committed.

Previous question applies without affecting other pending motions or main question.

Requires majority vote.

(A) Form: I move that the further consideration of the question be indefinitely postponed.

INDEFINITE POSTPONEMENT AND RECONSIDERATION

SEC. 512. **When a question is postponed indefinitely the question so postponed shall not be acted upon again during the session.** (Cong. Digest.) This is tantamount to saying the proposition is finally rejected and passes from the files of the House, also that the motion to reconsider does not apply, as reconsideration would bring the question forward to be acted upon again the same session. The foregoing seems to be the construction put upon the rule of the House by the House.

SEVERAL BILLS INDEFINITELY POSTPONED BY ONE ACT OF THE HOUSE

SEC. 513. By unanimous consent the following bills of the senate, 1884, 1904 and 2228 were taken from the speaker's table and indefinitely postponed. (H. J., 1st Sess., 69th Cong., p. 498.)

RECONSIDERATION OF INDEFINITE POSTPONEMENT

(Michigan Decision)

SEC. 514. In 1899, a member of the Michigan House moved to reconsider the vote on indefinite postponement. A point of order was raised and the Speaker ruled: "Under the practice of American legislative bodies, the only purpose of the motion to indefinitely postpone, is to suppress or reject the matter under consideration. It may not be reconsidered." (M. M., page 110.)

PURPOSE AND USE OF

(A) When a subject is under consideration, and it is desired for any reason, to get rid of it permanently, the motion to indefinitely postpone, if affirmed, will accomplish that purpose.

SYLLABUS OF SPEAKER'S DECISION UNDER RULE OF PRECEDENCE

SEC. 515. The motion to indefinitely postpone may not be applied to the motion to refer, commit, or recommit. (Varnum.)

(A) The motion to indefinitely postpone, opens to debate all the merits of the main question. (Polk.)

(B) It is in order to move to postpone indefinitely the further execution of an order. (Cobb.)

(C) The motion to indefinitely postpone may not be applied to the motion to suspend the rules. If the motion to suspend the rules could be indefinitely postponed, the motion to suspend would not be in order again during the session. (Hunter.)

(D) It is not in order to indefinitely postpone a special order providing for the consideration of a class of bills, but each bill as it comes up separately may be postponed. (Reed.)

SEC. 516. The motion to indefinitely postpone may not be applied to any of the motions enumerated in the rule of precedence, or to motions relating to the order of business.

EFFECT OF POSTPONEMENT TO A DAY CERTAIN

SEC. 517. When the consideration of a subject is postponed to a particular day, upon the arrival of that day, it is entitled to be called up for consideration, provided that no question of privilege or question of higher dignity is before the House to be taken up. The question of consideration could be raised against it.

PURPOSE AND USE OF MOTION TO INDEFINITELY POSTPONE

SEC. 518. The motion to indefinitely postpone is used to reject, suppress, even kill. It is used frequently to avoid a direct vote on the main question, which is later explained.

RECONSIDERATION OF MOTION TO POSTPONE

SEC. 519. The motion to postpone to a day certain may be reconsidered and the time for consideration set for later, but not an earlier day.

RELATION OF OTHER MOTIONS TO INDEFINITELY POSTPONE

SEC. 520. To indefinitely postpone as shown has the lowest rank of all the motions in the rule. So when it is moved, any of the other six motions are in order and supersede it but must be applied to the main question. None of them may be applied to the motion to indefinitely postpone except the previous question which is admitted to close debate on it when necessary, of course the motion to adjourn is in order.

RANK OF MOTION TO INDEFINITELY POSTPONE

SEC. 522. The motion to indefinitely postpone is the lowest in rank of all the subsidiary motions in the rule of precedence and when it is moved on the main question any of the motions standing above it are in order and may be moved and supersede the motion to indefinitely postpone and are first to be put to the question; that is it may be moved to amend, commit or lay on the table the main question.

CHAPTER XVI

OF MOTION TO COMMIT (REFER)

OF MOTIONS TO REFER (COMMIT)

SEC. 523. The rules of the House provide two motions to commit, one in the above rule and the special one in the rule for the previous question.

The ordinary motion provided in the above rule is the one now under consideration.

When this motion is moved on a pending question the motion to amend and indefinitely postpone are not in order because they stand below the motion to commit, which has precedence and is first to be put to the question, of course if the motion to commit is negatived, then the two motions standing below would be in order against the main question.

However, any of the four motions standing above the motion to commit, adjourn, lay on the table, postpone to a day certain or the previous question would be in order and either of them would have precedence of the motion to commit.

PURPOSE AND USE OF

SEC. 524. If a question before the House will need important amendment, and more deliberate consideration than the time or convenience of the House will permit, or is a subject needing careful investigation and additional information, the House usually refers it to a committee for investigation and recommendation for action by the House. It may be referred with or without instructions and such instructions may be suggestive, permissive or mandatory.

COMMIT WITH INSTRUCTIONS

SEC. 525. The House having the power to commit a proposition has the power also to instruct such committee how it shall proceed.

Only one motion to commit with instructions is in order, that is, if a gentleman should move to commit with instructions and the chair should rule out the instructions, then another member may make a motion that will be in order, but if the first one is in order and disposed of, that ends it.

The rule that a committee can only act when together and not by separate consultation and consent, nothing being a report except what has been agreed to in committee assembled is subject to modification as when the House refers a bill with instructions to amend and report forthwith, or when the House instructs one of its committee to report a bill. In such cases the committee having no discretion to exercise, they have no alternative but to comply with the order of the House and the chairman should without delay report the bill according to the order of the House or he may deliver it to the clerk. In the first instance being ordered to report forthwith, they have no time for meeting or consultation or discretion to exercise and the chairman, as before stated should without delay return such bill as instructed.

It is not in order to commit a proposition, with leave to report at any time except by unanimous consent or suspension of the rule governing reports of committees, but this would not apply to placing a limitation upon the time the committee could retain a measure for consideration or instructing the committee to report at a specific time.

RELATION OF MOTION TO COMMIT TO OTHER PROCEDURE

SEC. 526. May not be reconsidered, except in cases of error or recommitment.

Debatable but does not extend to the merits of the question it is proposed to commit.

May be renewed after intervening business.

May be amended only by adding instructions to committee, requires a majority vote.

DIGEST OF SPEAKER'S DECISIONS ON MOTION TO COMMIT

SEC. 527. The motion to commit with instructions is debatable, but must be confined to instructions.

It may be amended by adding instructions.

An amendment once rejected by the House could not be offered as an instruction.

It is not in order when the question of consideration is pending.

It may not be applied to a pending amendment, but must include amendment and main question.

Motions containing something substantial for a committee to decide or report on may be committed.

When instructions are proposed, amendments in the nature of substitutes are in order.

MOTION TO COMMIT AFTER PREVIOUS QUESTION IS MOVED

SEC. 528. The motion to commit provided for in the rule for the previous question is in order pending the previous question. It is not in order after the previous question is ordered. After the motion to commit has been offered and entertained and pending the putting of the question an amendment may be offered by unanimous consent, to be referred with the main question to the committee.

COMMITMENT—ENGLISH COMMONS

SEC. 529. In the house of commons of the Parliament of England, the House on motion made by the member in charge of a bill, commit the bill to a standing committee, in respect to some of its provisions, and to the com-

mittee of the whole House, in respect to other provisions, and if the motion is opposed, the Speaker, after a brief explanatory statement from the mover of the motion, and one from the one who opposes the motion, it must be put by the Speaker, without further debate. (Palgrave Manual of Procedure House of Commons, p. 76.)

REFERENCE OF BILLS

SEC. 530. In the first instance, bills are referred to committees by the Speaker, as are also bills referred to the committee of the whole, but reference of a matter under consideration is made upon motion to refer, which motion specifies the committee and may provide a select committee of a specified number of persons, but the committee is appointed by the Speaker.

CHANGE OF ERRONEOUS REFERENCE

SEC. 531. The motion to discharge a committee from further consideration of a proposition referred to it and refer same to another committee is privileged and requires but a majority vote, but to be privileged and decided by a majority vote it must be applied to a proposition that has been in fact erroneously referred.

CORRECTING ERROR IN REFERENCE OF BILL

SEC. 532. The motion to discharge a committee and refer to a different committee is in order and privileged only in the event the original reference was erroneous. (Longworth.)

FORM OF MOTION TO CHANGE REFERENCE

SEC. 533. I move that the committee on military affairs be discharged from the further consideration of the bill 125, and that it be referred to the committee on taxation,

DIVISION OF BILL FOR REFERENCE

SEC. 534. The American rule is that a bill may not be divided for reference. But in the 69th (1925-6) Congress, Speaker Longworth referred a department communication to three committees, and in doing so said he had but one precedent to justify his action. The House sustained the action.

PRECEDENCE OF MOTIONS TO COMMIT

SEC. 535. A former rule of Congress relating to referring bills (now repealed, but the practice under the rule is observed in the very few instances where the House refers matters, that particular function now belonging almost entirely to the Speaker), was as follows:

RULE

SEC. 536. **When the motion to commit is moved and different committees are proposed, the question shall be put in the following order: (1) committee of the whole; (2) standing committees; (3) select committees. When two or more standing committees are named the question is first to be put on the last committee named.** In the actual practice it is apparent that when the question was put if negatived, it was considered as an affirmative vote **on the first committee** named and the matter was so referred, of course in a case where more than two committees are named, **the process of putting the question would continue until but two committees remained or one was affirmed.**

In some legislative bodies it is provided by rule that in committee references the question shall be **first put on the first named committee.** This is directly the reverse of the American practice. In this case, as in the case of two names for one office the practice of parliament, elsewhere illustrated (see rule of equivalent questions) should apply. That is, if the first question is neg-

atived the matter should be referred to the other committee by the chair. After the chair begins to put the question on proposed committees it is too late to suggest other committees, so those opposed to committees named should suggest such as they approve. When more than two are named the question is put on each until one is affirmed or but two remain, and the chair is confined to two committees, then the **negative of one amounts to the affirmative of the other,** there being no other alternative (choice).

DIGEST OF SPEAKER'S DECISION UNDER RULE OF PRECEDENCE

SEC. 537. The simple motion to commit is debatable to a limited extent, but the merits of the question it is proposed to commit, may not be brought into the discussion. (Cannon.)

(A) The motion to refer is debatable, but confined to instructions. (Reed.)

(B) The motion to commit may be amended, by adding instructions, but it is not in order to propose as instructions, anything that might not be proposed directly as an amendment from the floor. (Hinds.) That is, you may not offer as instructions anything, that if offered on floor as an amendment, would be out of order.

(C) An amendment once rejected by the House could not be offered as instructions to a committee. Neither would it be in order to commit with instructions to eliminate an amendment, adopted by the House.

When a question of consideration is pending a motion to refer is not in order. (Cannon.)

(D) It is not in order to refer a pending amendment without the bill or main question. (Cannon.)

(E) The motion to commit has precedence of the motion to amend. (Cannon.)

(F) It is not in order to refer a motion, unless such motion carries something with it to be considered. (Crisp.)

(G) There are many motions that could be made, that may be referred to committee, because they contain something substantial for the committee to consider, decide and report. (Carlisle.)

(H) When instructions are given, amendments in the nature of substitutes are in order as instructions.

RECOMMITMENT

MOTION TO RECOMMIT

SEC. 538. The motion to commit provided for in the rule for the previous question is in order only pending the previous question, it is not in order after the previous question is ordered. (Keifer.)

(A) After the motion to commit has been offered and pending the putting of the question, an amendment may be offered, by unanimous consent, to be referred with the bill to the committee.

RECOMMIT

SEC. 539. The motion to recommit is subject to all the rules of the motion to commit, and is amendable unless the previous question is ordered on the motion to recommit.

If the House disposes of a motion adversely it is not in order to recommit it. When a proposition is recommitted to the committee which reported it, the whole question is before the committee anew as if it had not before been considered, but when committed to another or new committee, such committee is confined in its deliberations to the purpose of the commitment.

A motion to commit with instructions is not divisible, that is a separate vote may not be demanded on the motion to commit and then on the instructions.

RECOMMIT AMENDABLE

SEC. 540. A motion to recommit is subject to all the rules of the House and is amendable unless precluded by ordering the previous question on the motion to recommit.

RELATION OF MOTION TO COMMIT TO OTHER MOTIONS AND PROCEDURE

SEC. 541. It may be amended by adding instructions. The previous question may be moved on the motion to commit, but not lay on the table, postpone to a day certain or indefinitely postpone.

The motion to refer may specify that it be to a select as well as a standing committee or to the committee of the whole and that the committee be endowed with power to send for persons and papers.

INSTRUCTIONS WITH MOTION TO COMMIT

SEC. 542. The motion to refer may be amended by adding any germane instructions to the committee, but it is not in order to propose as instructions, anything that might not be proposed directly as an amendment, such as to eliminate an amendment adopted by the House or to strike out an amendment adopted by the House, or to amend an adopted amendment. An amendment as a substitute is in order.

A motion is in order to commit with instructions to report forthwith, in which case the chairman makes the report at once without awaiting action by the committee and the bill is before the House for immediate consideration. When a bill is recommitted it is before the committee as a new subject, but the committee must confine itself to the instructions if there should be any.

When the House has committed a bill to a committee with instructions to report it back forthwith with certain amendments the amendments must be adopted by the House after the report of the committee. The motion to commit

may not be repeated on the same day at the same stage of the question.

The motion to commit is sometimes made by using the words refer, or recommit. The change of words is merely one of form. It is, however, preferable to use recommit, if the subject has been previously considered by the committee to which it is proposed to send it.

EFFECT OF RECOMMITMENT

SEC. 543. If the House dispose of a matter adversely it is not in order to recommit it. (Cannon.)

(A) "When a proposition is recommitted to the committee which reported it, the whole question is before the committee anew, as if it had not before been considered by them and they may report with further amendments." (Henderson.)

(B) "If recommitted to a new committee such committee is confined in its deliberations to the purpose of the commitment." (Cannon.)

(C) A division of the question is not in order on a motion to commit with instructions, that is, a separate vote may not be demanded on the instructions and on the motion to commit.

SEC. 544. The motion to commit with or without instructions is in order after the previous question has been ordered. (Reed.)

It is in order to refer a bill with instructions to report it as two bills, if the bill is divisible. (White.)

EXTENT OF RECOMMITMENT

SEC. 545. It often becomes advisable and even necessary to recommit a bill, and the recommitment of a bill is always advisable when numerous material amendments are to be proposed. A bill may be recommitted as often as the House may think proper so to do.

A bill may be recommitted to the committee that originally considered it or to any other committee, including the committee of the whole.

(A) When recommitted without limitation, to the committee which reported it, the entire bill is again open to be considered by the committee and may be reported with other or further amendments.

COMMITMENT WITH SPECIFIED AMENDMENTS

SEC. 546. On amendments being proposed on the consideration of a bill as amended, the bill may be recommitted with respect to those amendments only.

On a clause or paragraph being offered, the bill may be recommitted with respect to those clauses or paragraphs only. The bill may be recommitted and an instruction given to the committee that they make some particular or additional amendments.

A bill may be recommitted as often as the House may think proper. It is not unusual in parliamentary bodies for a bill to be recommitted as many as a half dozen times. The proceedings on the report of a recommitted bill are substantially those elsewhere explained.

INSTRUCTIONS TO COMMITTEES

RIGHT TO INSTRUCT COMMITTEE

SEC. 547. In January, 1877, Mr. Fernando Wood introduced a resolution to appoint a select committee of eleven to make certain specified investigations. The resolution closed with this clause, "With power to send for persons and papers, to administer oaths and to report at any time." Mr. Banks, of Massachusetts, raised the question of order, "That the last clause of the resolution was not in order because it changed the rules of the House." The Speaker, Mr. Randall, overruled the point of order, saying: "The chair thinks **the House having power to commit a subject to a committee has the**

power to instruct such a committee how it shall proceed; and the chair if he had time thinks he could show many instances of such action by the House."

The Chair overrules the point of order that it is not competent for the House to refer with instructions.

PRINCIPLES GOVERNING INSTRUCTIONS TO COMMITTEES

SEC. 548. When it is proposed to refer to a committee with instructions, an amendment to the instructions is in order, but it must be germane to the instructions. (Speaker Cannon.) It is in order to instruct a committee to report a bill in certain exactly specified phraseology. (Speaker Reed.)

(A) It is in order to instruct a committee to report forthwith. When instructions are given to a committee, such instructions should be reported to the committee by the clerk.

A COMMITTEE MAKING INVESTIGATIONS MAY ASK THE HOUSE FOR INSTRUCTIONS

SEC. 549. A division of the question is not in order on a motion to commit with instructions. (Speaker Cannon.) The motion to commit is in order with or without instructions after the previous question has been ordered. It is not in order to do indirectly by motion to commit with instructions, what may not be done by an amendment directly. (Speaker Reed.)

(A) It is in order to commit a bill with instructions to report it as two bills, if same is divisible. (Speaker Cannon.) In a motion to commit with instructions, the instructions may not authorize the committee to report at any time, as such instructions would constitute a change of the rules. (Speaker Reed.)

(B) When a matter is committed with instructions relating only to a part of a bill, **the committee may not review other parts of the bill.** (Speaker Clark.) When a bill is committed with instructions the committee

must confine itself within the instructions. (Speaker Cannon.)

(C) The motion to commit with instructions is debatable. (Speaker Blaine.) It is in order to move to commit with instructions to report forthwith, and the chairman of such committee makes the report without calling the committee together and such bill when reported is up for immediate consideration. (Speaker Reed.)

ACTION WHEN REPORT EXCEEDS INSTRUCTIONS

SEC. 550. "When a Committee makes a report which exceeds its instructions, the Speaker may rule out of order the excess portion, but permit the remainder of the report to stand." (Speaker Cannon.)

COMMITTEE CONFINED TO INSTRUCTION

SEC. 551. In a case of recommitment with specific instructions such commitment does not revive the general powers of the committee. The committee cannot make any report relative to the matter except in strict conformity with the instructions.

ILLUSTRATION OF PRACTICE

SEC. 552. A substitute bill was referred to committee with instructions to report back the substitute, the committee reported with several amendments to the substitute. The amendments were ruled out by Speaker Randall.

DIGEST OF SPEAKER'S DECISIONS RELATING TO INSTRUCTION TO COMMITTEES

SEC. 553. In giving instructions the House is subject to this primary condition, i. e., instructions as to amendments must come within a fair interpretation of the rules, particularly as to relevance.

(A) On motion to commit with instructions, the instructions may not authorize a committee to report at any

time, as such authorization would constitute a change of rules. (Reed.) Such instructions could be admitted under suspension of rules.

(B) When a matter is committed with instructions, relating only to a part of the bill, the committee may not consider other parts of the bill. (Crisp.)

(C) When a bill is committed with instructions, the committee must confine itself to the instructions. (Carlisle.) It is in order to commit with instructions to report forthwith.

RIGHT TO INSTRUCT COMMITTEES

SEC. 554. The House having the power to commit a subject to a committee has also the power to instruct such committee, and this is the invariable practice of Congress. (Carlisle.)

MOTION TO COMMIT WITH INSTRUCTIONS IS INDIVISIBLE

SEC. 555. **The motion to commit with instructions is indivisible,** and may not be indirectly divided by an amendment to strike out the instructions, thereby forcing a vote first on the instructions and then on the motion to commit.

IN ORDER TO ADD INSTRUCTIONS TO MOTION TO COMMIT

SEC. 556. It is in order to amend the motion to commit by adding instructions to the committee.

INSTRUCTIONS TO MOTION TO COMMIT MUST BE IN ORDER AS AN AMENDMENT

SEC. 557. The rulings of the speakers of the National House are uniform that you cannot by a motion to commit, make that in order which would not be in order, if offered as an amendment on the floor.

ONLY ONE MOTION TO COMMIT WITH INSTRUCTIONS IS IN ORDER

SEC. 558. "There can be but one motion to commit with instructions that is in order, and it is amendable; it has been held by the chair's predecessors and also by the present occupant of the chair, that when a gentleman makes a motion to recommit with instructions, and the chair rules the instructions out of order, another member may make a motion that will be in order; but if the first one is in order and disposed of, that ends it, because there must be an end to all things some time or other." (Clark, H. J., 3rd Sess. 62nd Cong., p. 302.)

COMMIT WITH INSTRUCTIONS—DEBATABLE

SEC. 559. The motion to refer may be to a select committee as well as to a standing committee or committee of the whole. The motion to refer with instructions is both debatable and amendable. The instructions may empower the committee to send for persons and records but a committee may not be instructed to eliminate an amendment agreed to by the House.

(A) The motion to commit with instructions is not divisible because if the motion to commit failed, the instructions would necessarily fail.

ACTION WHEN INSTRUCTED TO REPORT FORTHWITH

SEC. 560. The rule that a committee can only act when together and not by separate consultation and consent, nothing being a report except what has been agreed to in committee actually assembled is subject to modification as when a committee is directed by the house to amend a bill or other matter and **report "forthwith." In such case, having no time for meeting and consultation nor any discretion to exercise they have no alternative but to comply with the order of the House.** In this case the chairman should at once make out his re-

port as follows: Your committee to which was referred (number of bill) with instructions to report same with the amendment or amendments of the House as instructed (here should follow the amendment or instructions) it should be signed by the chairman or in his absence by any other member of the committee.

INSTRUCTIONS TO COMMITTEE

SEC. 561. The ordinary motion to commit may be amended by adding instructions, unless such amendment is prevented by moving the previous question. (Speaker Keifer.)

AMENDING INSTRUCTIONS

SEC. 562. When it is proposed to refer to committee with instructions, an amendment to the instructions is in order, but must be germane to the instructions.

DUTY OF COMMITTEE WHEN INSTRUCTED

SEC. 563. In the case where the House instructs one of its ordinary standing or select committees to report back a proposition with amendment, **it must report with that amendment and no other.** If a committee should disregard its instructions its report should not be received by the House. In cases where conferees have disregarded instructions the House has disagreed to the report and the Speaker immediately named new managers.

FORMS FOR MOTION TO CHANGE REFERENCE

SEC. 564. Form—I ask unanimous consent for a rereference of H. B. —— from the judiciary committee to the committee on taxation. Speaker: Without objection, the bill will be so referred, or

SEC. 565. I move the committee on judiciary be discharged from consideration of H. B. No. —— and that the bill be referred to the committee on taxation. (Majority vote required this being a change of reference.)

CHAPTER XVII

MOTION TO AMEND AND AMENDMENTS GENERALLY

RANK OF MOTION TO AMEND

SEC. 566. When a motion to amend is made, the five motions standing above it are in order and supersede it. The motion to indefinitely postpone, is not then in order because it stands below the motion to amend. The motions standing above to be in order must be applied to the main question; but the motion to amend may be amended, laid on the table and the previous question applies.

RULE GOVERNING AMENDMENTS

SEC. 567. **When a motion or proposition is under consideration, a motion to amend, and a motion to amend the amendment shall be in order, and it shall also be in order to offer further amendment by way of a substitute, to which one amendment may be offered, but which shall not be voted upon until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon.** (House rule XIX, sec 1.)

MOTION TO STRIKE OUT AND INSERT (AMEND)

SEC. 568. A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor the motion to strike out and insert. (House rule XVI, sec. 7.) The four motions specified in the rule may be pending at one and the same time.

RELATION OF MOTION TO AMEND TO OTHER MOTIONS

SEC. 569. All amendments must be germane to the pending question.

May be reconsidered.

Must be in writing if demanded by the Speaker or any member.

Can be amended.

Is debatable.

Can be laid on the table, but carries with it the main question and everything adhering to the subject.

Previous question applies.

Requires majority vote.

RELATION OF OTHER MOTION TO MOTION TO AMEND AN AMENDMENT

SEC. 570. An amendment to the amendment to amend is out of order, it being in the third degree.

May be reconsidered.

May be laid on the table, but carries with it the main question and everything adhering to the subject.

Previous question applies.

Debatable.

SEC. 571. Form: I move that the question be amended by striking out and inserting, etc.

Form: I move that the amendment be amended by inserting or striking out or substituting, etc.

WHEN TO OFFER AMENDMENTS

SEC. 572. The interim between the stating of a question and the putting of it, affords the proper opportunity for the proposal of amendments, as no amendment can be moved **in order after the putting of the question.**

OBJECT OF AMENDMENTS

Sec. 573. The object of an amendment is to effect such an alteration in a question as will enable certain members to vote in favor of it, who without such alteration would feel compelled to vote against the proposition, or abstain from voting. Without the power of amending a question, assemblies would have no means of expressing their opinion with consistency; they would be compelled to either affirm the whole question, parts of which were objectionable, or negative the whole question to parts of which they would assent. In both cases a contradiction would ensue if they afterward expressed their true judgment in another form. In the first case supposed they must deny what they had before affirmed, and in the second they must affirm what they had before denied.[1]

DEGREE OF AMENDMENTS

Sec. 574. Elsewhere in this volume the rule is laid down, that when a question is stated by the chair, it is open for amendment and debate, if it be amendable and debatable. The first amendment offered to the main question is **the primary amendment** and is said to be in the **first degree.** If an amendment to that is offered it is called a **secondary amendment** and is said to be in the **second degree.** An amendment to the latter would be in the **third degree and is not in order.** In general parliamentary law the process of amendment stops with the second degree, but in our American practice while we do not permit an amendment in the third degree, we provide two more opportunities for perfecting the question, and without destroying the principle that third degree amendments may not be received, that is, **a substitute may be offered for all the pending amendments** and then the House may proceed to perfect **the substitute by one amendment to the substitute.** Thus it will be observed

[1] May.

that in our American practice under certain conditions **four amendments may be pending at the same time.**

DISPOSING OF AMENDMENTS

SEC. 575. Amendments are to be disposed of by means of a question and vote, just the same as any other substantive motion. Of course, the secondary motion to amend must always be disposed of before the primary motion to amend. Whether these are carried or not, the main question must always be put. If the amendments are carried the main question submitted to the House is the original question as modified by the amendment, if agreed to. If the amendment is lost it is ignored the same as if it had not been considered and the main question in its original form is once more proposed.

In the broadest sense, amendments are merely motions. That is, an amendment is a subsidiary or secondary motion; a motion to modify a motion already before the house. **The main motion is a recurring question.**

STATING QUESTION ON AMENDMENTS

SEC. 576. When the chair states the question on an amendment to a bill, he should do so by stating the line or lines in which the amendment is to be inserted, or matter to be stricken out. Example, Mr. B. moves to strike out the word "or" in line 24 and insert the word nor.

PRINCIPLES AND RULES GOVERNING AMENDMENTS

SEC. 577. All amendments of which any proposition is susceptible may be effected in one of several ways, namely: by striking out (omitting) certain words, or by adding certain words, or by striking out certain words and inserting others in their place or by offering a substitute for the entire proposition. All these various means of amending a question are governed by basic principles well established in our American practice.

The first of these rules is the method of considering and amending a proposition.

REASON FOR AMENDMENTS

SEC. 578. Without the power of amending a question, assemblies would have no means of expressing their opinions with consistency, they would be compelled to affirm the whole question, parts of which were objectionable, or negative the whole question to parts of which they would assent. In both cases contradiction would result if they afterward expressed their true judgment in another form.

DISPOSING OF AMENDMENTS

SEC. 579. Amendments are disposed of by a question and vote, the same as other substantive motions. Of course, the secondary motion to amend must always be disposed of before the pending motion to amend. If the amendments are agreed to the main question submitted to the House is the original question as modified by the amendments. But whether the amendments are agreed to or not the main question must be put after disposing of all amendments.

STATING AMENDMENTS

SEC. 580. When the chair proposes (states) an amendment to the House it is usual to state the line or lines where the amendment is to be stricken out or inserted.

HOW QUESTIONS ARE AMENDED AND CONSIDERED

SEC. 581. When a proposition to be considered consists of several paragraphs or sections, the order of consideration would be to take up the first section or paragraph, and then to proceed through it until completed, section by section.

MODE OF PROPOSING AMENDMENTS

SEC. 582. In parliament no amendment can be made to the first part of a question (section) after the latter part

has been amended. The rule is amendments must be proposed in the order in which if agreed to, they would stand in the amended question. This rule is observed in the American House in the committee of the whole, but is not enforced in the House.

EFFECT OF ADOPTING AMENDMENTS

SEC. 583. **Whatever is once agreed to by a vote of the House, either by adoption or rejection of a proposed amendment may not afterward be altered or amended, except by the reconsideration of the former vote.**

EFFECT OF REJECTING AMENDMENTS

SEC. 584. **Whatever is disagreed to or rejected by the House cannot afterward be moved again.**

NEGATIVE AMENDMENT

SEC. 585. If the object of an amendment is to obtain a distinct contradiction of a motion, the amendment must be expressed in terms that either justify or explain the mover's intention, an amendment confined solely to the bare negative of a motion, so it would be wholly out of order to propose the word "not" in a motion to effect that purpose.

FRIVOLOUS AMENDMENTS

SEC. 586. Frivolous amendments or motions are not in order and should be ruled out, or better not entertained by the speaker.

MOTIONS AND AMENDMENTS NOT IN ORDER

SEC. 587. No amendment or other motion may be moved in order that revives a question already decided, or matters concerning the business of the day, or which is inconsistent with the words of a motion or amendment already agreed upon, nor an amendment which is merely an expanded negative.

DEBATE ON AMENDMENTS

SEC. 588. On an amendment being moved a member who has spoken to the main question, may speak again to the amendment because it presents a new question.

The making of a motion, or asking a question is construed as debate and precludes all debate after ordering the previous question.

REPETITION OF REJECTED AMENDMENT

SEC. 589. An amendment once rejected by the House, may not again be offered, even by way of motion to commit with instructions.

SUBSTITUTE AMENDMENT

SEC. 590. After a substitute has been agreed to, the vote must again be taken on the original proposition as amended.

If a motion to strike out a certain section or paragraph is negatived, such section or paragraph may not thereafter be perfected by amendment. (Gillette.)

FIRST PRINCIPLE OR RULE

(How to consider and amend question)

SEC. 591. When a proposition is to be considered which consists of paragraphs or sections, the order of consideration would be to take up the first section and then proceed through it until completed, section by section.

READING CLAUSES

SEC. 592. In considering a bill or other proposition in committee, or in the House by sections, the chair or the clerk reads the **section or paragraph by the number of each clause only,** which is thus brought under the consideration of the House or committee, as the case may be. If no amendment is offered the chair proceeds with the next clause.

MODE OF PROPOSING AMENDMENTS

SEC. 593. In parliament no amendments can be made in the **first part of a question** after the **latter part has been amended,** or has been proposed from the chair upon such amendment, but if an amendment be withdrawn by leave of the House, the fact of the amendment having been proposed will not preclude the proposal of another amendment effecting an earlier part of the question, so long as it does not extend farther back than the last words upon which the House has expressed an opinion. **Amendments should be proposed in the order in which if agreed to, they would stand in the amended motion or bill.**

SEC. 594. Should a member be in the act of moving an amendment, another member, before the question is put upon such amendment, may inform the mover of his desire to move an amendment to an earlier part if the member in possession of the floor consents to resume his seat. If the question has been **proposed** no other amendment may be proposed unless the mover **consents to the withdrawal** of the first amendment.

AMENDMENTS IN AMERICAN HOUSE

SEC. 595. In the National House the English rule relative to offering amendments to sections consecutively is no longer observed except in committee of the whole. Amendments may be offered to any part of the bill without proceeding consecutively with the several paragraphs or sections. In committee of the whole the English rule is followed.

SECOND PRINCIPLE OR RULE

(Effect of adopting amendment)

SEC. 596. Whatever is **once agreed to by vote** of the House either by adoption or rejection of a proposed amendment, may **not afterward be altered or amended,** except by a reconsideration of the former vote,

THIRD PRINCIPLE OR RULE

(Effect of rejecting amendment)

SEC. 597. Whatever is disagreed to or rejected by the House cannot **afterward be moved again.** The rules of the House provide that if a motion to strike out and insert is negatived, it does not preclude the separate motions to strike out or to insert.

FOURTH PRINCIPLE OR RULE

(Amending Amendments)

SEC. 598. Every amendment which may be offered whether for insertion or elimination is subject to amendment, but there can be **no amendment of an amendment, to an amendment, because** it would be in third degree.

THIRD DEGREE AMENDMENTS

SEC. 599. Mr. Jefferson says "An amendment to **an amendment to an amendment is not permissible,** for this would be piling amendment on amendment." There must of necessity be a stage at which amendments may no longer be offered, and parliamentary usage and the practice of the National House has fixed it at this stage or **the third degree.**

HOW TO INTRODUCE THIRD DEGREE AMENDMENTS IN ORDER

SEC. 600. The object sought by an amendment in the third degree is best accomplished by voting down the pending amendment and again offering it, in the form it is desired, for adoption, or a member wishing to offer an amendment which would be in the third degree, could request the mover of the second degree amendment to withdraw same and accept his modification, and then reintroduce it as modified.

FIFTH PRINCIPLE OR RULE

(Relevancy)

SEC. 601. **Every amendment** proposed, **to be in order,** must be **germane to the subject of the proposition, section or paragraph** to which it is directed.

(A) This rule is strictly an American rule but in recent years has been adopted by the English Parliament.

SIXTH PRINCIPLE OR RULE

(Perfecting Amendments)

SEC. 602. **Every amendment** offered must **be perfected** before the **vote is taken on adoption,** because under the foregoing rule, after adoption it may not be changed or amended, except it be reconsidered and again brought before the House.

STRIKE OUT AND INSERT—RULE OF HOUSE

SEC. 603. **A motion to strike out and insert is indivisible, but a motion to strike out and insert being lost, shall neither preclude amendment nor motion to strike out or to insert.** (Rule XVI, Sec. 7.)

EFFECT OF MOTION TO STRIKE OUT

SEC. 604. If a motion to strike out prevails, the words ordered to be stricken out, or any of them cannot **again be inserted except other** words be added, and then only when they make an **entirely different question,** but it could be done by a reconsideration of the former vote.

EFFECT OF MOTION TO INSERT

SEC. 605. When words are ordered to be inserted in a question, these words or no part of them may **afterwards** be **stricken out, except with other words,** and the coherence to be stricken out must be so substantial as to present an **entirely new question.**

MOTION TO STRIKE OUT AND INSERT

SEC. 606. This is an American motion and is unknown in the practice of Parliament. It is a combination of the two motions just described. This motion is more frequently employed than the separate motions, because you accomplish with one motion what otherwise would require the two motions.

ENGLISH MOTION TO OMIT AND INSERT

SEC. 607. The American motion to strike out and insert, no doubt, had its origin in the analogous English motion to "Omit and insert." The formula of the English motion is comprehensive enough, but not so strikingly so, as the American formula. However, the form of putting the question to vote on the English motion would be perplexing to those not versed in parliamentary procedure.

(A) When a motion to **"omit and insert"** certain words is proposed in Parliament, the Speaker, without request from the floor, divides the motion and puts the question first on omitting. The question of omitting is put thus: **"Shall the words** (proposed to be omitted) **stand as part of the question?"** That is, the member's proposition is to take out certain words and the question put is that the words proposed to be taken out **"remain"** in the bill. If this question is resolved in the affirmative, the words remain in the question and may not thereafter be disturbed; if resolved in the negative the words are removed from the question and may not afterward be reinstated. Thus it will be noted that the question is so put on the proposed motion, that in order that the mover secure the desired result, he must secure a negative vote on the question put by the chair. The Speaker next puts the question on inserting the words, proposed.

(B) In American practice we accomplish the same result with one motion and one vote.

WHEN MOTION TO STRIKE OUT AND INSERT FALLS

SEC. 608. If a motion is pending to strike out and insert words in a paragraph or section, and a substitute amendment is offered to perfect the paragraph, the motion to strike out falls. (Dalzell.)

PREFERENTIAL AMENDMENT

SEC. 609. When a motion is proposed to strike out certain words in a question, and it is desired that certain of the proposed words, be left in the question, this may be accomplished by a preferential motion to strike out of the proposed motion the desired words. If this is agreed to, the portion thus removed remains a part of the question, and the question recurs on striking out the residue.

(A) However, it was decided by Chairman Olmstead that when it is proposed to strike out certain words in a question, it is not in order to amend the motion by **adding other words of the text of the main question.** This may be accomplished by an **independent amendment,** and is **preferred** and more satisfactory **than an amendment to the amendment.**

EFFECT OF AFFIRMATIVE VOTE

SEC. 610. If a motion to strike out words in a question is **affirmed by the House,** such words are omitted from the proposition when the final question is put, because the House by its act decided the words should not **remain a part of the question,** and these words may not be again inserted, except other words be added to them so as to present a **new question.** The parliamentary principle involved here is, that **the same question may not be twice offered for consideration,** except it is brought up by reconsideration.

EFFECT OF NEGATIVE VOTE

SEC. 611. Following the same general principle described in paragraph 610, if a motion to strike out certain words in a question is **negatived,** it would not be in

order to again move to **strike out the same words,** be cause the House by its negative action decided that those words should remain and be a part of the question. However, it would be in order to move to strike out the same words **with other connected words** in the proposition if such connected words presented an **entirely new question.**

REPETITION OF MOTION TO AMEND

SEC. 612. If a proposition is composed of the following clauses, B. E. G. and it is proposed to strike out E and insert F and it is negatived it may then be proposed to strike out E and insert C and if it is negatived, it may then be proposed to strike out E and insert nothing, each of these several motions present a new and different question, and are permissible. That is all manner of proposals are permissible in amending a question, providing always, that each proposition presents an entirely new and different question. The rejection of one proposition does not preclude the offering of a different one.

ACCEPTING AMENDMENT

SEC. 613. A proposed amendment may not be accepted by the mover of the pending question, that is, such acceptance is not binding on the House. An amendment to be effective and to be inserted in the question as a part of it, must be agreed to by the House. However, a member would be in order in indicating to the House that he was not opposed to the amendment by announcing that the amendment was acceptable to him individually. Nothing in this rule should be construed to prevent a member from exercising his right to modify his motion.

AMENDMENT—RULE OF NATIONAL HOUSE

SEC. 614. **When a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in**

order to offer further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original question is perfected, but either may be withdrawn before amendment or decision is had thereon. (Rule XIX.)

(A) The foregoing rule of Congress controlling amendments is the result of the evolution of the practice of the House and is based on rulings of President Polk, when he was Speaker. It will be noted that it permits four amendments to be pending at one time. To the inexperienced in parliamentary procedure so many questions pending at once would be perplexing and present difficulties in disposing of them. Later we shall see how easy it is to dispose of them without confusion, by following the practice in the House.

SYLLABUS OF SPEAKER'S DECISION UNDER RULE

SEC. 615. It is not in order to offer more than one motion to amend of the same nature at the same time. (Hinds.)

(A) **Two independent amendments** may be voted upon at the same time by unanimous consent of the House. (Hinds.)

(B) **The four motions specified in the rule may all be pending at one and the same time.** (Hinds.)

(C) An amendment in the **third degree** is not specified in the rule, **but is not permissible.** (Cannon.)

(D) Even when an amendment in the nature of a substitute for an amendment to a substitute is offered it is not in order. (Gillette.)

(E) A substitute amendment may be amended by striking out all after the first word and inserting a new text. (Cannon.) This in effect is a substitute but not technically so, because the substitute always proposes to strike out all after the resolving clause, or the enacting clause, in order to insert an entirely new text. (Cannon.)

(F) After an amendment in the **nature of a substitute** has been agreed to the **vote must be taken on the original proposition as amended,** and a proposed amendment in the nature of a substitute **should be perfected before the vote is taken** on agreeing to the substitute. (Carlisle.)

(G) Answering a parliamentary inquiry involving this latter proposition, Mr. Speaker Carlisle said: **"Both the bill and proposed substitute are before the House; it is in order to move amendments to either one before the vote is to be taken on agreeing to the substitute.**

(H) Either ordinary or substitute amendments may be withdrawn. (Crisp.)

(I) **In practice Committee amendments are taken up and disposed of before amendments are received from the floor.**

SEC. 616. When it is proposed to strike out and insert not one, but several connected matters, it is not in order to demand a separate vote on each of these matters, but when a substitute has been agreed to, it is in order to demand a division of the original question as amended. (Cannon.) When, however, an amendment simply adding or inserting is proposed, it is in order to divide the proposed amendment. (Cannon.)

(A) While it is not in order to strike out a portion of an amendment once agreed to, yet words may be added to the amendment. (Polk.)

(B) If a paragraph or section is stricken out by the House, a similar but not **identical section** or paragraph may again be proposed. (Carlisle.)

(C) While it is not in order to strike out a portion of an amendment once agreed to, yet it is in order to add words to the amendment. (Stevenson.)

(D) If a motion proposing to strike out certain words was disagreed to, a subsequent motion to strike out a part

of such words would be in order because that would present an entirely new question; so a motion to insert a part or different words would be in order for the same reason. (Olmstead.)

(E) If an amendment is pending to a section or paragraph, a motion to strike out such section or paragraph is not in order.

PRINTING A PROPOSED AMENDMENT

SEC. 617. By unanimous consent, Mr. Aswell moved that an amendment be proposed to offer in committee of whole when a certain bill, he specified, was brought up for consideration, be printed. The motion was agreed to and the amendment ordered printed. This is good practice and saves the house from having surprises sprung upon them. In these cases there is no action taken except to vote on printing, not even the reading of the amendment.

PRECEDENCE OF MOTION TO STRIKE OUT AND INSERT

SEC. 618. If a motion to strike out certain words were pending, a motion to strike out certain words and insert others, would have precedence, and be first to be put to the question.

PRECEDENT RELATING TO AMENDMENTS

SEC. 619. In the (68th) Congress, a complication arose in the house relative to amendments and Speaker Gillette gave the following comprehensive decision defining the wording of the rule:

"A bill was under consideration and Mr. A submitted this amendment, strike out section 2 and insert as follows: (matter to be inserted), to which Mr. B offered an amendment (it being in the second degree) then Mr. C offered a substitute for both amendments. Mr. D raised a question of order against the substitute amendment and said: 'I direct

your attention to the fact that Mr. A's amendment is in the nature of a substitute to which the gentleman has offered a substitute, in other words, the gentleman proposes to offer a substitute for a substitute.' (The gentleman here falls into error that swamps so many inexperienced parliamentary writers, that is, considering a motion to strike out and insert as a substitute amendment.)"

DEFINITION OF HOUSE RULES GOVERNING AMENDMENTS

SEC. 620. Speaker Gillette promptly overruled the foregoing question of order and said: "It seems to the chair that **Mr. A. merely offered an amendment,** whether you call it an amendment or whether you call it a substitute. Mr. B. offered an amendment to that, now, Mr. C. offers an amendment in the nature of a substitute and there can be one amendment to that. The chair does not see any difference because the amendment of Mr. A. is a substitute for the section, makes no difference in the ordinary rule that you can have an amendment, an amendment to the amendment and you can have an amendment to both in the nature of a substitute and an amendment to that.

"The original amendment was a motion to strike out and insert, now to that amendment one substitute can be offered and there can be an amendment to that substitute. **But gentlemen get confused by calling the amendment of Mr. A., to strike out and insert, a substitute, which it is not.** It is an amendment. **A substitute can only be offered when an amendment has been offered.** The word substitute as used in the rule, as gentlemen will see by careful reading, **applies to an amendment that has already been offered.** There is no such thing as an amendment by way of a substitute for the original text. A substitute is always offered in place of an amendment which has been offered and **not for the original text.** It should be noted this ruling is based on the rule governing amendments." (H. J. Oct. 17, 1921.)

SUBSTITUTE AMENDMENTS TO BILLS

SEC. 621. A motion to strike out and insert (in the case of substitute being carried) **precludes** a motion to strike out or otherwise **amend the matter inserted.** Hence, after a substitute has been agreed to, **no amendment to the substitute is in order.** It is therefore important to perfect the **substitute** by desired amendments thereto **before the question of agreeing** to it is voted on.

(A) **A substitute amendment** may be amended by striking out all after the first word and inserting a new text. The proper form for an amendment which is offered as a substitute for a bill is to "strike out all after the enacting clause and insert in lieu thereof the following": The form for a substitute for a substitute should be: "Strike out all after the first word in the substitute and insert in lieu thereof the following."

PRACTICE IN NATIONAL HOUSE

SEC. 622. In the early practice of our National House because of the peculiar wording of a rule, substitutes were not admitted. As early as 1808, Mr. Speaker Varnum ruled out of order amendments in the nature of a substitute. Later, the rule under which the ruling was made, **was repealed and in 1826,** Mr. Speaker Taylor ruled that a substitute offered by Daniel Webster was in order, while a **motion to amend the original text was pending.** In this ruling we find the final concession favoring substitutes.

(A) Beginning with the Speakership of Mr. Polk, substitutes were admitted without question. A little later, Speaker Polk ruled that an amendment to the substitute was in order, thus we have the history and evolution of the present rule of Congress.

(B) When a motion is pending to amend by inserting words in a bill, a motion to amend by striking out the part to be amended may not be offered as a substitute.

(C) When an amendment to a substitute is pending an amendment in the nature of a substitute is not in order, because it would be in the third degree. (Speaker Clark.)

(D) A substitute amendment may be amended by striking out all after its first word and inserting an entirely new text. (Speaker Polk.)

PERFECTING PARAGRAPHS

SEC. 623. When a motion is pending to strike out a paragraph and an amendment in the nature of a substitute to perfect the paragraph before it is stricken out is offered, **the motion to strike out necessarily falls.**

(A) In the foregoing instance, the House was considering the report of a committee which had recommended, "Strike out all of section 4."

Mr. Hill said: "Mr. Speaker, before action on the committee amendment, I wish to offer an amendment for the purpose of perfecting the section to be stricken out." The Speaker admitted the amendment.

(B) A member then arose to a parliamentary inquiry, asking the Speaker to **explain the parliamentary situation.** The Speaker replied: "The motion of the gentleman from Connecticut proposes to strike out and insert, and in case that motion prevails the House would not be at liberty thereafter to strike out the section inserted because words once inserted may not be stricken out."

(C) Mr. Hill suggested that his motion would perfect the section, and after it should be agreed to, then the proper procedure would be to vote down the committee amendment.

(D) The acting Speaker, Mr. Dalzell, said: "If the amendment of Mr. Hill is agreed to the House will not vote on the committee amendment to strike out." Following this statement the House agreed to the Hill amendment and the committee amendment was disregarded.

(E) When it is proposed to offer a single substitute for several paragraphs of a bill which is being considered by paragraphs or sections, the substitute may be moved to the first paragraph, with notice that if it be agreed to, motions will be made to strike out the remaining paragraphs.

(F) Resolutions proposing constitutional amendments are amended by a majority vote. (Chr. B. F. Wade.)

(G) **All questions requiring more than a majority vote to be effective may be amended by a majority vote.** (Crisp.)

(H) When it is proposed to amend by inserting a paragraph it should be perfected by amendments before the question is put on inserting.

(I) When it is proposed to perfect a paragraph the motion to insert or strike out, if already pending must remain in abeyance until the amendments to perfect have been moved and voted on.

(J) If a motion to strike out a paragraph fails, amendments to it may still be offered.

(K) Words once inserted in a paragraph by way of amendment, may not be stricken out by another motion to amend, but words on the same subject may be added to a paragraph.

(L) It is in order to perfect words proposed to be stricken out by striking out a portion of them.

PRECEDENT

(M) On April 20, 1904, the House was considering the bill 7262, when Mr. Fitzgerald, of New York, proposed an amendment striking out certain lines in one section of the bill, these lines not comprising a separate paragraph by themselves, but standing consecutively. Then Mr. Vreeland, of New York, proposed an amendment striking out certain lines occurring consecutively and within the portion proposed to be stricken out by Mr. Fitzgerald. A question of order arising, the Speaker Pro Tempore said: "Mr.

Fitzgerald proposed to amend by striking out certain words. The other gentleman offers an amendment to strike out certain words which are within and much less than the part proposed to be stricken out by the first amendment. The motion of the second gentleman is in the nature of a perfection of the paragraph and is therefore a preferential amendment, to be voted upon before the first amendment is put."

(N) While amendments are pending to a paragraph or section, a motion to strike out is not in order.

INCONSISTENCY OF AMENDMENT

SEC. 624. The **inconsistency** of a proposed amendment with one already agreed to is not a matter for the decision of the chair, but the House may reject it.

(A) The admissibility of an amendment should be judged from the provisions of its text rather than from the purpose which circumstances may suggest.

(B) **If a portion of a proposed amendment be out of order, the whole amendment should be ruled out.** (Keifer.)

DIVISION OF AMENDMENT

(See Division of Question)

RULE OF NATIONAL HOUSE

SEC. 625. **On the demand of any member, before the question is put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain.** (Rule of National House XVI, Sec. 6.)

WHEN A QUESTION CONTAINS MORE THAN ONE PROPOSITION AND A DIVISION AND A SEPARATE VOTE ON EACH DIVISION IS DESIRED

(Form)

SEC. 626. Mr. Davis: "I request a division of the question, and a vote be taken on each division separately."

Chair: "Mr. Davis requests a division of the question and a vote be taken on each division." The chair then divides the question and reports to the House exactly how he made the division.

Chair: "The clerk will read the first division." (After reading.)

Chair: Will the House agree to the first division?

Chair: The first division is agreed to (the other divisions involved are taken up in regular succession until all are acted upon by the body in the same manner).

(A) A division of a question may not be demanded after the question is put. The demand for a division should be made following the statement of the question by the chair and before it is put to the question.

(B) A motion to strike out and insert is not divisible. A motion to amend by inserting or adding is divisible if it contains more than one substantive proposition.

(C) A question may be divided if it contains more than one substantive proposition, such division is usually made by Speaker upon demand of a member.

(D) A question may be divided into several parts provided each division comprehends a question so distinct that one being taken away the remainder may stand entire for the decision of the House; in other words, each division must contain a substantive proposition.

SYLLABUS OF SPEAKER'S DECISION UNDER THE RULE

SEC. 627. The principle that there must be at least two substantive propositions in order to justify a division is

rigidly observed, as a failure to do so produces difficulty. (Hinds.)

(A) In passing on a demand for a division, the chair should consider only substantive propositions and not the merits of the question presented. (Blaine.)

(B) It is most proper, also, that the division should depend on grammatical structure, rather than on the legislative propositions involved. (Blaine.)

(C) But decisions have been made that a resolution affecting two individuals may be divided, although such division may involve a reconstruction of the text.

(D) The better practice seems to be, however, that this reconstruction of the text should be made by the adoption of a substitute amendment of the two branches or divisions, rather than by interpretations of the chair. (Hinds.)

(E) But mere formal words such as **"resolved"** may be supplied by interpretation of the chair. (Speaker Cannon.)

(F) It is in order to demand a division of related subjects, as when a resolution to adopt a series of rules not made a part of the resolution was before the House, the Speaker ruled it is not in order to demand a separate vote on each rule. (Speaker Henderson.)

(G) In voting on the engrossment or passage of a bill or joint resolution, a separate vote on the various portions may not be demanded. (Crisp.)

(H) When a motion to lay several connected propositions on the table is made, a division is not in order. (Speaker Henderson.)

(I) On a motion to commit with instructions it is not in order to demand a separate vote on the instructions or various branches thereof. (Barbour.) But on a series of simple resolutions a division may be demanded. (Stevenson.)

(J) On a decision of the Speaker involving two distinct questions there may be a division on appeal. (Macon.)

(K) When it is proposed to strike out and insert not one but several connected matters, it is not in order to demand a separate vote on each of those matters (Decision by House), as when a substitute containing several resolutions is proposed, but after this substitute has been agreed to, it is in order to demand a division of the original resolution as amended by substitute.

(L) When, however, an amendment simply adding or inserting is proposed, it is in order to divide the amendment. (Speaker Cannon.) (See division of question.)

(M) A motion to lay a pending bill or resolution with pending amendments on the table is not divisible.

(N) A division of the question may not be demanded on a vote on the suspension of the rules.

(O) The vote on engrossment and third reading of a bill may not be divided.

(P) A demand for a division of the question is not in order after the yeas and nays have been ordered. After a question has been put by the chair it is too late to demand a division.

RULE GOVERNING GERMANENESS

SEC. 628. **No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.** (Rule of Cong. XVI, Sec. 7a.)

(A) It is claimed that when this rule was first adopted by the House (1789) it introduced a principle at that time unknown in general parliamentary law. (Hinds.) It is also claimed that it is of high value in the procedure of the House.

(B) The principle of the rule applies to a proposition by which it is proposed to modify the pending bill, and not

to a portion of the bill itself. (Littlefield.) Hence an amendment simply striking out words already in a bill may not be ruled out as not germane. (Speaker Keifer.)

GERMANE AMENDMENTS

SEC. 629. Whether or not an amendment be germane should be judged from the provisions of its text, rather than from the purpose which circumstances suggest. (Sherman.)

(A) A secondary amendment must be germane to the primary amendment to which it is offered.

(B) An amendment to an amendment must be germane to the amendment; being germane to the main motion is not sufficient, it must be germane to the identical part to which it is proposed to attach it.

GUIDING PRINCIPLES IN DETERMINING GERMANE AMENDMENTS

SEC. 630. Where a section treats of only one subject, another subject cannot be added, but when it treats of two or three subjects, another can be added. Under all the later decisions of the House, running back several years, the principle has been well established that an amendment must be germane to the particular paragraph or section to which it is offered. (Clark.)

AMENDMENTS BECAUSE RELATED NOT NECESSARILY GERMANE

SEC. 631. It has been held in the American house that two subjects are not necessarily germane, because they are related. Thus, it was decided that when a proposition relating to the terms of senators was pending, an amendment changing the manner of election of senators was related, but not germane, also a bill granting a right to a railroad, an amendment providing for the purchase of the railroad by the government was held related but not germane.

CARLISLE TEST OF GERMANENESS

SEC. 632. Defining this rule, Speaker Carlisle said: "After a bill has been reported to the House, no different subject can be introduced into it by amendment, whether as a substitute or otherwise. When, therefore, it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is merely that it (the proposed amendment) is a motion or proposition on a subject different from that under consideration. This is the test of admissibility prescribed by express language of the rule, and if the chair, upon examination of the bill under consideration and the proposed amendment shall be of the opinion that they do not relate to the same subject, he is bound to sustain the objection and exclude the amendment." This ruling was sustained by the House, and now recognized in the House as the "Carlisle test for germaneness."

DEFINITION OF GERMANE AMENDMENT

SEC. 633. In ruling on a point of order as to whether a certain amendment was germane, Speaker Clark gave the following clear definition of what the germane rule means. He said: **"To determine if an amendment is germane, the question to be answered is whether the amendment is relevant, appropriate and in a natural and logical sequence to the subject matter of the bill."**

PROPOSITIONS NOT GERMANE

SEC. 634. The rule that amendments must be germane applies **to amendments reported from committee.** (Banks.)

(A) One individual proposition may not be amended by another individual proposition even though the two belong to the same class.

(B) The following have been held in the House not to be germane: to a proposition relating to the terms of

senators, an amendment changing the manner of their election. (Hinds.)

(C) To a bill proposing the admission of one territory into the union, an amendment for admission of another territory. (Speaker Orr.) To a bill for the relief of an individual, an amendment providing similar relief for another. (Carlisle.)

(D) To a provision for a clerk of one committee, an amendment for a clerk of another committee. (Gunpacker.)

(E) A specific subject may not be amended by a provision general in nature, even when of the class of the specified subject. (Carlisle.)

(F) The following are not germane: To a bill relating to a corporation engaged in interstate commerce, an amendment relating to corporations. (Boutell.) To a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law rather than those of the bill. (Henderson.)

(G) **A general subject may be amended by specific propositions of the same class;** thus, the following have been held to be germane: To a bill providing for the construction of buildings in each of two cities, an amendment providing for a similar building in several other cities. (Banks.) To a resolution embodying two distinct phases of international relationship, an amendment embodying a third. (Reed.)

(H) But a resolution authorizing a class of employes in the service of the House, an amendment providing for a specified individual was held not to be germane. (Reed.)

(I) A pending question requiring a majority vote to carry it affirmatively, may not be amended so as to require a two-thirds vote to carry it affirmatively, such amendment would not be **germane.** (H. J. 2nd Sess. 56th Cong., p. 196.)

(J) A provision excluding immigrants unable to read and write and requiring a certificate with each immigrant admitted an amendment to exclude all foreign-born laborers was held not to be germane.

(K) To a bill amendatory of an act in several particulars, an amendment to the act but not germane to the subject matter in the bill is not in order. (Jour. 1st Sess., 68th Cong., p. 743.)

(L) Where there is a proposition to amend a law in one particular—a specific particular—a proposition to amend generally, or to repeal the law, would not be germane. (See elaborate opinion of Speaker Champ Clark, H. J. 3rd Sess. 62d Cong., pp. 385-6-7.)

FILLING BLANKS

SEC. 635. "In filling a blank with a sum, the largest sum shall be first put to the question. In all cases of time or number whether the larger comprehends the lesser should be considered." (Jefferson.)

FILLING BLANKS IN AMERICAN HOUSE

SEC. 636. It is very rare for the American House of Representatives to fill blanks for numbers. When a number is to be changed by amendment, the practice of the House permits to be pending a second number as an amendment, a third as an amendment to the amendment, a fourth as a substitute, and a fifth as an amendment to the substitute.

FILLING BLANKS

(Modern English practice)

SEC. 637. The old parliamentary rule as given by Mr. Jefferson and still followed in American practice is now obsolete in the practice of parliament. The rule now seems to be **more sensible and less complicated.** The rule is "When a blank has been left, and

it is desired to fill it and a suggestion is made to fill it with certain words instead of moving an amendment on the first suggestion, the Speaker puts the questions separately in the order they were made. If a blank were left to fill in a salary and a suggestion were made to insert $1,000 and another $5,000 and still another $800; the question would first be put on $1,000, if negatived, then $5,000, if negatived then on $800 and so on until some suggestion receives a majority vote, instead of the **largest sum first as under the old rule.**

AMENDING COMMITTEE REPORTS

SEC. 638. The parliamentary law and practice in amending committee reports is described by Mr. May as follows: "When the bill as amended by the committee, is considered, the House may not only agree or disagree to the amendments but may make other amendments, and add new clauses, but the practice of adding clauses at this time is inconvenient and should be avoided as far as possible. The amendments of the Committee are always considered first; clauses may then be offered, after which amendments may be made to other parts of the bill". (May, p. 361.) The foregoing is a description of American practice.

EXPLAINING AMENDMENT

SEC. 639. It is a well-established parliamentary principle that two amendments cannot be simultaneously placed before the meeting, but it is competent, and in order, for a member, after an amendment has been stated by the chair to explain the terms of another amendment which he may desire to offer, either contingent on the amendment under debate or which may arise after that amendment has been disposed of. Such explanation obviates confusion and puts the House in possession of the various proposals, it may be called upon to entertain. In doing so the member must avoid debate and confine himself strictly to an explanation of his proposed amendment.

Every question is open to debate if it be debatable under the rules and a **new question** is **created** by the **proposal of an amendment.**

EFFECT OF REJECTING COMMITTEE AMENDMENTS

SEC. 640. Where amendments and bill are reported from committee **if amendments are rejected or ruled out of order, the bill alone stands as report of committee.**

ILLUSTRATION OF PRACTICE

SEC. 641. A bill with amendments being reported by a National House committee, the Speaker Mr. Randall, on a point of order ruled out the amendments. Mr. Mallory then raised the point of order "That the amendments being ruled out of order, the committee report was rejected because the bill and amendments together were the report of the committee." Mr. Speaker Randall said: "The chair understands the point to be that where amendments are ruled out of order the bill alone would not be the report of the committee. The chair with the indulgence of the House would state that by the parliamentary rule which reads **"The committee may not erase, interline or blot the bill itself, but must, in a paper by itself set down the amendments which are to be inserted or omitted and where by reference to page, line and word of bill.** Therefore committees must make all their amendments on a separate piece of paper. They are therefore reported distinctly by themselves and may, therefore, be rejected without rejecting the bill to which they are amendments; **the chair decides the bill reported by the committee is before the House."**

NEGATIVE AMENDMENT

SEC. 642. If the object of an amendment is to **obtain a distinct contradiction of a motion,** the amendment must be expressed in terms that either justify or explain

the **mover's intention,** as it would be out of order to propose an **amendment confined solely to the bare negation of a motion.** Far less could an amendment be offered that proposed to interpolate the word NOT into a motion as for instance: "That the Senate be **NOT** invited to meet with the House in joint session." The only proper way to give a direct negative to a motion, is by a **vote against the motion,** when it is put as a question.

HOSTILE AMENDMENTS

SEC. 643. The chairman of a committee having ruled out amendments on the ground that they were hostile, the committee later desired an opinion of the Speaker of Commons. He said "An appeal from the decision of the chairman of a committee to the Speaker is out of order, yet (he added) I would not rule that as a general rule, hostile amendments may not be admitted."

RELEVANCY OF COMMITTEE AMENDMENTS

SEC. 644. The report of a committee with amendments to be receivable must in all respects be relevant to the general subject matter reported.

STRIKE OUT ENACTING CLAUSE

SEC. 645. In the 68th Congress, the House adopted the following rule, which in fact has for many years been the practice of the House:

THE RULE

SEC. 646. A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered as equivalent to its rejection.

PRECEDENCE OF MOTION STRIKING OUT ENACTING CLAUSE

SEC. 647. A motion to strike out the enacting words of a bill has precedence of a motion to amend, and if carried, is equivalent to rejection of the bill.

FRIVOLOUS AMENDMENTS

SEC. 648. The chair may and usually does refuse to propose amendments or motions which are in his opinion frivolous.

PRECEDENCE OF AMENDMENTS

SEC. 649. In amending a bill or resolution, the right of precedence in offering amendments should be given to the member having charge of the pending bill.

POSTPONED CLAUSES

SEC. 650. In the consideration of a matter of any kind, it may occur that when a clause, section of paragraph is reached, that the House will not care on account of the importance of its subject-matter to consider at that time, or it may wish to consider such clause after other clauses have been disposed of, under such conditions it is in order and regular to postpone the clause if it has not been amended. Postponed clauses are usually taken up when all the clauses of the bill have been considered, but the House may direct otherwise. A motion to postpone a clause is not in order if the clause has been amended.

RESTRICTIONS ON MOTIONS AND AMENDMENTS

SEC. 651. **No amendment or motion may be moved** that **revives** a question already decided, or a motion or amendment of which **notice has been given,** or matters concerning the business of the day, or which is inconsistent with the words in a motion or amendment **already agreed upon.** Nor an amendment which is merely

an **expanded negative,** or otherwise **irregular.** Such should not be received by the chair.

DEBATE ON AMENDMENTS

SEC. 652. On an amendment being moved, a member who has spoken to the main question may speak again to the amendment because it presents a new question.

(A) After a proposition has been amended it cannot be withdrawn except by consent of the House.

(B) Under the interpretation of the rule of Congress the making of a motion or **asking a question is debate and precludes the forty minutes' debate after ordering the previous question.**

ANNEXING PENDING BILLS AS AN AMENDMENT

SEC. 653. An old rule of Congress now dropped, read: "No bill shall at any time, be amended by annexing thereto any other bill pending before the House." [1] The Congressional Digest says: "When this rule was first presented for adoption it contained a clause which read, 'nor any proposition containing the substance, in whole or in part, of any bill pending before the House.' Before the House adopted the rule this latter clause was stricken from the rule, by this act it was interpreted by speakers to mean that an amendment containing the substance of another bill is in order. This practice of Congress is indicated in the journals."

(A) Speaker Randall ruled, that **this rule does not apply to a bill under consideration by a committee.** (H. J. 1st Sess. 46th Cong., p. 1080.)

(B) The foregoing rule of Congress was no doubt extracted from the Lord's resolution of 1691 condemning the practice. The House of Commons amended a bill of the Lords by annexing by way of amendment a pending

[1] This rule has been repealed by the House. This practice of offering a bill as an amendment is not permitted in Ohio practice.

bill, when it was returned to the Lords and discovered, they immediately expressed themselves by the adoption of the following resolution:

(C) **"To prevent any ill consequences from such a precedent in the future, the Lords have thought fit to declare solemnly and to enter upon their journal, for a record to all posterity, that they will not, hereafter admit, upon any occasion whatsoever, of a proceeding so contrary to the rules and methods of Parliament."** (Hatsell, Vol. II, p. 126.)

AMENDMENTS TO MOTION TO AMEND

SEC. 654. When an amendment is pending all other amendments must be directed to that—the primary amendment.

DEBATE ON AMENDMENTS

SEC. 655. In parliament the general rule and practice is to confine debate to the immediate pending question. Speakers almost without exception have held that debate must be confined to the pending amendment and must not stray to the merits of the main question. However, there is one kind of amendment to which this rule does not apply in the English practice. That is in a case where an amendment is offered to strike out all the words in the question after the first word and substitute other words of a different import. In this case, says May, the debate that follows is not restricted to the amendment but includes the reason for the amendment and the question. Both matters are under consideration of the House as alternative propositions. If the amendment be merely to leave out or to insert words debate must be confined to the desirability of the insertion of those words.

EXTENT OF AMENDMENTS TO AN AMENDATORY BILL

SEC. 656. The chair has ruled once and proposes to stick to it, that where a law contains several sections, and some gentleman brings in a bill to amend one section of that

law only, then the House cannot wander around and undertake in that bill to amend another section of that law, because there must be an end and a limit to all things. (Clark H. J., 3d Sess. 62d Cong., p. 389.)

SEC. 657. An amendment was offered to a section of a bill the House had passed, Mr. Reed raised a question of order that the amendment was out of order because the section had been passed. Speaker Randall sustained the point of order. (H. J. 1st Sess. 46th Cong., p. 179.)

REPETITION OF REJECTED AMENDMENT

SEC. 658. An amendment previously rejected by the House may not again be offered, even by way of motion to commit with instructions. (Gillette, July 6, 1921.)

AMENDMENTS TO BILLS IN COMMITTEE

SEC. 659. In Parliament when a bill has been committed to a standing committee, any notice of amendment given to the bill stands referred to the committee. Amendments so referred are not considered by the committee, unless they are proposed and moved by a member of the committee in committee.

(A) Any words which the House has decided to retain, or to insert, cannot afterward be altered, but additions may be made to them.

AMENDMENTS FOR TRANSPOSITION OF SECTIONS, ETC.

SEC. 660. Sometimes it is desirable to transpose sections, paragraphs or other matter in bills.

(A) The proper procedure in cases of this kind is to follow the rule and practice of our National House which is as follows: First, move to strike out the matter where it stands and then move to insert it in the place the section is desired. In following this plan mistakes are not so likely to occur.

SECTIONAL NUMBERS CORRECTED BY CLERK

SEC. 661. Amendments as to numbering sections in a bill or resolution, that the numbering may be consecutive, are regarded as purely clerical and should be left to the clerk, or the committee reporting the measure. In Sec. XXXV of Jefferson's Manual may be found the following parliamentary observations: "The number prefixed to the section of a bill, being merely a marginal indication and no part of the text of bill, the clerk regulates that; the House or committee is only to amend the text." A bill passed by one House with blanks, may be filled up by the other by way of amendment, returned to the first as such and passed."

SEC. 662. **After a substitute has been agreed to, the vote must again be taken on the original proposition as thus amended.**

(A) An amendment cannot attach to the previous question or to lay on the table.

SEC. 663. **A motion to strike out a certain paragraph of a pending question, being negatived, may not thereafter be perfected by amendment.** (H. J. 2d Sess. 55th Cong., p. 88.)

ILLUSTRATION OF USE OF THE VARIOUS METHODS OF AMENDING QUESTION

SEC. 664. To illustrate the proper application of the principles set forth in the several rules governing the use of amendments in modifying a question, let us suppose a meeting.

The following resolution is introduced for the consideration of the meeting, by Mr. Jones, of Jackson:

(A) Resolved, That we petition the General Assembly to enact a child labor law; a seven hour day law, and a minimum wage law. After introduction in the manner elsewhere illustrated, the resolution would be read by the secretary, and then the chair would state the question on adopting the resolution as received. Following the statement of the question it is then open to debate and amendment.

Miss Cramer being recognized, delivers to the secretary the following amendment, which is read.

Secretary (reading): "Miss Cramer moves to amend the resolution by striking out the words 'petition General Assembly' and inserting 'memorialize Congress'." The chair then repeats the motion and adds, the question is on agreeing to the amendment of Miss Cramer, which is now open to debate and amendment. After debate the chair puts the question and collects the votes and declares the result. If resolved in the affirmative the words "petition General Assembly" would be stricken from the resolution and the words "memorialize Congress" would be inserted in their place as a part of the resolution.

Chair: The question now recurs on the original resolution as amended (repeat motion as amended).

Mr. Bittinger being recognized, offers this amendment (observing all requirements of the rules).

Secretary (reading): Mr. Bittinger moves to amend as follows: strike out "seven hour a day law, and minimum wage law." Then Mr. Streicher being recognized, offers an amendment to the amendment, as follows: Strike out of the amendment the words, **"minimum wage law."**

The last motion being an amendment to an amendment is in the second degree, therefore it is in order. It also presents another peculiarity; that is, it is in the nature of a preferential amendment to perfect.

The purpose of this latter amendment is to retain in the **original** resolution the words **"minimum wage law,"** which Mr. Bittinger seeks to strike out that is, if the amendment of Mr. Streicher is agreed to and then the amendment of Mr. Hadden, the result will be that the words "seven hour a day law" will be stricken from the resolution and "minimum wage law" will be retained in it. (Both motions put and agreed to.)

In instances like the foregoing the writer prefers the English form of putting the question, because it exactly expresses the purpose of the amendment of Mr. Streicher. Thus, Mr. Myors proposes that the words "minimum wage law" **"stand as a part"** of **the original resolution.** However, in the National House it would be put Mr. Streicher moves to amend the amendment, etc. (repeating it).

Mr. A being recognized, moved to amend by inserting after the word "hour" the word "work". (Resolved in the affirmative.)

The question again recurs on the resolution as amended, Mr. Stevens, being recognized, moves to amend by adding the words "for women," after the last word "law."

Mr. Cramer, being recognized, moves to amend the amendment by adding the words "and girls" after the word "women." The last amendment is in the second degree, and does not permit of further amendment, but Mr. Johnson is not satisfied and being recognized, moves to amend the last amendment by inserting the words "between the ages of 14 and 20 years," after the word "girls."

Chair: The amendment of Mr. Johnson is out of order. He presents an amendment to an amendment to an amendment, which is in the **third degree** and cannot be received. The foregoing amendments being put and resolved in the affirmative, the question recurs on the original resolution as amended.

Mr. Keifer being recognized, offers a substitute resolution as follows:

Secretary (reading): "Mr. Keifer moves to amend by the substitution of the following for the original resolution. Strike out all of the resolution after the word "resolve" and insert: "That we memorialize Congress to enact a law for the protection of children also a fifty-four hour work week and a minimum wage law for women and girls between the ages of 14 and 20 years." After the question is stated by the chair Mr. Forney inquires: "Is an amendment in order to the substitute?"

Chair: "It is." Amendments are now in order to both the substitute and the original resolution.

Mr. Hildebrand, being recognized, moves to amend the substitute by inserting the words "employed in gainful occupation" after the word "children."

Mr. Mowry, being recognized, moves to strike out the words "six hour day" and insert "fifty-four hour work week."

From the foregoing it would seem that the meeting has whipped the resolution into satisfactory form, and a majority will no doubt favor the substitute. With this result in view we will proceed to take the question on the several pending amendments. First, we put the question on the amendment to the original resolution, then on the amendment to the substitute; then on the substitute for the original and finally on the original as amended by the substitute.

(B) If a motion to strike out is pending, and then a motion to strike out and insert should be offered, **the latter motion would have precedence, for consideration.**

CHAPTER XVIII

QUESTION (POINTS) OF ORDER AND APPEALS

QUESTIONS (POINTS) OF ORDER DEFINED

SEC. 665. Questions of order **popularly called points of order** furnishes the parliamentary device that is used to force the House to observe its own rules and follow established practice.

Whenever a member observes that the rules of the House are being violated, or that business is according to established rules and practice proceeding irregularly, it is his right, and perhaps a duty, to arise and raise question of order, which of course is subject to decision by the speaker (chair.)

That is a member may demand the execution of a rule or order of the House at any time and the speaker (chair) decides as to the fact subject to appeal to the House.

If a member should note that the House was proceeding in an irregular manner he could instead of raising a question of order, demand or call for the "regular order" of business which the speaker should heed by at once proceeding to the regular order of business, unless prevented from doing so because the House was operating under a suspension of the rules. An outstanding example of irregular proceedings would be for a member to interject a motion out of order, such as to take a question from the table. In this case if a "cry for regular order" were made or merely a member would rise and object, the chair should not put the question on the motion.

RELATION OF QUESTION OF ORDER TO OTHER MOTIONS AND PROCEDURE

SEC. 666. The rules of the House should be strictly enforced by the speaker. Any member noticing a violation of the rules is privileged to rise to a question of order.

May be reconsidered.

In order although another may be in possession of the floor.

May not be amended.

May not be laid on the table.

May not be indefinitely postponed.

May be postponed to give speaker opportunity to examine precedents.

May not be committed.

Debatable to a limited degree within discretion of the chair.

Previous question applies if debatable.

Is always subject to appeal from decision of the chair.

Chair may submit question for decision of House and thus preclude appeal.

QUESTIONS OF ORDER—(POINTS OF ORDER)

SEC. 667. A member may not demand that the galleries be cleared, because that duty by rule has been taken from the House and lodged in the Speaker. He may, however, with perfect propriety, for the purpose of calling the Speaker's attention to an undesirable condition, suggest "that the Speaker clear the galleries." The question of clearing the galleries, includes the floor of all those not entitled to be upon it.

RIGHT TO RAISE A QUESTION OF ORDER

SEC. 668. A question of order is in order even though another has the floor, even may interrupt a speech, the reading of a paper, the making of a report: privileged-secondary motions may not be applied to it. It is the duty of the

Speaker to take notice without delay of a question of order, however, his decision, by consent of the House may be deferred to a later time. No such delay should be permitted, unless the question is a complicated and important one, requiring investigation, and it is clear that such delay is not for the purpose of affecting business or to show favors.

(A) A member rising to a question (point) of order should when rising, preface his remarks by saying: "I rise to a question of order." Then after being recognized, he could state his point of order, but not before.

PROPER TIME TO RAISE QUESTION OF ORDER

SEC. 670. Speaker Gillette ruled: "The rule is well established that a question of order must be made before debate begins. The asking of a question and the answer relative to an amendment is debate and a question of order thereafter comes too late."

METHOD OF RAISING QUESTION OF ORDER

SEC. 671. When raising a question of order it is courteous to the Speaker for the member to cite the rule or his authority, for saying that procedure is irregular. This should always be done to assist the chair in arriving at a fair and just decision of the question of order. If a member cannot give a reason for raising a question of order it would be wiser for him to remain silent. **In giving reasons, the member is not supposed to decide the question, that is the function of the chair.**

SEC. 672. If you wish to use good parliamentary language, do not say, "point of order" but **question of order.** Parliamentary bodies do not deal with points, but questions. However, the popular American expression seems to be **point of order.** When and how this expression originated, the writer is not advised. It did not come out of the English Parliament, therefore it must be an American corruption.

SYLLABUS OF SPEAKER'S DECISIONS ON QUESTIONS OF ORDER

SEC. 673. It is the right of the Speaker to require a question of order to be presented in writing.

(A) Sometimes several members may have questions of order to present against the same question and all may be presented. In this case, however, it is the better practice for all points to be raised before a decision is made as to any of them.

(B) If one point of order is overruled, it does not preclude other points of order against the same proposition.

(C) The fact that a question of order is made against a portion of a paragraph, does not preclude another point against the entire paragraph.

(D) After the House has actually entered upon the consideration of a bill or other proposition, it is then too late to raise a question of order, that it is not properly reported by the committee.

WHEN TO RAISE QUESTION OF ORDER

SEC. 674. The later decisions and practice of the National House are that a question of order raised after debate has begun, comes too late. Mr. Baker by unanimous consent introduced a bill. Mr. Perkins moved the bill be referred to a select committee of thirteen, **with leave to report at any time.** After debate the previous question was demanded on this motion. Mr. Dingley raised the question of order, "that the latter part of the motion (meaning the words **'to report at any time'**) was out of order and could only be granted by unanimous consent or a suspension of the rules, and also the motion had not been 'stated' by the Speaker."

(A) Speaker Reed overruled the point of order of Mr. Dingley's on the ground that the motion had been stated and debated, and consequently the question of order **was raised too late.**

WHEN QUESTION OF ORDER IS PRECLUDED

SEC. 675. Speaker Cannon ruled: "In order to preclude a question of order, after debate has begun, such debate should be on the merits of the proposition. A question of order must be raised before an amendment is offered.

(A) When the House is voting on a motion it is then too late to raise a question of order, that the motion is not in order. When the House has voted to consider a proposition, a point of order against such matter comes too late.

(B) It is a rule of Congress and also a general parliamentary law that a question of order arising out of any other question must be decided before the question out of which it arises."

DEBATE ON QUESTION OF ORDER

SEC. 676. On an occasion when Mr. Blaine was Speaker, a question of order was raised which provoked a very lengthy debate, which was objected to by Mr. Albright. Replying to the objection, Speaker Blaine said: "The Chair has the right to hear discussion upon a question of order, and he has no desire to abridge the discussion, it is for the information of the Speaker, and is within his discretion."

(A) The Speaker is not required to decide any question not directly presented in the proceedings of the House. Neither does the Speaker, on his own initiative, raise and submit questions.

(C) A question of order arising out of any other question must be decided before the question out of which it arises.

QUESTION OF ORDER RAISED DURING DIVISION

SEC. 677. If any difficulty arise in point of order during a division the chair is to decide peremptorily, subject to the future censure of the House, if irregular.

RENEWAL OF QUESTION OF ORDER

SEC. 678. A question of order just decided, cannot be renewed, not even on the suggestion of new and additional reasons.

METHOD AND FORM OF RAISING QUESTION (POINT) OF ORDER

SEC. 679. A member rising to a question of order should, when rising, and after addressing the chair, preface his remarks, by saying: "I rise to a question of order." Then after being recognized, he would be at liberty and in order, to present his question of order, but not before.

The usual procedure is: Mr. Pollock: "Mr. Speaker: I rise to a question of order."

Speaker: "The gentleman from Stark will state his question of order."

Mr. Pollock: "The motion is not in order under rule 22, providing amendments must be germane." (It should be noted the member assigns the reason for his question of order.) After the question has been stated by the member.

Chair: "The chair thinks the question of order is well taken, the amendment does not appear to be upon the same subject matter as contained in the paragraph to which it is directed. Therefore, the chair sustains the question of order." Or,

Chair: "The chair decides the amendment is germane to the paragraph (or sentence)." Or,

Chair: "Shall the question of order raised by Mr. Pollock be sustained?" If decided affirmatively, the decision of the House stands as the ruling of the House and Speaker.

OF QUESTION OF APPEALS

(Challenging Speaker's Ruling)

QUESTION OF APPEAL DEFINED

SEC. 680. Appeal is the American device by which the House protects itself from unsatisfactory decisions

of the Speaker and assumes the responsibility of deciding questions of order itself; **that is, it furnishes the means by which the House controls decisions of the Speaker.**

RULE OF HOUSE

(A) **The Speaker decides questions of order subject to appeal by any member of the House, on which appeal no member shall speak more than once, unless by permission of the House.** (Rule I, Sec. 4.)

RELATION OF APPEAL TO OTHER MOTIONS

SEC. 681. Appeal:

May be laid on table.

May be reconsidered.

In order though another may have the floor.

Not in order when another appeal or a division is pending.

Not debatable when relating simply to indecorum, or transgression of the rules, priority of business, or while the previous question is pending.

May not be amended.

May not be postponed.

May not be committed.

When debatable the previous question applies.

Speaker may request debate on appeal.

(A) The Speaker in rendering decisions on questions of order should use great care and know that the decision he renders is in harmony with the rules of the House.

Members should not for personal gain or temporary advantage appeal from the decision of the presiding officer. If an appeal is taken from the decision of the chair the member taking such appeal should know beyond doubt that the Speaker's decision is not according to the rules of the House, or Parliamentary Law. Under "high tension" or the manifestation of more than ordinary interest in a bill,

members may vote against or for the decision of the presiding officer, and thereby establish a precedent that may later operate detrimentally to more important measures.

PURPOSE OF APPEAL

SEC. 682. The practice of the English parliament does not permit or recognize direct appeals from a decision of the Speaker, but it sometimes, though rarely, accomplishes this indirectly, by the introduction of a resolution declaring the judgment of the House on the question of order. The right of appeal is an American invention of great merit and utility. Its principal purpose is to guarantee the House against arbitrary control by the Speaker, and this right of self-protection may not be taken from the House. Appeals are debatable.

(A) Appeals may not be made against responses to parliamentary inquiries.

(B) The Speaker is permitted to vote to sustain his own decisions.

(C) **An appeal may be laid on the table,** and in practice it is the invariable custom for some one favorable to the **decision of the Speaker to move to lay the appeal on the table.** This action when decided in the affirmative, closes all debate and sustains the decision of the Speaker.

(D) An appeal falls upon the withdrawal of the motion upon which it is based. (Stevenson.)

METHOD OF MAKING APPEAL

SEC. 683. The presiding officer having held the point of order to be well taken or having overruled same.

Mr. Kane: "Mr. Speaker: I appeal from the decision of the chair."

Chair: "The gentleman from Hamilton, Mr. Kane, appeals from the decision of the chair." At this point those agreeing with the chair could stop further proceedings by a

motion to lay the appeal on the table. If laid on the table the chair is sustained.

(A) The question is: **"Shall the decision of the chair stand as the judgment of the House?"** (After vote.)

Chair: "The House sustains (or overrules) the decision of the chair." **If sustained, the decision of the Speaker stands as the judgment of the House.**

WITHDRAWAL OF APPEAL

SEC. 684. An appeal from a decision of the Speaker may be withdrawn before action is had thereon.

SEC. 685. If any difficulty arises in point of order during a division, the chair is to decide **peremptorily, subject to the future censure of the House, if irregular.**

REQUESTING QUESTION OF ORDER TO BE SUBMITTED TO HOUSE

SEC. 686. It is in order for a member to courteously suggest to the Speaker that he submit a complicated question of order to the House for decision or the Speaker may do so on his own initiative. This must not be inferred to be a right of the member to demand such submission, it is not. It is the right of the Speaker to decide all questions of order subject to appeal from his decision.

CHAPTER XIX

MOTIONS IN USE BUT NON-PRIVILEGED IN AMERICAN PRACTICE

SEC. 687. The principal motions in use that have no privileged status in American practice are as follows:

(1) To fix the time to which to adjourn.
(2) Discharge.
(3) Rescind.
(4) Take from the table.
(5) Expunge.
(6) Revive and proceed.
(7) Closure.
(8) Adjourn debate.
(9) Close debate (used only in committee of whole).

(A) These motions are not in order when other business is pending. If offered out of order they are defeated by one objection. **Any of them may be offered by unanimous consent.**

(B) The reason the foregoing list of motions and any other not enumerated are not in order when a question is under consideration, is merely, that their use is not provided for in the rule of precedence [1] and that rule provides that only such as are named therein shall be in order when a question is debating. They are not in order when a question is not debating, unless provision is made in the order of business fixing a time for such motions and then only in the particular order of business or by unanimous consent.

(C) Privilege means that the motion or business is in order to be introduced in the House non-privileged means

[1] This, of course, does not refer to incidental motions growing out of pending business.

that the motion or business may not be introduced except by unanimous consent, or under suspension of rules.

(D) If in doubt as to the privilege of a motion or other business refer to the rule of the precedence, if you do not find the motion you desire to use, then examine the order of business to ascertain if provision is made there in any way for such motion. If not found in either place, your only chance would seem to be unanimous consent, or suspension of the rules.

MOTION TO TAKE FROM TABLE

SEC. 688. The motion to take from the table is but slightly recognized by any of our American legislative bodies and is seldom referred to in the rules. It has no privileged status, and therefore is never in order, except by unanimous consent or suspension of rules and when so made requires an affirmative vote of two-thirds of those voting.

It is never in order to take from the table a motion to reconsider, except by unanimous consent or suspension of rules, nor can the vote by which a motion to reconsider was laid on the table, be reconsidered.

HOW TO CONSIDER QUESTION REMOVED FROM TABLE

SEC. 689. The consideration of a question removed from the table begins at a point where it was interrupted when tabled. If the question of adoption were pending then that question would immediately recur. If amendments were pending the question would recur on the amendment.

RELATION OF MOTION TO TAKE FROM TABLE TO OTHER MOTIONS AND PROCEDURE

SEC. 690. In order only under suspension of rules.

May be renewed after intervening business.

No motion in the rule of precedence may be applied to it.

MOTION TO ADJOURN DEBATE

(E) (See under this title head.)

MOTION TO CLOSE DEBATE

(F) Only used in committee of whole.

MOTION TO TAKE FROM TABLE DISCUSSED

(Not Privileged)

SEC. 691. The motion to take from the table has no privileged status, and is never in order in **our National House.** It may, however, be made at any time by unanimous consent; or under suspension of the rules and when so made requires an affirmative vote of two-thirds of those voting to be effective.[1] It is **never in** order to take from the table a motion to reconsider and it is not in order to **reconsider a vote by which a motion to reconsider** was laid on the table.

(A) When a motion to reconsider is laid on the table it is considered as, and **is the final adverse disposition of the proposition.** By this action the purpose of the House is to remove the matter finally from further consideration and any method to thwart the will of the House thus expressed should be voted down, else the most effective final burial ground for objectionable matter would soon lose its effectiveness.

(B) It appears from the **well established practice** of the National House, that the **motion to suspend the rules and do a certain specified thing is in order whenever the motion to suspend the rules is in order,** therefore, taking a bill or question from the table would come within this rule of practice, and would be in order, i. e., it would be in order **to suspend the rules and take from the table a specified bill or question with one motion and one vote,** e. g., "I move to suspend the rules and take

[1] Speaker Jones.

from the table H. B. No. 48 with pending amendment," or the same result may be secured as follows: "I request unanimous consent of the House at this time to revive and proceed to the further consideration of House Bill 48 now on the table."

QUESTION BEFORE HOUSE WHEN TAKEN FROM TABLE

SEC. 692. Consideration of a question taken from the table begins at the point where it was interrupted when laid on the table. If the question on passage were pending, then the question on passage would recur at once. If an amendment were pending, the question would recur on agreeing to the amendment.

RELATION OF OTHER MOTIONS TO MOTION TO TAKE FROM THE TABLE (WHEN ADMITTED)

SEC. 693. In order only under suspension of the rules.

Motion may be renewed after intervening business.

May not be debated.

May not be amended.

May not be laid on the table.

May not be postponed.

May not be committed.

Previous question does not apply.

Requires two-thirds vote of those present.

ENGLISH MOTION TO DISCHARGE

SEC. 694. The motion to discharge is one of the very oldest parliamentary devices in use in the parliament of England but its use in America has not been encouraged and has been confined almost entirely to taking legislative propositions from committee—in fact, a misuse of the motion. The reason for ignoring this motion in American practice may be traced to the fact that we have given but little attention to the making of

orders as practiced in parliament. **The main purpose and use of the motion to discharge as used in parliament is to set aside or annul a previous order of the house.**

(A) In parliament, when an order of the day has been read (taken up) one of three courses must be pursued; the order must be proceeded with, appointed for a future day (postponed) or discharged, in the latter case the effect is to remove the order entirely from the agenda paper (calendar), that is, the order of the house is dead, but the subject of the order becomes merely a dropped order subject to revival. If no order of the house is made to revive the subject of the order, it too, is dead.

(B) In the case of an order for second or third reading of a bill, the effect of discharging such order appears to be entirely different. In this case it appears that the effect is to kill the subject of the order—the bill. If the motion prevails the bill is considered as withdrawn and thereafter disappears from the program of the house. The motions to relieve and instruct are merely different forms of the motion to discharge. Discharge is the proper form to use.

RELATION OF OTHER MOTIONS TO MOTION TO DISCHARGE COMMITTEE

SEC. 695. Debatable as to advisability of taking from committee, merits of bill may not be debated unless passage of bill is involved.

In order only under suspension of rules.

May not be committed.

May not be amended.

May be postponed.

May be laid on table.

Previous question applies.

Majority vote of members elected required.

MOTION TO DISCHARGE ORDER OF REFERENCE

(Not Privileged)

SEC. 696. In parliament they do not move to discharge the committee, but when they desire to get a bill from the committee they move to discharge the **"Order of Reference,"** which if agreed to brings the bill into the House the same as if it had never been referred. Both of the methods produce the same result.

WHEN MOTION TO DISCHARGE A COMMITTEE IS PRIVILEGED

SEC. 697. A motion to discharge a committee of a contested election case, or a veto message from the governor and the bill, are always in order. These are said to be constitutional privileges, which may not be denied a member.

EFFECT OF MOTION TO DISCHARGE

SEC. 698. In order only by unanimous consent when a question is debating. About the only use of this motion in American practice is to relieve or take from a committee matter previously referred to it.

Form: "I move to discharge the taxation committee of further consideration of the resolution of Mr. Smith referred to it last month." The effect is if agreed to, the resolution is for the House's consideration but would be subject to recommitment, postponement, amendment or could be tabled.

This motion requires a majority of the members elected to be effective. The motion is debatable as to the advisability of discharging committee.

WHEN MOTION TO DISCHARGE COMMITTEE IS IN ORDER

SEC. 699. It is necessary to suspend the rules to make the motion to discharge a committee; and the motion to suspend the rules may include in its provisions the motion

to discharge and the consideration and final passage of the bill.

HOUSE TAKING UP BILL STILL IN COMMITTEE

Sec. 700. A committee may be **discharged** from the consideration of a bill by unanimous consent thus:

"I ask unanimous consent to consider at this time H. B. No. 156 now in the judiciary committee." If the request is granted, the rules are suspended, the committee is discharged and the bill is before the House for consideration. In all cases where a committee is discharged, it is the duty of the chairman, forthwith, without further instructions, to deliver the bill to the clerk of the body; whether he does or not the clerk should place the bill so taken from the committee at the bottom of the calendar for that day.

WHEN TO USE MOTION TO DISCHARGE A COMMITTEE

Sec. 701. The motion to discharge a committee from further consideration of a bill or other paper is resorted to when a member feels convinced the committee to which the bill was referred is not giving such bill or paper, as the case may be, proper consideration, or that he has reason to believe that it is the intention of the committee to hold the bill and thus prevent the assembly as a whole from passing judgment on the merits of the bill. Under such conditions, his only recourse is to bring the matter to the attention of the House by a motion **to "discharge the committee from further consideration,"** or a motion to instruct such committee to **report the bill.** The motion to "discharge a committee from further consideration" of a legislative matter has no privileged status, and consequently may not intrude upon the **regular order of business.**

Sec. 702. A bill taken from the committee by a motion to discharge does not give the bill a privileged

status for consideration but it must take its regular course under the rules as do other bills coming from committee. In discharging a committee, if immediate consideration is desired it must be embraced in the motion to suspend, thus, "I move to suspend the rules and discharge the committee on Taxation of H. B. No. 200, and proceed to the consideration and passage of the bill." The effect of this motion if decided in the affirmative would be to suspend the rules, discharge the committee and the bill would come before the house at once for consideration and passage.

However, in congress the motion would take this form: "I request unanimous consent to suspend the rules and discharge the committee on Taxation of the bill of the house No. 200 and pass the bill." If this motion is decided by a majority of those elected the committee is discharged and the bill passed. If this form of motion were used in state legislative bodies the vote required on this combination motion would be in most instances, whatever the vote would be to suspend the constitutional rules, if such rules were involved, otherwise, as in congress the vote necessary to make the suspension. However, the rules may first be suspended to admit the motion to discharge and the immediate consideration of the bill, then after suspension it would of course require the ordinary majority of the members-elect to pass the bill.

(A) The foregoing does not apply in the case of a bill erroneously referred to a committee. This is considered as a mere routine matter and has no relation to consideration in the house, says Mr. Page, its clerk.

MOTION DEBATABLE

SEC. 703. The motion to discharge a committee is debatable only as to the advisability of taking from committee and does not extend to the merits of the bill, **unless the motion includes passage** of bill, in that case it would be open to debate generally. The motion to

discharge is not **put to the question unless** such motion **is supported by a majority of those present.**

NEW MOTION TO DISCHARGE COMMITTEE

SEC. 704. The new rule adopted at the last session of congress (72nd) controls the use of the motion to discharge a committee.

Before a motion to discharge a committee can be made a motion to that effect in writing must be handed to the clerk and before any committee may be discharged of any matter it must have been referred to the committee thirty days previous to such motion and such motion may not be in order until the motion delivered to the clerk has been signed by 145 members of the house. The effect of the motion to discharge is merely to place the bill on the calendar in regular order, that is, discharging the committee does not give the matter a privileged status for consideration. The use of this motion in Ohio would require unanimous consent or a suspension of rules to admit it.

USE OF MOTION TO RESCIND

(Not Privileged)

SEC. 705. The **motion to rescind is not in order** in our American assemblies except by unanimous consent, or under suspension of the rules. Perhaps the only need for its use in American assemblies would arise when the time for **reconsideration had expired** and the House desired to **annul or reverse** its former action. It is not in order to move to **rescind** during the time in which the motion to **reconsider** may be made and be in order. In other words, we reconsider a vote taken at **this meeting** and **rescind a vote taken at some previous meeting.** The motion to **rescind** may not be **reconsidered,** because the nature of the motion is itself reconsideration. **It is not debatable.** This motion is in order only under suspension of the rules if business is under consideration.

At least **one day's notice of a motion to rescind** must be given before the motion may be entertained. It requires two-thirds of those voting to be effective.

MOTION TO RESCIND

SEC. 706. Perhaps the only need of this motion in our American practice would arise when the time for reconsideration had elapsed and the House desired to rescind its former action. The effect of this motion is merely to vacate or repeal. The motion to vacate seems to be gaining favor in congress and to rescind is seldom used. The practice in the use of the motion to vacate is shown in the following: "A bill was read twice, ordered engrossed, read a third time and passed." It is moved to vacate all these proceedings, if agreed to, the bill is taken up at once, read twice, passed to engrossment, read the third time, amended and passed. In vacating the procedure on the question the whole procedure was amended and the matter is again taken up, as if it had never before been before the house.

RELATION OF MOTION TO RESCIND TO OTHER PROCEDURE

SEC. 707. Debatable.

Two-thirds vote required.

All privileged-secondary motions may be applied, except to commit.

In order only under suspension of rules.

Notice of motion is necessary.

May not be reconsidered.

METHOD OF RESCINDING VOTE

SEC. 708. In parliament the motion to rescind a vote previously taken presents a new question and therefore is not in conflict with the rule that provides that the same question may not be twice offered. The parliamentary method of rescinding a former vote is to read the order of the house relating to the vote it is desired to rescind and

when read, move that such vote be rescinded. If affirmed, the effect is to annul the former vote and the question once resolved has not again been offered. However, in our American practice the reading of the order would be assumed and the motion to rescind, if in order, would be made direct without other preliminary procedure.

ENGLISH MOTION TO RESCIND
(Not Privileged)

SEC. 709. The motion to rescind as used in the English Parliament is merely a **motion to repeal or annul** a former action of the House.

It is principally used to set aside **an affirmative action.** The motion when carried leaves the **question unacted upon.** The question **does not come before the House again,** but its effect is annulled.

(A) To rescind a negative vote, except in the different stages of a bill, offers difficulty, **because the same question would have** to be offered again. It seems that the only means by which a negative vote can be revoked is by proposing another question, similar in its general purport to the question rejected, but of course with sufficient variance to constitute an entirely new question. This to keep within the rule that the **same question may not be twice offered,** at least a notice of one day must be given before the motion to rescind may be received. (May.) The Parliament has discontinued the use of the motion to rescind. They now use in the Commons the **motion to vacate** and in the Lords, **to repeal.** Any of these motions require **a two-thirds vote** to be effective. The motion to repeal explains itself and is to be preferred to rescind.

MOTION TO WITHDRAW

SEC. 710. The motion to withdraw papers of any kind is privileged and in order at any time.

MOTION TO EXPUNGE

SEC. 711. The motion to expunge is usually offered after an entry has been made in the minutes and it is desired to remove it. When the motion is made and agreed to, the secretary draws a red line through the objectionable matter and in the margin opposite it in red ink he writes "expunged by order of the House." This motion is in order only by unanimous consent or under suspension of rules. When admitted it is debatable and the motion in the rule of precedence may be applied.

MOTION TO REJECT[1]

SEC. 712. If a motion to reject is made and such motion is decided in the affirmative, the matter rejected is removed from the files of the house, if it is negatived, it is equivalent to an affirmative vote to read the bill a second time in regular course.

ENGLISH PREVIOUS QUESTION

SEC. 713. The object of the previous question as used in the English Parliament is to withhold (postpone) from the decision of the House a motion that has been proposed from the chair, says its former Clerk, Mr. May. When the previous question is moved, it is put thus by the chair: The the main question "be **not** now put?" If decided in the affirmative, the question is removed from before the House for that day. Thus it will be seen that the effect is to avoid a direct vote on the main question. The previous question may not be applied except to principal motions.

ENGLISH CLOSURE MOTION

(Not Privileged)

SEC. 714. The **closure motion** was brought into practice in 1880, for the purpose of closing debate. The

[1] The motion to reject is only in order on first reading of a bill or other propositions.

rule provides that any member may move the closure on **any main question or amendment** providing the chair is satisfied that the rights of the House are not thereby invaded and there are more than two hundred members present out of nearly 700. The motion must be supported by at least 100. If it is and the Speaker is satisfied, he puts the question thus: Shall the question **be "now" put?** If resolved in the affirmative, the chair puts the question first on all pending subsidiary questions and then on the main question. This motion may be applied to all debatable questions and closes debate and prevents further amendment. It may be **moved as soon as the question is stated.** A comparison of the **closure** with the **American previous question** leads one to believe that our previous question has been adopted and disguised under a new name. The use and final effect of the two motions is the same. **A member may claim the closure of debate by "calling for the question," even while a member is speaking.**

ENGLISH MOTION TO REVIVE

(Not Privileged)

SEC. 715. To revive a dropped order previous notice must be given of the intention to make the motion to revive, and it is only in order at the beginning of public business. If it is desired to reinstate the order for consideration at the next sitting, the member must secure the consent of a minister of the crown to permit the notice of the motion to be placed on the notice paper in the minister's name. At the opening of the sitting, the speaker calls on such minister to move the revival of the dropped order.

So this English motion to revive seems to be as restricted in its use as the analogous American motion to take from the table, which no doubt is a corruption of the motion to revive. To use either motion to discharge or revive in our American practice it would be necessary to suspend the rules or be given unanimous consent.

MOTION TO ADJOURN AND FIX TIME TO MEET

(A) This motion is highly privileged when the body has not fixed a daily hour for meeting, but when a daily hour for meeting is fixed by rule it has no privileged status.

CHAPTER XX

SUSPENSION OF RULES

SEC. 716. Rules are essential to the regularity of the proceedings of all legislative and parliamentary bodies, they are intended to prevent the oppression of the minority by the majority and to prevent the minority from obstructing the will of the majority. For these reasons the members should be protected in their rights to insist on the observance of the rules. Yet a member may waive his right and also the assembly itself may dispense with the operation of its rules. Hence it is the established practice of American legislative assemblies to do anything; to take any course of proceeding which is contrary to the rules, provided it be done by unanimous consent, that is, no member interposing an objection. Hence, also, it is the established American practice whether objection is interposed or not, for the assembly itself on a motion and vote to that effect to dispense with any and all rules except the rules governing suspension, says Cushing.

RELATIONS OF OTHER PROCEDURE TO MOTION TO SUSPEND RULES

SEC. 717. 1. May not be repeated for the same object on the same day.

2. May not be amended.

3. Simple motion is not debatable, but is debatable when qualified with debatable matter.

4. May not be laid on the table.

5. May not be committed.

6. May not be postponed.

7. Previous question does not apply to simple motion.

8. May not be reconsidered.

9. Requires a two-thirds vote of those present and capable of doing business—a quorum.

REASON FOR SUSPENSION OF RULES

SEC. 718. It will sometimes occur that the rules will not permit the introduction and consideration of important business that seems to demand immediate consideration; or the rules may state that at a particular time established by rule only certain business will be in order. Under either of these conditions it is customary to suspend the rules to admit the business.

PURPOSE OF SUSPENSION OF RULES

SEC. 719. The purpose of a suspension of the rules is to do away with the rules so that the House may run as freely as it may please. That is under a suspension there are no rules that control the action or business of the House.

VOTE REQUIRED TO SUSPEND RULES

SEC. 720. It is a rule of nearly all our American legislative bodies that the rules may be suspended by a vote of two-thirds of those voting,—a quorum being present.

When no rule has been provided for suspension of rules it can be accomplished only by unanimous consent.

WHEN TO SUSPEND RULES

SEC. 721. When the making of any motion or the introduction of any business is irregular under the rules or would conflict with any rule of the House (be out of order) such motion or business may not be brought forward or entertained if one objection is made unless offered under suspension of the rules. Of course if no one objected and the chair entertained the motion it would be effective be-

cause the fact that no objection was made, would of itself suspend the rules and the irregular matter would be regular for that particular time and could not later be questioned.

HOW RULES ARE SUSPENDED

SEC. 722. In parliamentary practice the rules of the body are suspended:

1. First, by a motion to that effect decided by the House by a two-thirds vote of those voting.

2. By unanimous consent (without objection).

3. When the House accepts and passes on business without objection being made.

PRACTICE

SEC. 723. A member may ask leave to introduce a resolution out of order for immediate consideration and adoption if no objection is offered. The chair may receive the resolution and put the question thus "Will the House suspend the rules and adopt the resolution?" If decided affirmatively by a two-thirds vote (the vote necessary to suspend the rules) the rules are suspended and the resolution is adopted.

WHEN TO MOVE SUSPENSION OF RULES

SEC. 724. A suspension of the rules is usually resorted to when a member desires to do something that is irregular under the rules or would conflict with the rules. Such motion or proceeding may not be introduced or entertained by the speaker until the rules have been suspended which make it irregular if objected to. In order that the House may vote intelligently on the motion to suspend it is required that in moving to suspend the rules the mover must state the purpose of the suspension.

PRACTICE

SEC. 725. There is nothing in the rules or law that would prevent a member from proposing to the House an irregular matter before suspending the rules and trusting to luck that no one would object and if no objection was raised and the motion or proposition were adopted by the House such action would virtually involve a suspension of the rules. If the irregular matter is objected to the mover may then move a suspension of the rules to permit its introduction.

USUAL METHOD OF SEEKING A SUSPENSION OF RULES

SEC. 726. In actual practice it seems that the better plan to follow is, before moving to suspend the rules to precede such motion with a request for unanimous consent to permit the doing of the particular thing desired, thus, I ask unanimous consent to instruct the committee on taxation to report forthwith the bill to the House No.——. If unobjected to, the request is allowed and the committee must report at once the bill is referred for its consideration. "Anything may be done by unanimous consent, even to amending the Ten Commandments," observed Speaker Thomas Reed. If objection is made to a request it of course is defeated. Then the member asking unanimous consent or another member may move a suspension of the rules to accomplish his purpose. The former requires the entire vote of all present and the latter two-thirds of those voting.

WHEN MOTION TO SUSPEND IS IN ORDER

SEC. 727. In practice the motion to suspend is considered to be an incidental motion. It is in order when main motions are in order. If made when other business is pending then it is considered as incidental to that particular business. If the motion is made for the purpose of introducing new business, say a motion or resolution or bill, then the motion is incidental to the general course of business. (Cushing.)

ACTION AFTER SUSPENSION OF RULES

SEC. 728. If the rules are suspended to permit the introduction of new business, say a resolution, that business may be introduced and is then open like other business of that kind for discussion, amendment, adoption or rejection. Such suspension being authority to do in the usual way whatever may be necessary to finally dispose of such business. Any business introduced under a suspension of rules is taken up at once and considered and finished.

GENERAL RULE FOR SUSPENSION OF RULES

SEC. 729. In the legislative bodies of the United States, with a few exceptions, it is generally provided that all the rules including the parliamentary law may be suspended by a two-thirds vote. If this special rule did not exist the rules would be suspended by unanimous consent. A general rule covering all such rules is about as follows:

Any or all the rules and regulations of the assembly prescribed for the transaction of its business may be suspended at any time so far as the business of that particular meeting is concerned, providing two-thirds of those voting shall so declare.

WHEN UNANIMOUS CONSENT REQUIRED TO SUSPEND

SEC. 730. Where no **rule is provided** for suspending the rules it seems that it can be done only by unanimous consent.

PRACTICE OF CONGRESS IN USE OF MOTION

SEC. 731. In the House they move to suspend the rules and adopt a resolution. On one occasion an objection was made to the form of the motion and it was argued that it was the right of the House to vote first on the suspension and then on the resolution, that is a division of the motion was desired. Speaker James Blaine overruled the objection and refused to make such division. He put the motion

"Will the House suspend the rules and adopt the resolution?" It was agreed to and he declared the rules were suspended and the resolution adopted. Here we have clearly a double motion and the putting of two questions at the same time and by such distinguished authority as Speaker James G. Blaine. He also at another time when a similar motion was pending on objection ruled the motion as framed is in order. It is not debatable and the question must be put as one motion and decided with one vote.

In the present practice of the House the simple motion to suspend is not debatable but the motion qualified or coupled with other matter is debatable if the qualifying part is debatable.

When Speaker Reed was in the chair a member moved to suspend the rules, reconsider the vote taken on a resolution and readopt the resolution with a proposed amendment. Objection was made to the form of the motion. Speaker Reed ruled "The gentleman may move to suspend the rules, reconsider the vote and adopt the resolution with the proposed amendment with one and the same vote." From the foregoing it would seem that almost any combination of the motion coupled with suspension of rules would be in order and not divisible even though one part of such combination would require a majority vote and other part a two-thirds vote.

DIGEST OF SPEAKERS' DECISIONS ON SUSPENSION OF RULES

SEC. 732. A motion to suspend the rules and adopt a resolution precludes a division of the question.

A motion to suspend the rules for the purpose of doing a certain prescribed thing precludes a demand for a division.

The motion to suspend the rules may not be amended.

Where a question is being considered under a suspension of rules it is not in order to commit that question.

After a motion to suspend has been entertained, motions of a dilatory nature are not in order.

Pending a motion to suspend the rules one motion to adjourn is in order and after the result thereon is announced the speaker may not entertain any other motion until the vote on suspension is taken.

A motion to suspend the rules including a series of actions may not be amended nor divided.

Special orders are usually made under a suspension of the rules and unless unanimous consent is granted they cannot be made except when the motion to suspend is in order.

A motion to suspend the rules and adopt a resolution precludes a division of the question.

The simple motion to suspend the rules is not debatable, that is, "I move to suspend the rules."

It may not be amended.

It may not be laid on the table or indefinitely postponed.

When the rules are suspended to permit a motion to be considered, another motion to suspend the rules may not be made during that consideration.

A vote on this motion may not be reconsidered.

EFFECT OF SUSPENSION OF RULES

SEC. 733. A motion to suspend the rules, decided affirmatively waives and suspends all requirements and provisions of the rules and brings the House to an immediate vote on such matter. (Reed.)

When the House is operating under a suspension of the rules there is no regular order of business that controls because the regular order has been suspended for the time being, therefore a demand for the regular order under this condition cannot be recognized and is of no effect.

The provision of the rules for suspending the rules by its express terms is designed and intended to permit the House by a two-thirds vote to transact business which is

not in accordance with the rules of the House and parliamentary law and from what are called dilatory motions.

MOTION TO SUSPEND MAY INCLUDE ACTION ON SUBJECT

SEC. 734. The motion to suspend the rules may include action on the subject or a series of actions. "I move to suspend the rules and pass the bill or adopt the resolution." "I move to suspend the rules to enable the taxation committee to report the bill and the House pass such bill." This combination motion was offered by former Speaker Randall, entertained and put as one question by Speaker Reed. It was decided affirmatively and the speaker declared the rules suspended, the committee discharged and the bill passed.

In the United States Senate it is in order for a member to introduce a resolution and move the suspension of the rules and the immediate consideration and adoption of the resolution, which is accomplished with one question and one vote.

I move that the rules be suspended and that House Bill No. 80 be substituted for Senate Bill No. 30 now on the calendar and that the Senate proceed to the immediate consideration of the House Bill and the bill of the Senate be indefinitely postponed. The foregoing motion made in the Senate includes at least four different motions, all decided by one question and one vote.

MOST EFFECTIVE USE OF MOTION

SEC. 735. The better plan to get any matter out of order before the house is, before moving a suspension of the rules, to precede such motion by a request for unanimous consent to permit the doing of the particular thing. If no one objects (and anything may be done by unanimous consent) it is considered that the house assents and what is desired is allowed accordingly. If objection is made the request of course is defeated. Then he may

proceed to accomplish his purpose by moving a suspension of the rules. In the former the assent of all is required, in the latter a two-thirds vote.

REASONS FOR SUSPENSION TO BE GIVEN

SEC. 736. For the protection of the House against the introduction of business, that they do not wish to consider after suspending the rules, it is required in the English practice, but not rigidly enforced in our American practice (but it should be) that a member requesting unanimous consent, or moving a suspension of the rules, must in doing so, state clearly the purpose for making his request, or suspending the rules. The purpose of this sensible, wholesome rule, is to avoid surprises, and protect the right of the assembly to know what it will be asked to do, so they may vote intelligently.

URGENCY FOR SUSPENSION OF RULES

SEC. 737. In the practice of legislative bodies, where the state constitution provides for suspension in cases of **urgency, it seems that the responsibility of bringing forward a matter,** as presenting a **case of urgency rests entirely with the member** who desires to exercise the right given by the constitution. Still there should be some **color of urgency for the suspension;** and for this reason where like or similar conditions exist under the rules of Parliament, the Speaker has declined to submit a motion for suspension, because in his opinion there was no **definite matter of urgent public importance for such suspension.**

ACTION AFTER SUSPENSION OF RULES

SEC. 738. If the rules are suspended to permit the introduction of new business, say a resolution, that business may be introduced and it is then open like other business of the same description to discussion, adoption

or rejection. Such suspension is authority to do in the usual way whatever may be necessary to finally dispose of the business. That is the business introduced under suspension of the rules may be taken up at once and considered and **passed through all its stages and finished.**

RESTRICTING USE OF MOTION TO SUSPEND

SEC. 739. The too frequent use of the motion to suspend the rules and disrupt the established order of business has caused both Parliament and our National House to very materially restrict its use. In Parliament it is only in order after **two days' previous notice** has been given the House by the member intending to make such motion and requires a three-fourths affirmative vote. In our National House it is in order only on two days in each month, first and third Mondays and then it is not the duty of the Speaker to put such motion, **but he may, and usually does,** if a majority of the members by actual count, indicate they desire it to be put. This restriction is absolutely necessary in Congress to protect the House against interruption of its regular and systematic method of doing business.[1] But in ordinary deliberative assemblies such restrictions are wholly unnecessary, therefore the rule of the House governing the use of the motion would be unwieldy in small bodies. We think the rule which is in general use in our state legislative bodies could be followed by smaller deliberative assemblies of any kind, with good and satisfactory results, viz:

RULE FOR SUSPENSION OF RULES

SEC. 740. Any or all the rules and regulations of the Assembly, prescribed for the transaction of business, may be suspended at any time, so far as the business of that meeting is concerned, providing **two-thirds of those present shall so decide.**

[1] The motion here described is not the simple motion, but the qualified motion to suspend, thus, I move to suspend the rules and pass the bill,

SYLLABUS OF SPEAKER'S DECISIONS RELATING TO SUSPENSION OF RULES

SEC. 741. The simple motion to suspend the rules is not debatable. It cannot be amended, laid on the table or indefinitely postponed.

(A) When the rules are suspended to enable a matter to be considered, another motion to suspend the rules may not be made during that consideration. (White.)

PRACTICE IN USE OF MOTION

(B) In the House Mr. Washburn moved to suspend the rules and adopt a resolution. Objection was made that it was the right of the House **to vote first on a suspension of rules and then on the resolution.** Speaker Blaine overruled the objection, and the House then suspended the rules and adopted the resolution with **one and the same vote.**

(C) On another occasion a member moved to suspend the rules and adopt a resolution, **objection was made that it was the right of the House to debate the motion. Speaker Blaine ruled:** The motion as framed by the gentleman proposes that the rules be suspended and the resolution adopted with one vote. It is in order for him to put the motion in that form and the chair understands that to be the motion, **it is not debatable.** In the present practice of the House this **qualified motion to suspend is debatable, but the simple motion is not debatable.**

(D) On still another occasion a member moved to suspend the rules, reconsider the vote on a resolution, amend the resolution and readopt it, all with one and the same vote. Objection was raised, Speaker Reed ruled: The gentleman **can move to suspend the rules, reconsider the vote already taken, and adopt the resolution with the proposed amendment with one and the same vote.**

(E) A motion to suspend the rules and adopt a resolution **precludes division of the question.** (Blaine.)

SUSPENSION OF RULES BY IMPLICATION

SEC. 742. It is held by speakers of the National House that a prior determination, order or rule of the House becomes ineffective or is suspended by a present action in conflict with the prior determination, order or rule, that is, when there is irreconcilable conflict between the present and the prior act of the House. The latter act is always effective and the prior act is suspended.

SUSPENSION OF STANDING ORDERS (Parliament)

SEC. 743. In the English House of Commons, the Standing Orders (rules) are considered as temporarily suspended, or set aside by an order of the House which prescribes a course of action inconsistent with the provisions of a standing order, or rule of the House. (May, p. 145.)

METHOD OF PARLIAMENT IN SUSPENDING STANDING ORDER OF RULES OF THAT BODY

SEC. 744. In the House of Commons in England the standing orders, rules of the House are considered as temporarily suspended or set aside by an order of the House which prescribes a course of action inconsistent with the provisions of the rules of the House. The direct motion to suspend the rules does not appear to be recognized or used in parliament. (May, p. 145.)

GENERAL DECISIONS ON SUSPENSION OF RULES

SEC. 745. **A majority vote suspends the rules for the purpose of going into the committee of the whole;** (a) The rules may be suspended by a single vote to consider a number of bills or to permit a committee to report several bills; (b) It is not in order under color of amendment to change or rescind a rule and when such

is the effect of a motion, one day's notice is necessary; (c) When the rules are suspended to permit a member to submit a particular proposition, if he fails to submit it, another member may do so, but if he submits it and subsequently withdraws it another member may not renew it. (d) **Any appropriation bill may be made a special order by a majority vote.** (e) Special orders are usually made under a suspension of the rules, and of course, unless unanimous consent is given, **cannot be made, except when the motion to suspend is in order.**

FORM OF MOTION TO SUSPEND RULES AND PASS BILLS OR ADOPT RESOLUTIONS

SEC. 746. If a member finds it necessary to suspend the House and constitutional rules to consider and pass his bill, **he may cover the entire process with one motion and vote,** thus:

Mr. Bartlett: **"I move to suspend the House and constitutional rules and take from the calendar H. B. 48 and pass it."**

Speaker: **"Will the House suspend the House and constitutional rules and take out of its regular order on the calendar H. B. 48 and pass it?** The clerk will call the roll, those in favor vote aye, those opposed vote no." This motion or request requires a three-fourths[1] vote and if decided in the affirmative the rules are suspended and the bill is passed.[1]

SEC. 747. When a question is being considered under suspension of the rules **it is not in order to commit the question.** (Reed.)

SEC. 748. If a meeting or association has adopted Cushing, Robert, Reed, Hughes or any other system of rules to guide them, the motion to suspend applies to these rules, as well as any other.

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[1] If constitution is involved.

SEC. 749. After a motion to suspend the rules has been entertained **motions of a dilatory nature are not in order.** (Crisp.)

SEC. 750. Pending a motion to suspend the rules one motion to adjourn is in order and after the result thereon is announced the Speaker may not entertain any other motion until the vote is taken on suspension.

EFFECT OF SUSPENSION OF RULES

SEC. 751. **Any matter submitted for the consideration of the House under a suspension of the rules, or by unanimous consent, carries with it the right of immediate consideration, e. g. a resolution so introduced does not lie over one day but is up for immediate consideration.**

SEC. 752. Suspension days in Congress does not present opportunity to arrange for the disposal of business at a future time but its purpose is to dispose of business at once.

SEC. 753. A motion to suspend the rules for the purpose of doing a certain prescribed thing precludes a demand for a division. The motion to suspend the rules may not be amended.

EXTENT OF EFFECT OF SUSPENSION OF RULES

SEC. 754. It has been held in Congress that a suspension of rules applies to the general parliamentary law as well as to the rules of the House.

PRIVILEGE OF MOTION TO SUSPEND RULES

SEC. 755. During the debate on a question of order, Speaker Crisp ruled: "The Speaker fully appreciates the fact that according to the practice that has **always prevailed,** the motion to suspend the rules has been

one depending on recognition. That is, it cannot be made, unless the member is recognized to make it."

The following procedure will assist in an understanding of the Speaker's point.

A member moved to suspend the rules and pass a certain bill.

The Speaker said, "The chair declines to recognize the gentleman for that purpose, at this time. And the chair under the law has that discretion. This and similar rulings in the National House account for the motion taking this form, **"I request unanimous consent to suspend the rules and pass the bill."**

PASSING BILL UNDER SUSPENSION OF RULES

SEC. 756. Mr. Randall by unanimous consent moved to suspend the rules to enable the committee on judiciary to report, and the house to pass a bill. The Speaker put the question "Shall the rules be suspended to enable the judiciary committee to report the bill of the House No. ——— and the House to pass such bill?" The motion was agreed to by a voice vote and the bill was passed. Mr. Turner objected that the motion under the rules required a yea and nay vote. The Speaker ruled: **"When the rules are suspended, it includes the rule cited by the gentleman."** [1]

EFFECT OF MOTION TO SUSPEND RULES AND PASS BILL

SEC. 757. This motion to suspend the rules and pass a bill is only in order on two days in each month in Congress. If this motion were presented in the Ohio Assembly the vote should be taken by yeas and nays, because if decided affirmatively by a three-fourths vote on the question "Shall the rules be suspended and the bill passed?" the rules are suspended and the bill is passed. So with a motion to

[1] Davis.

take up a bill out of order and pass it on the question "Shall the bill be taken out of its regular order and passed?" if decided affirmatively by a three-fourths yea and nay vote, the effect is to suspend the rules and pass the bill with one and the same vote.

WHEN THE MOTION INCLUDES BOTH SUSPENSION OF THE RULES AND ACTION ON THE SUBJECT

SEC. 758. **One suspension disposes of necessity for three readings of bills and motion to engross.** Mr. Willis offered the following motion: "I move to suspend the rules, so as to enable me to introduce and the House to pass a bill."[1] The bill was received and the Speaker put the question: "Shall the rules be suspended and the bill passed?" The vote was taken, the rules suspended and the bill declared passed with one and the same vote. It is not indicated by the journal that the bill was even read once, but it is to be presumed it was for the information of the members. No motion of any kind followed the motion of Mr. Willis, except a demand for the yeas and nays. (It should be noted that no attention was here given to the three readings of the bill, or its engrossment, all being dispensed with by the motion to suspend. **That is these stages being unnecessary under suspension.)** H. J. 2 Sess. 46th Con. (If the foregoing plan should be adopted by our state legislative bodies much valuable time could be saved, also the embarrassment and confusion, to which members are subjected by moving to suspend the rules for each stage of the bill.)

SUSPENSION INCLUDING A SERIES OF ACTIONS

SEC. 759. "A motion to suspend the rules may include a series of actions, such as to suspend, discharge a committee from consideration of a bill and the passage of it. The

[1] At the time this motion was made the rule of the House provided that all bills should be read three times and on three different days.

reconsideration of the vote passing a bill, amendment of it, and its repassage with one question and vote. The permission to a committee to do a specific thing, an order to the clerk to incorporate in an engrossed bill, even an appropriation bill, a provision not otherwise in order, a motion to take a motion to reconsider from the table or any other matter placed there by order of the house." (Fess.)

SEC. 760. Speaker Carlisle ruled that a motion to suspend the rules was not in order, if objected to, while other motions were pending before the house. Under the rules of the house, a motion to suspend the rules is simply a motion which, like any other parliamentary motion, was in order when there was not another matter pending before the house.

When the rules are suspended to permit a matter to be considered, another motion to suspend may not be made during that consideration.

The rules having been suspended to enable a member to present a proposition he may not then modify his proposition. But it has also been held that a proposition considered under suspension of rules may be amended by any germane amendment.

PURPOSE AND EARLY USE OF MOTION TO SUSPEND RULES

SEC. 761. The early use of the motion to suspend the rules, before it was fully understood, was merely to permit the introduction of a subject not otherwise in order for the consideration of the house, but in the present practice, business is greatly facilitated by the use of this motion being extended, so that under modern practice it is permissible, both to bring the matter before the house and pass it under suspension of rules and with one vote. The house rules may be suspended by a single motion and one vote so as to permit the house to vote first on a proposed and specified amendment to a bill and on the bill itself.

A motion to suspend the rules including a series of actions may not be amended, e. g. a motion to suspend to permit introduction of a matter to be referred to a select committee could not be amended to provide a standing committee.

SUSPENSION OF RULES AND ACTION ON SUBJECT

SEC. 762. A motion to suspend the rules may include a proposition to take action on the subject, e. g. I move to suspend the rules and adopt the resolution. This combination motion is admitted and given high privilege whenever the motion to suspend is in order. On this motion but one question and vote is necessary, thus, "Will the house suspend the rules and adopt the resolution?" If decided affirmatively the rules are suspended and the resolution adopted.

SEC. 763. Rules are sometimes suspended or dispensed with in favor of a particular member, or some special occasion without motion, question or vote, but merely by indulgence or tacitly by allowing a member to proceed without objection or interruption.

CHAPTER XXI

UNANIMOUS CONSENT

UNANIMOUS CONSENT DEFINED

SEC. 764. Unanimous consent is a means employed in all parliamentary bodies including the Parliament of England, to ascertain the will of the House in reference to any question not provided for under the regular rules, that is, any irregular matter may be introduced and acted upon by unanimous consent. It is a method of voting that requires the assent of all present to be effective.

In order that any proposition acted upon may express the opinion, judgment or will of the House it is necessary that it receive the assent of a majority of the House, or such number as may be agreed upon, and this assent may be manifested in two ways, namely, either by no one objecting to the proposition, in which case the sense of the House is ascertained by general consent, their sense being sufficiently expressed when no one objects to the procedure; second, by the required number declaring in favor of it, in which case the sense of the House is determined by a motion made by a member and a question put by the chair, a very important use of unanimous consent is to suspend the rules.

SEC. 765. This is a very useful part of parliamentary machinery and its proper use greatly facilitates business. It has found, in recent years, great favor in our National Congress because it does away with the formality of a vote. One objection defeats unanimous consent and for this reason it would seem useless, even senseless, to submit a question upon which the entire membership is agreed.

TAKING QUESTION ON REQUEST FOR UNANIMOUS CONSENT

SEC. 766. When a request for unanimous consent is made, e. g. "I request unanimous consent of the House to recess fifteen minutes" the chair in Parliament merely inquires "Is it the pleasure of the House to recess fifteen minutes?" If no one objects he declares the House in recess. The writer prefers the practice of the American House where the speaker merely inquires "Is there objection to the motion to take a recess, etc.?" He pauses to give time for objection, if none is made he continues, "The chair hears none it is so ordered." The fair and judicious use of this procedure is dependent on the tact of the chair.

METHOD OF REQUESTING UNANIMOUS CONSENT

SEC. 767. It appears to be required in Congress in requesting unanimous consent that the member making such request shall embody in such request his purpose in making the request, e. g. "I ask unanimous consent to have the resolution printed as amended."

WHEN TO USE UNANIMOUS CONSENT

SEC. 768. Unanimous consent is asked most frequently when a member desires to do anything that is irregular or out of order under the rules.

DIGEST OF SPEAKER'S DECISIONS RELATING TO UNANIMOUS CONSENT

SEC. 769. When unanimous consent is granted it has the effect and does suspend the rules so far as they relate to the doing of the thing for which unanimous consent was granted, and this, notwithstanding any rule or regulation or provision of parliamentary law to the contrary. (Reed.)

When any matter is entered (introduced) for the consideration of the House, all rules in conflict with said consideration are suspended. (Carlisle.) That is, if a matter

not in order is brought before the House and no one objects the rule or order that would prevent its consideration is suspended and the matter is in order for consideration. Unanimous consent having been given for the introduction of a resolution the resolution is before the House for consideration and is open for amendment. (Randall.) **Unanimous consent is not in order in the absence of a quorum.**

MEANING OF UNANIMOUS CONSENT

SEC. 770. Unanimous consent if it means anything means without negative voice-objection. A demand for regular order is equivalent to an objection and when demanded the speaker is bound to enforce it. In actual practice it is not usual for a member to rise and say I object. It is deemed to be more courteous to demand that the House proceed in regular order by the cry of "regular order," which means that you object to any business outside the regular course.

EFFECT OF DEMAND FOR REGULAR ORDER

SEC. 771. The chair may not submit a request for unanimous consent against a demand for regular order. A demand for regular order is in fact an objection to anything but the regular order of business. A member may be recognized and given the chairman's call and even before he has fully stated his request may be taken off the floor by the demand for the regular order.

WHEN RIGHT OF HOUSE IS WAIVED

SEC. 772. When in the course of regular business a motion or other business is proposed out of order under the rules and it is proposed by the chair and the House neglects to avail itself of its right to object or demand the regular order and thus intercept its consideration, then the rule preventing such motion is suspended and the

right to object is waived. Objection after the question is debated and the question is put and decided, comes too late. **The fact that no one objects is equivalent to granting unanimous consent.**

EXAMPLES OF THE EFFECT OF ADOPTING MOTIONS OUT OF ORDER

SEC. 773. A motion if once made and carried is binding although in the first instance it could have been ruled out of order or its consideration prevented by an objection. (Crisp.)

When a motion not in order under the rules is made and no one objects to it and it is agreed to by a majority vote of the House such action is binding on the speaker and the House even though the original motion under the rules requires a two-thirds vote. (Davis.)

UNANIMOUS CONSENT TO INTRODUCE BUSINESS CARRIES RIGHT TO CONSIDER

SEC. 774. When the House gives unanimous consent to introduce a resolution or other business the right for immediate consideration is thereby granted; that is, any matter introduced by unanimous consent may be considered at once and placed on its adoption or passage.

RIGHT TO MAKE STATEMENT

SEC. 775. A member may, by unanimous consent, secure the privilege of making a personal statement to the House that would otherwise be out of order.

HOW CHAIR OBJECTS TO UNANIMOUS CONSENT

SEC. 776. One objection defeats unanimous consent. If the chair is a member of the body he has as much right to object to irregular business as other members but he does not do so by publicly declaring his objection, or by demanding the regular order but it is usual for him to register his

objection by refusing to recognize the member wishing to request unanimous consent. After the request is made he may declare, "The chair refuses to recognize the gentleman for that purpose" and does not state the request, or the chair may to inform himself when the member seeks recognition inquire "For what purpose does the gentleman arise?" If it appears the gentleman will propose something out of order or objectionable, the chair declares that he refuses to recognize him for that purpose. It should be understood that the right of the chair to object is confined to unanimous consent propositions or matters out of order.

TAKING SENSE OF HOUSE BY UNANIMOUS CONSENT

SEC. 777. The inexperienced in parliamentary forms insist that in unanimous consent voting, a silent vote is a negative vote, but not so in the practice of American Congress or the Parliament of England. A careful examination of the form of taking the sense of the House by unanimous consent we think will dissipate this thought. In the case of unanimous consent the putting of the question is reversed and the negative voice is first asked for and not the affirmative. Accordingly when the negative voice is called for by the query, "Is there objection?" If no one objects it is fair to assume there are no negative voices and that all by their silence vote in the affirmative.

There is much authority for the statement that a silent vote is an affirmative vote to be found in the records of parliamentary bodies, but still better, this important question has demanded the attention of our courts. Several of our state supreme courts and the United States Supreme Court have affirmed the parliamentary decisions on this subject. The United States Supreme Court has said, "that those who sit silent are to be regarded as consenting to the results."

ASCERTAINING SENSE OF HOUSE BY UNANIMOUS CONSENT

SEC. 778. When the sense of the House is taken by unanimous consent, the chair does not put the question for a vote who are on the one side or the other to declare themselves but the chair merely inquires is there objection?

ANTIQUITY OF UNANIMOUS CONSENT

SEC. 779. Occasionally we hear persons taking exceptions to the use of unanimous consent, but no one can consistently deny that it is a well-established parliamentary device in parliamentary law just as much as in any of the motions.

SUSPENSION OF RULES

SEC. 780. Unanimous consent suspends all rules. (Begg of Ohio.)

SILENT VOTE

SEC. 781. Lex Parliamentaria, among the earliest English works on the law and practice of Parliament says "In the English Parliament a silent vote (those not voting) is considered as consenting to the result.

LEAVE OF HOUSE

SEC. 782. Asking leave of the House to do something out of order is equivalent to unanimous consent. It means granted without dissentient voice. If a member ask leave to do something and no one objects the request is granted.

PROPER FORM AND METHOD TO REMOVE A QUESTION FROM THE TABLE

SEC. 784. If it is desired to remove a proposition from the table the parliamentary plan would be thus, "I request unanimous consent or move to suspend the rules to revive and proceed with the resolution of Mr. Brown and

the pending amendments." If no one objects the request is granted and the resolution is before the House for consideration. A suspension of rules is always involved in removing any matter from the table. If a motion to take from the table is offered and not objected to, unanimous consent to make such motion is thereby granted.

SEC. 785. In this connection let us examine the words of one of America's greatest parliamentarians. It is not a decision as speaker, but a statement written in the quiet and privacy of his office and inserted in his little volume of rules which he gave to the world. "When unanimous consent is granted, it has the effect, and does suspend the rules so far as they relate to the doing of the thing for which unanimous consent was granted and this, notwithstanding any rule or regulation or provisions of parliamentary law to the contrary." (Reed.) Add to Reed's statement that of another great parliamentarian and brilliant lawyer, the decision in the national house by Speaker Carlisle. "When any matter is entered (introduced) for the consideration of the house, without objection, all rules in conflict with said consideration are suspended." (Carlisle.) That is, if a matter not in order is brought before the house and no one objects the rules or order that would prevent its consideration are suspended and the matter is in order for consideration. It might be helpful here to examine Mr. Reed's statement as to the effect of the suspension of the rules. "A motion to suspend the rules, decided affirmatively, waives and suspends all requirements and provisions of the rules and brings the house to an immediate vote on such matter." A comparison of this rule on unanimous consent and suspension of rules shows conclusively that he considers the two procedures to be equivalent in their final effect.

Speaker Cannon, in ruling on the effect of a suspension, no matter how obtained, said: "When the house is operating under a suspension of the rules, there is no regular order of business that controls." In this connection, Speaker Reed said: "The provisions or rule for suspend

ing the rule by its express term is designed and intended to permit the house to transact business not in accordance with the general rules." (Reed.) Speaker Kerr expresses the principle more fully, thus: "The very purpose of a suspension of the rules is to do away with the rules so that the house may run as freely as it may please."

Now it may be helpful to examine the English rule upon which these American decisions no doubt are based. A rule of parliament reads: "When a general vote of the house concurreth in a question proposed by the speaker, without contradiction (objection) there needeth no question." There is no known parliamentary device more useful in parliamentary bodies than unanimous consent or suspension of rules. Without them parliamentary bodies would be restricted and hampered in the transaction of its business. Its use permits the doing of those necessary things not mentioned in the rules and law. No system of rules or law could be devised that would cover all the intricate problems that arise in a deliberative body, nor would such be altogether desirable. There are innumerable parliamentary devices not in use in every day practice and not mentioned in the rules that occasionally serve a good purpose and these could not be used if the motion to suspend the rigorous restrictions of the rules had not been brought forward and under these conditions the body might find itself unable to proceed. Even with this helpful device, suspension of rules, congress has occasionally found itself unable to proceed with important business because of a fighting minority. Therefore they forced the rule that a suspension of rules on a resolution recommending it from the committee on rules could be accomplished by a majority vote.

PUTTING THE QUESTION IN CASE OF REQUEST FOR UNANIMOUS CONSENT

SEC 786. When a question is put in the form in which it is to be taken by consent, that is, when the speaker merely inquires whether it is the pleasure of the house that such a

thing be done, or as in American Congress, "Is there objection to the thing being done?" If no one dissents the speaker declares, "It is so ordered." The question is open to debate in the affirmative, but not the negative, for the reason one negative voice defeats the request. The affirmative may be urged until the speaker's declaration that the matter is ordered. (Cushing.) The fair and judicious use of this procedure is dependent on the tact of the speaker in securing the sense of the house.

To the end that no deception shall be practiced and that the speaker may fairly ascertain the sense of the house it appears that the member requesting unanimous consent should embody in his request his purpose in making the request. Example: A member desires to discharge a committee of further consideration of a bill. He should state his request thus: "I request unanimous consent to discharge the committee on Taxation from further consideration of House Bill No. 250."

Speaker: "Is it the pleasure of the house to discharge the committee on Taxation from the further consideration of H. B. No. 250?" Here he should pause to give reasonable opportunity for objection, if he hears no objection, he should so state, "The chair hears no objection and it is so ordered." Or the speaker may merely inquire, "Is there objection to discharging the committee on Taxation, etc.?" In either of these cases, if no one objects, the house has given unanimous consent to the doing of that thing and the speaker should declare, "It is so ordered." If objection is made to giving consent the member may then move to suspend the rules and discharge the committee. If a member fails to object at the proper time, that is, when the speaker inquires for such objection, he may not subsequently raise objection. His objection must come while the matter is pending and before the speaker declares it to be ordered by the house. The opportunity to object is a parliamentary right and it is the duty of the speaker to protect such right by not disposing of the matter too speedily and before his

final declaration he should feel sure that the house comprehends the question.

The general consent method expedites business and decreases the size of the daily journal. Ordinarily we accomplish by general consent what otherwise would require several motions to be presented, debated, voted upon and entered in the journal.

JOURNAL ENTRY FOR UNANIMOUS CONSENT

(A) The proper journal entry for unanimous consent is: By unanimous consent it was ordered that the committee on Taxation be discharged of H. B. No. 200, (title) and the same be passed or placed on the calendar, which was accordingly done.

WHEN RIGHT OF HOUSE IS WAIVED

SEC. 787. From the foregoing rules and decisions the following rule may be set down:

When in the course of the regular business a motion or other business is proposed out of order under the rules, if it be sanctioned by being received and proposed by the speaker and the house neglects to avail itself of its right to object and intercept its consideration and the putting of the question then the rule preventing such motion is suspended and the right to object later is waived. Objection after the question is debated, put and decided comes too late. (The fact that no one objects is equivalent to granting unanimous consent.)

William Tyler Page, Clerk of the National House, is our authority for the statement that Speaker Reed in a decision said, "By unanimous consent the ten commandments might be amended." Mr. Page further says, "In the practice of the house of representatives unanimous consent is resorted to only when the purpose desired cannot be accomplished by strict adherence to the written rules and practice." In this statement of Mr. Page we have the admis-

sion that unanimous consent suspends the rule because it is used to permit a thing being done that is not in order.

UNANIMOUS CONSENT AND RIGHT TO AMEND

SEC. 788. A resolution having been introduced by unanimous consent, an amendment was offered which was objected to. Speaker Randall decided: "The gentleman asked unanimous consent to introduce the resolution. It is the province of the house to adopt the resolution. **Unanimous consent having been given for its introduction, the resolution is before the house for consideration and is open for amendment."**

UNANIMOUS CONSENT IN PARLIAMENT

SEC. 789. The parliamentary proceeding known in parliament as general consent, and in America as unanimous consent is a very ancient parliamentary device for ascertaining the sense of the house and suspending the rules. It was recognized in the late decades of 1500 and took the form of this rule or order in 1610. "That nothing pass by order of this house without a question, affirmative and negative. But when the general vote of the house concurreth in a motion proposed by the speaker without contradiction (objection) there needeth no question."

INTRODUCING RESOLUTION FOR IMMEDIATE CONSIDERATION

SEC. 790. A member having a resolution he desires to be considered without being laid over under the rule could secure this end as follows:

"Mr. Speaker: I ask unanimous consent to permit me to introduce and the House to adopt a resolution."

Speaker puts question: "Will the House suspend the rules and permit the gentleman to introduce and the House

[1] Under the practice of suspending the rule and passing a bill the bill is always read once for the information of the House;

adopt the resolution?"[1] This would require a two-thirds vote.

EFFECT OF RECEIVING, CONSIDERING AND ADOPTING MOTIONS OUT OF ORDER

SEC. 791. "A motion once made and carried is binding although in the first instance it could have been ruled out of order, or its consideration prevented by an objection." (Crisp.)

(A) "When a motion not in order under the rules is made and no one objects to it, or its consideration, and it is agreed to by a majority vote of the House, such action is binding on the house and speaker, even though the original motion under the rules requires a two-thirds vote." (Davis.)

(B) In the House of Commons in the English Parliament, we find the foundations of the foregoing decision in this rule: "If the house, by a majority vote, order a course of action, inconsistent with the rules and orders of the house such rules and orders affected by such action are considered as suspended." (May.)

(C) Speaker Carlisle ruled, "When any matter is entered (introduced) for the consideration of the house, without objection, all rules in conflict with such consideration are suspended." (Carlisle.)

SEC. 792. Unanimous consent is asked most frequently **when a member desires to do anything that is out of order.** However, **any motion prevails when unanimous consent is obtained.** The following is the usual method employed in ascertaining if unanimous consent is given.

FORM

SEC. 793. Mr. King. Mr. President: I request unanimous consent for the bill just reported from the committee with amendments to be printed as amended.

Chair: Is there objection? (After a pause.) The chair hears none. Without objection, it is ordered that the bill be printed as amended.

EFFECT OF GRANTING UNANIMOUS CONSENT

SEC. 794. When unanimous consent is granted, it has the effect, and does suspend the rules, so far as they relate to the doing of the thing for which unanimous consent was granted and this notwithstanding any rule or regulation or any provision of parliamentary law to the contrary. (Reed.)

OBJECTING TO UNANIMOUS CONSENT

SEC. 795. A request for unanimous consent to introduce any matter out of order, is in effect a request to suspend the order of business. When a request for unanimous consent is made, objection may be made, which is equivalent to a demand to continue the regular order of business and defeats the request. The name of a member objecting to unanimous consent is not entered in the journal of a legislative body. The **granting of unanimous consent waives any requirement as to reference to committees.**

SEC. 796. Just one member objecting defeats unanimous consent.

(A) There is no rule governing the admission of the request for unanimous consent, and it is always admitted, unless objected to.

SUBMITTING ONE BILL FOR ANOTHER WHEN TAKEN UP FOR CONSIDERATION

SEC. 797. Mr. Brown moved by unanimous consent, that House Bill 48 be laid on the table and the bill of the Senate No. 78, of the same title be substituted in lieu thereof and considered at this time.

UNANIMOUS CONSENT DEFINED

SEC. 798. Unanimous consent reduced to its lowest terms merely means "granted by leave of the House, without negative voice."

MEMBER REQUESTING UNANIMOUS CONSENT—TAKEN OFF FLOOR

SEC. 799. A member in possession of the floor and requesting unanimous consent for a certain purpose may be taken off the floor before his request is fully stated by a demand for the **regular order which is of higher privilege and supersedes it.** (Crisp.)

UNANIMOUS CONSENT TO INTRODUCE BUSINESS CARRIES RIGHT TO CONSIDER

SEC. 800. When the House gives unanimous consent to introduce a resolution or other business **the right to consider is also thereby granted;** that is, **any matter introduced by unanimous consent, may be considered at once and placed upon its adoption or passage.** (H. J. 1st Sess., 50 Cong., 458-459.)

EFFECT OF UNANIMOUS CONSENT

SEC. 801. Unanimous consent dispenses with all the rules, decided Beggs of Ohio, in committee of the whole.

In congress after the second reading and amendment of a bill it is customary for members to move that the bill be read a third time, engrossed and placed on its passage. If no motion is made the chair assumes the motion is pending and puts the question. On one occasion Joseph Bailey of Texas demanded a division of the question and that the vote be taken separately on each proposition in the question, viz., third reading, engrossment and passage. Burke Cochrun, of New York, strenuously opposed such division and Speaker Crisp decided "The question is indivisible."

SEC. 802. When any matter is entered (introduced) for the consideration of the House, without objection, (or by unanimous consent) all rules in conflict with said consideration are suspended. (Carlisle.)

The House may by unanimous consent dispense with the rule, for one day's notice to alter, change or suspend the rules. (Carlisle, H. J. 2 Sess., 50th Cong., pp. 34-35.)

UNANIMOUS CONSENT AGREEMENT FOR A FUTURE DAY

SEC. 803. The following unanimous consent agreement will show the practice in the American Congress.

Form: It is agreed by unanimous consent that on Wednesday, March 10, 1920, the Senate will proceed to vote, without further debate, upon any amendment that may be pending, any amendment that may be offered, and upon the bill No. ..... through the regular parliamentary stages to its final disposition, and after the hour of 2:30 p. m. of said day, no senator shall speak more than once or longer than ten minutes upon the bill or amendment offered thereto.

MAKING OF STATEMENT

SEC. 804. A member may, by unanimous consent, secure the privilege of making a statement to the house that would otherwise be out of order.

HOW SPEAKER OBJECTS TO UNANIMOUS CONSENT

SEC. 805. The chair states the request and asks if there is any objection (one objection defeats the request). The Speaker being a member of the House has as much right to object as any other member, but he does not object by declaring his objection, but usually registers his objection by refusing to recognize the member making the request, thus, after the request is made instead of asking if there be objection he would say, "the Speaker refuses to

recognize the gentleman for that purpose." If the request is put to the question and there is no objection the chair announces: "The chair hears no objection, the motion to reconsider will be received and entered on the journal."

REQUESTING UNANIMOUS CONSENT

SEC. 806. A request for unanimous consent to introduce and consider a bill is in effect a request to suspend the order of business temporarily. A demand for the regular order may be made at any time, and is equivalent to an objection. It is the unwritten rule in Congress that the name of a member objecting to unanimous consent is not entered in the journal. The giving of unanimous consent cannot be withdrawn, because it is effective when it happens. The matter may, however, be brought up at any time. Neither the House nor Senate have rules relative to the withdrawal of papers, except motions.

EFFECT OF UNANIMOUS CONSENT

SEC. 807. Unanimous consent, if it means anything, means without negative voice (objection) **a demand for regular order is equivalent to objection** and when demanded the Speaker is bound to enforce it.

EFFECT OF DEMAND FOR REGULAR ORDER

The Speaker may not submit a request for unanimous consent against a demand for the regular order. A demand for the regular order is, in fact, an objection to anything but the regular order of business. A gentleman may be recognized and even before he has fully stated his request he may be taken off the floor by a demand for the regular order.

(A) A gentleman may have stated his request for unanimous consent to consider a bill and the Speaker

may have directed the clerk to read the same and if a demand for the regular order were made it would suspend further reading and action on the bill. It should be recollected that unanimous consent implies setting aside the regular order of business for the matter suggested in the request.

CHAPTER XXII

RECONSIDERATION

ORIGIN OF

SEC. 808. The motion for the reconsideration of a vote is an American invention and is wholly unrecognized in the practice of the Parliament of England.

RULE OF NATIONAL HOUSE OF REPRESENTATIVES GOVERNING THE USE OF THE MOTION TO RECONSIDER

SEC. 809. When a motion has been made and carried or lost, it shall be in order for any member of the **majority,** on the same or succeeding day, to move for the reconsideration thereof and such motion shall take precedence of all other questions except the consideration of a conference report, or a motion to adjourn and shall not be withdrawn after the said succeeding day without the consent of the House and thereafter any member may call it up for consideration. (Rule XVIII, sec. 1.)

NEED OF RULE

SEC. 810. Among the most strictly enforced rules of Parliament there is one providing that **"No question may be twice presented or considered in the same session."** In our early American practice this rule was strictly observed. However, it was soon learned from experience that the rule strictly observed would work hardship particularly in those cases where the assembly would discover error in its former action. To meet such a condition they introduced the parliamentary device known as the motion to reconsider a former action. The effect of this motion

decided affirmatively is to bring the question before the assembly **anew,** the same as though it had never been considered.

RELATION OF OTHER MOTIONS TO MOTIONS TO RECONSIDER

SEC. 811. May not be amended.

May not be acted upon when another question is before the House.

No question may be twice reconsidered unless the question has been changed by amendment.

May not apply to a vote on the motion to adjourn or suspension of the rules.

Any vote which has caused action that **cannot be reversed** may not be reconsidered.

The motion may not interfere with the discussion of a question before the House.

It is in order even after a vote to adjourn, if the result has not been announced by the chair.

Motions must be made within two calendar days of actual session of the House.

Takes precedence of all motions before the House except to adjourn.

When a vote on any question is not taken by yeas and nays (roll call) any member may move a reconsideration of the vote, otherwise only a member voting with the prevailing (majority) side, may make such motion.

Is debatable and extends to the main question if such main question to be reconsidered was debatable.

Previous question applies but does not affect other pending motions.

Amended motion must be reconsidered before the amendment.

Suspends all action required by the original question till acted upon.

Requires only a **majority vote** even though the original question required a two-thirds or three-fourths vote.

If the motion to reconsider is decided affirmatively, it places the original question before the House in the same position as before it was voted upon.

The motion to reconsider may be made even though the papers are not in possession of the House, but action thereon may not be taken until the papers are in the possession of the House.

May be laid on the table.

May be postponed to a day certain or indefinitely.

Does not apply to motion to commit unless error was made in the commitment nor to a vote to lay on the table.

FORM OF MOTION TO RECONSIDER

SEC. 812. I move that the vote by which the amendment of Mr. Jones was agreed to or rejected, as the case may be, be now reconsidered.

RECONSIDERING VOTE ON DIVIDED QUESTION

SEC. 813. When any question has been divided and the vote taken on each division separately and it is desired to reconsider such action, the reconsideration can be applied only to the divisions as voted upon and not to the entire section or question as it stood before the division. (See motion to vacate.)

SERIES OF RECONSIDERATIONS

SEC. 814. Occasionally after a question has been amended and agreed to as amended, it is found that such amendment does not clearly express the will or opinion of the House and it is desired to change it. This can be accomplished only by a series of reconsiderations, retracing each step in the order it was taken, that is, first you would reconsider the vote on agreeing to the main question and so on, until in regular order you would reach the vote insert-

ing the objectionable amendment, then it could be reconsidered and amended or stricken out. Then the question should be carried back again through each stage until agreed to as a whole. A concrete illustration of this procedure will be helpful to the inexperienced in understanding what seems to be a very complicated matter, as follows, a resolution is introduced, a motion to amend is offered to which an amendment is presented and agreed to. Later, it is found the amendment to the amendment was more far reaching than was apparent to the House at that time, and it is desired to remove that amendment. First, we would proceed to reconsider the vote on adopting the resolution. If this motion were agreed to we would then move to reconsider the vote agreeing to the amendment, following this we would move to reconsider the amendment to the amendment and then vote to reject such amendment, this accomplished the vote again recurs on the amendment without the amendment and finally on the adoption of the resolution.

MODE OF PREVENTING RECONSIDERATION

SEC. 815. The question of how to fix as final the determination of the House is a perplexing one in our American practice on account of the rights of the members guaranteed under the motion to reconsider. So it appears that the safest plan to produce this much desired result is to shackle the motion to reconsider and this is done effectively by laying the motion to reconsider on the table or securing an adverse vote on the motion to reconsider. If the House refuses to reconsider a question the question is finally and conclusively settled so far as the body is concerned which takes this action. The principle involved here is a second motion to reconsider is not in order. The effect of laying the motion to reconsider on the table, the bill or other question does not cohere and go on the table with the motion to reconsider but passes on through its several stages as if the motion had not been made. The motion being on

the table no other motion to reconsider the same matter while the motion to reconsider remains on the table is in order nor is it in order to reconsider the vote laying the motion to reconsider on the table. The motion to take from the table the motion to reconsider is never in order and it can only be reached by unanimous consent, or a suspension of the rules.

PENDING MOTION TO RECONSIDER

SEC. 817. If a motion to reconsider it made and left pending (unacted upon) any member may call it up for consideration at a later time without consent of the mover.

(A) The motion to reconsider is in order even though the bill is in the Senate or has been sent to the President or Governor if made within the time limit specified in the rule.

EFFECT OF PENDING MOTION TO RECONSIDER

SEC. 818. The effect of the pending of a motion to reconsider, according to universal usage is to suspend the original proposition, but when the assembly shall expire or adjourn sine die without acting upon such motion to reconsider, the motion of course falls, and leaves the original proposition operative. (Banks and Orr.)

BLANKET MOTION FOR RECONSIDERATION

SEC. 819. In the journal of 1872 we find that after the House had considered and passed upon about fifty bills, the Speaker entertained and the House adopted this motion **"that the several votes by which the several bills were passed this day be now reconsidered and the motion to reconsider lie on the table."** (H. J. 2 Sess. 53 Cong., p. 645.)

MOTION TO RECONSIDER EXCLUDING DEBATE

SEC. 820. In the National House they admit a motion of this form: "I request **unanimous consent** to recon-

sider the motion agreeing to ———— and that the vote on passage again be taken at once without debate.

WHEN RECONSIDERATION IS NOT IN ORDER

SEC. 821. The question before the House was "Shall the resolution be adopted?" The House divided. The Speaker announced yeas 115, nays 90. The yeas and nays were then demanded and ordered. Previously the previous question had been ordered and Mr. Underwood at this point moved to reconsider the vote ordering the previous question. A question of order was raised that the motion to reconsider was not in order while the House was dividing. Speaker Clark sustained the question of order.

RECONSIDERING ENGROSSED BILL

SEC. 822. After a bill has been ordered to be engrossed it is not in order to move a reconsideration of a vote on an amendment, until after the order of engrossment has been reconsidered; and if the motion to reconsider the engrossment is laid on the table, no reconsideration of the amendment can then be entertained. It is in order even pending the demand for the previous question on the passage of a bill, to move a reconsideration of the order of engrossment, but of course if moved at such time it is not debatable.

SEC. 823. If the motions were divided, the first question would be, "Shall the motion to reconsider lie on the table?" and then the question on reconsideration would follow if the question of laying on the table were negatived and exactly the same result is obtained when put in the form moved by the member. The question is on reconsideration and laying that motion on the table.

The motion to **take from the table the motion** to reconsider **is never in order,** and it can only be reached by unanimous consent.

MOTION TO RECONSIDER AND LAY ON THE TABLE THE MOTION TO RECONSIDER

SEC. 824. The double or combination motion to reconsider and lay the former motion on the table is among the most useful in the practice of Congress. The National House for many years wrestled with the many perplexing situations developed by the motion to reconsider and finally unwilling to abandon the motion entirely they stumbled on to a means to prevent its use for repeated agitation of the same subject. First it was decided the motion could not be moved a second time on the same vote, next it was decided that to lay the motion to reconsider on the table did not carry the pending question to the table and later that the motion could only be removed from the table by unanimous consent or suspension of rules. Then finally came the motion to reconsider and lay that motion on the table. These motions may be made separately **but the constant practice of the House is to offer both motions in one breath.** This is done to clinch the matter and prevents a motion to reconsider subsequently within the time permitted by the rules.

MOTION REGULAR AND PROPER

SEC. 825. Speaker Joseph Cannon was perhaps the last speaker to rule upon the admissibility of this double motion in December, 1914. He said it is a proper motion because the substance should govern rather than the form of the motion.

PUTTING QUESTION ON MOTION

SEC. 826. Following the foregoing decision, Speaker Cannon put the question thus: "The question is on the motion to reconsider and lay that motion on the table." The question was decided affirmatively and the motion to reconsider was tabled and the question finally determined.

[1] Of course if this procedure by the speaker were objected to by any member, it would be necessary for the speaker to put the question on the motion and secure a vote of the house.

The practice in disposing of the double motion is clearly shown in the following procedure extracted from the journal of the house of the second session of the 46th Congress. It reveals the effect of voting on the motion and its use in that and the present congress. At the conclusion of a vote on a bill, Speaker Randall said: "A motion to reconsider and lay that motion on the table is now in order." Thereupon, the motion was made, put and decided in the negative. Then the mover requested leave to withdraw his motion to reconsider, which was pending. (The negative vote merely being a refusal to lay the motion to reconsider on the table.) Speaker Randall then said: "The chair considers that a vote of the house against laying the motion to reconsider on the table is a procedure on the part of the house to reconsider the motion. Therefore, if objection is made the chair will rule that the motion to reconsider is in possession of the house, a decision of the chair to the contrary would be unusual and unjust to the house, because a majority of the house by vote have indicated its purpose to proceed with the motion to reconsider."

EFFECT OF VOTE ON THE QUESTION

SEC. 827. If the question is decided affirmatively the motion to reconsider is on the table. If decided negatively the question at once recurs on the motion to reconsider.

QUESTIONS THAT MAY NOT BE RECONSIDERED

SEC. 828. The question of reconsideration may not be reconsidered. It is never in order to reconsider a vote by which the motion to reconsider was laid on the table.

It is not in order to reconsider the affirmative vote to lay on the table. In early days this motion was sometimes admitted but Mr. Speaker Reed considered it very bad practice. The motion to reconsider a vote on suspension of the rules is not in order. The motion to reconsider may not be applied to the motion to indefinitely postpone.

PRIVILEGE OF MOTION TO RECONSIDER

SEC. 829. A motion to reconsider is of highest privilege and may be entertained at any time during the two days prescribed by the rules even after the previous question is ordered on another privileged question.

WHO MAY NOT MOVE TO RECONSIDER

SEC. 830. The United States rule (generally observed by the states) is that the motion to reconsider may only be made **by one voting with the prevailing or majority side.** When there is no record vote on the question showing how each member voted there is and always has been difficulties in determining the right of the member offering such motion to do so under the plain provisions of the rule. How is the speaker of the House to determine how a member making the motion did vote if his vote is challenged? To this there is but one answer, by the records. If there is no record vote then the speaker must **presume** that the individual entering the motion to reconsider did vote with the prevailing side particularly if there is no evidence shown to the contrary by the record.

As early as 1839 and perhaps earlier, this rule was causing trouble in the National Congress when the **"rule of presumption"** was introduced by a decision of a speaker to cure the defect of the rule. In earlier years the speaker would occasionally inquire of a member how he voted but this produced difficulty, confusion and not infrequently quarrels resulted.

WHO MAY MOVE TO RECONSIDER

SEC. 831. When the yeas and nays have not been ordered recorded in the journal, any member, irrespective of whether he voted with the prevailing side or not, may move to reconsider. (Hinds.)

Since the first ruling there has been many similar and well considered rulings on the subject and we will

record here the more important ones as developed from the original. On February 16, 1839, Mr. Orr moved to reconsider the vote whereby an amendment had been adopted. His right to make such motion being questioned on the ground that he had voted with the minority, Speaker Boyd said, "If there had been a **record vote** your point would have been good, but in no other case, does the question arise as to whether the individual who moves to reconsider voted with the majority or not."

On February 8, 1894, Thomas B. Reed moved to reconsider, and his right to do so was questioned, on the ground that he had voted with the minority, Speaker Charles Crisp said, **"Under the practice of this House when there is no record vote on a proposition it is competent for any member to reconsider."** On May 15, 1896, Mr. Perkins rising to a question of order said, "On the preceding day Mr. Knox had moved to reconsider a certain vote and Mr. Knox had no right to make such motion because he had voted with the minority."

Speaker Thomas Reed decided the question of order is not well taken and said, "That question is not before the House. The chair will state, however, that the **uniform decisions of the House are that when there is no record vote the member entering such motion is presumed to have voted with the prevailing or majority side."**

On July 8, 1846, a Mr. Roberts moved to reconsider a vote taken on the preceding day whereby a decision of the speaker had been overruled. His right to make said motion being questioned on the ground **that the journal of the preceding day showed that the gentleman was absent when the vote was taken.** It could not be presumed that he voted with the majority as the rule required and therefore he could not move to reconsider. Speaker John Davis decided that "Under the **uniform decisions of the House** when a vote had been taken with-

out a record vote it was **presumed** that every member voted with the prevailing side and therefore a motion to reconsider made by any member of the House, in such cases, had been entertained. "Therefore, he overruled the question of order and decided Mr. Roberts could make the motion; an appeal was taken and the House overruled the decision of the speaker, thus establishing the rule that a member who was **absent** on the day a vote was taken could not be **presumed** to have voted on the prevailing side. (It should be noted that the absence of a gentleman was established by the **records** and **not by opinions or statements of members.)**

On May 18, 1906, Mr. Rhodes moved to reconsider, his right to do so being questioned by Mr. Miller, who by inquiry had ascertained that the gentleman had not voted with the majority, he questioned his right to make such motion, then another gentleman proposed to make the same motion. It appeared on inquiry that the latter gentleman did not vote but was paired with another gentleman in favor of the majority side, and could not make the motion.

The foregoing is also the practice of the United States Senate. Vice President Wheeler decided that "Where there had been no record vote any senator may move to reconsider."

In the Ohio House of Representatives in 1930, Mr. Charles Jones moved to reconsider, his right to make such motion being questioned, Mr. Jones read from the Parliamentary Guide the decision on the question by Speaker Thomas B. Reed. Thereupon, Speaker Hamilton inquired of the journal clerk if there was a record vote on the question, said clerk replied in the negative and the speaker entertained and put the motion.

The foregoing decisions do not materially change or modify the general rule. They simply throw a little needed light on the rule and merely point out the only sensible and sure means of determining the right of a member to move to reconsider and establish beyond a doubt that the member

moving to reconsider may not have his right to do so questioned by another unless there is a record vote showing how he voted. That is, his right to move to reconsider may not be overthrown by statements or opinions of members. It is only the record that counts and if no record exists we may not read into it the opinions of members.

These sane, sensible, logical decisions lie back of and are deeper than the rule. If we are to determine a member's right to move to reconsider by any other means than the records of the House then the House must be converted into a court of inquiry and thus stir up unnecessary disputation. This is avoided by the above rule that a member's right to move to reconsider may not be challenged unless the records disclose how he voted.

RECONSIDERATION FOR ENTRY IN JOURNAL

SEC. 832. The rules provide that a motion to reconsider must be made within two legislative days. Frequently a member may find it inconvenient or undesirable to bring the question of reconsideration up within the time specified but does not wish to surrender or lose his right in the matter. To protect this right, he may at any time, within the time specified for reconsideration **move "to reconsider for entry in the journal."** This motion when made does not bring up the question for reconsideration at once, but if permitted by the House it is recorded in the journal subject to being called up at a later time when the mover calls for it. This motion may remain pending indefinitely; if not called up by the mover within the two day period any other member may call it up. This to prevent the entry of the motion for the purpose of preventing reconsideration. If it remains pending through the two day period and continues it can be called up by the mover or any other member.

METHOD OF DISPOSING OF MOTION

SEC. 833. The form of the motion makes it clearly evident that the mover desires the motion to reconsider to remain pending. Therefore, it is best disposed of as follows:

Speaker: Will the House receive the motion to reconsider and enter it in the journal and permit it to remain pending and then take the vote, or he could merely inquire, "Is there objection to granting the request?" If no dissentient voice is heard, he would continue, it is so ordered and the clerk would note the fact in the journal.

SEC. 834. This motion supersedes the highest privileged question pending, it is in order even if another member has the floor. This motion, however, may not be called up and considered while another question is before the House.

BLANKET MOTION TO RECONSIDER

SEC. 835. In the National House they frequently apply the motion to reconsider to all the business transacted during the entire day or session and lay the motion on the table, the effect of this motion being that nothing done that day can later be reconsidered.

FORM OF MOTION

SEC. 836. I move that the several votes taken this day be reconsidered and the motion to reconsider do lie on the table. This motion is not divisible.

WHEN MOTION TO RECONSIDER IS IN ORDER

SEC. 837. Originally the motion to reconsider was in order at any time and the motion still retains this privilege except in those bodies where its use is regulated by rule to a given number of days. In case of such rule operating there is nothing in the rules or practice that prevents the suspension of the rule to admit the motion to reconsider.

VOTE REQUIRED ON RECONSIDERATION

SEC. 838. A motion to reconsider is agreed to by a majority vote even when the vote reconsidered requires a two-thirds or three-fourths vote to agree to it or any other number for an affirmative action on the matter reconsidered.

RECONSIDERATION OF AMENDMENT

SEC. 839. A motion to lay on the table a motion to reconsider a vote on an amendment to a question when agreed to, does not carry the bill to the table.

FINAL EFFECT OF LAYING MOTION TO RECONSIDER ON TABLE

SEC. 840. The vote of the House upon a proposition is not final and conclusive upon the House until there has been given an opportunity to move to reconsider and lay that motion on the table and this action is final. What is meant in the foregoing decision is that the question is subject to change until the action indicated is taken.

HIGH PRIVILEGE OF MOTION TO RECONSIDER

SEC. 841. The motion to reconsider and a motion to lay the motion to reconsider on the table, may be admitted while the previous question is pending.

EFFECT OF AGREEING TO AMENDMENT ON RECONSIDERATION

SEC. 842. The fact that the other House has sent a message giving notice that it has agreed to an amendment does not prevent a motion to reconsider the vote on agreeing in the House of origination.

EFFECT OF MOTION TO RECONSIDER

SEC. 844. When a motion to reconsider is decided in the affirmative, the question immediately recurs on the ques-

tion of reconsideration, and the practice has continued to the present time.

NEED OF RULE

SEC. 845 Among the most rigidly enforced rules of Parliament is the one providing that no question may be **twice presented or considered** in the same session. It was soon learned in our American practice that this rule strictly observed would ultimately work hardship, particularly in those cases where the assemblies would discover they were in error in a former action. To meet this condition we evolved in this country the parliamentary device known as the **motion to "reconsider" a former action.** This motion decided in the affirmative **presents the question anew, the same as though it had never been considered.**

QUESTION THAT MAY NOT BE RECONSIDERED

SEC. 846. Under general parliamentary law it is not in order to reconsider the following unless provided specifically by the rules removing this disability.

Adjourn.
Adjourn and fix a time to meet.
Recess.
Question of consideration.
Suspension of rules.
Reconsideration.
Indefinite postponement.
Lay on table.
Commit (unless there be error in commitment.)

Neither the motion to adjourn nor the motion to adjourn and fix the day, may be reconsidered.

The vote on a motion to suspend the rules may not be reconsidered. The motion to suspend the rules is one that can be repeated an indefinite number of times, therefore a motion to reconsider is not in order.

SYLLABUS OF SPEAKER'S DECISIONS

SEC. 847. In the absence of a quorum it is not in order to move to reconsider a vote on which a quorum is required to act.

(A) On votes incident to a call of the House, the motion to reconsider may be entertained and left pending although a quorum may not be present.

RIGHT TO OFFER MOTION TO RECONSIDER

(B) When a vote on any question has not been recorded, that is showing definitely how each member voted, then irrespective of how he voted, he may make the motion to reconsider.

(C) The question of how a member voted may not be brought up unless his vote on the question can be shown by the records. In the case of a tie vote any member voting with the majority — **the negative** side may move to reconsider.

(D) A **majority** only is necessary to reconsider a vote taken under the requirements that two-thirds vote shall be necessary to carry the question.

(E) The motion to reconsider a vote when the House refuses to adjourn is never in order, for the reason the motion to adjourn may be repeated again and again, after intervening business.

(F) A member who was absent when a vote was taken may not move to reconsider.

(G) If the vote on a resolution introduced, considered and adopted under suspension of rules, is reconsidered, **the resolution cannot be debated on that day, but must lie over one day.**

EFFECT OF RECONSIDERATION

(H) In the case of the reconsideration of a vote, the House thereby reaches the original state of the proceedings

on said question and the question on agreeing or adopting it at once recurs. (Carlisle.)

WHEN MOTION TO RECONSIDER NOT IN ORDER

(J) It is not in order to move a reconsideration on any measure after subsequent action has been had by the House, which renders it impossible for the House to reverse that action.

MOTION TO RECONSIDER AND REMAIN PENDING

(K) At any time when the motion to reconsider is in order, even if a member is on the floor, or the highest privileged question is pending, it is in order to move to reconsider and have the motion entered on the journal and remain pending; **but it may not be called up and considered while another question is before the House.**

(L) It is not in order to move the reconsideration of a vote sustaining the decision of the Speaker after subsequent action has resulted from such decision, which it is impossible for the House to reverse. When a motion to reconsider has been once put and decided it is not in order to repeat the motion on the same vote.

(M) If the previous question is ordered while the motion to reconsider is pending, such order applies to the motion to reconsider only. **A motion to reconsider a vote laying a motion to reconsider on the table is never in order.** If entertained it would lead to inextricable confusion by piling motion upon motion to reconsider.

(N) After a bill has been ordered to be engrossed it is not in order to move a reconsideration of an amendment made before engrossment, until the order of engrossment has been first reconsidered, and if the motion to reconsider the engrossment is laid on the table, no motion to reconsider the amendment can then be entertained.

LAYING MOTION TO RECONSIDER ON TABLE

SEC. 848. It is the constant practice of the National House to move to reconsider the vote on the passage or rejection of every bill or other important matter, and to lay the motion to reconsider on the table. The purpose of this action is to defeat bringing the matter up for reconsideration at a future time. They also admit a motion to reconsider en bloc all bills considered during the day and lay that motion on the table.[1]

RECONSIDERING VOTE TAKEN ON DIVIDED QUESTION

SEC. 849. When an amendment or question has been divided and the vote taken on each division separately and it is desired to reconsider such action, the reconsideration can be applied only to the divisions as voted upon, and not to the entire section or paragraph or amendment, as a whole. (See under title Motion to Vacate.)

WHAT MAY NOT BE RECONSIDERED

SEC. 850. The "question of consideration" may not be reconsidered.

(A) It is not in order to reconsider the vote by which the motion to **reconsider was laid on the table.**

(B) It is not in order to reconsider the affirmative vote to lay on the table. This practice is occasionally admitted in the House, but Mr. Reed considers it very bad practice and irregular.

(C) The motion to reconsider a vote on suspension of rules is not in order. The vote on the motion for the previous question may be reconsidered.

(D) The motion to reconsider and a motion to lay that motion on the table are in order while the previous question is operating.

[1] Form of motion: I move to reconsider and lay motion on the table.

(E) If a motion to reconsider is agreed to, and no further action is taken, the question would fall and be of no effect.

(F) In the American House the Speaker may not sign a bill if a motion to reconsider is pending.

SECOND MOTION TO RECONSIDER NOT IN ORDER

SEC. 851. There is no principle in American Parliamentary Practice more firmly established in reference to reconsideration than this. That no vote on a question, shall the bill pass? Or shall the resolution be adopted, or the amendment be agreed to, can be twice reconsidered.

In 1877, a question of order was raised against a motion to reconsider a question a second time. Speaker Randall, in the course of his decision said, "It would not be in order to again move to reconsider the vote on the **question that the bill do pass,** as in that event, motions to reconisder could be made interminable."

EFFECT OF VOTE

SEC. 855. If a motion to reconsider goes on the table no other motion to reconsider can be made while it remains there and it cannot be taken therefrom except by unanimous consent or a suspension of the rules. If on the question of reconsideration it is decided negatively, no other motion to reconsider is in order, the motion having once been made and acted upon.

PRACTICAL USE OF MOTION

SEC. 856. Even in Jefferson's day the too frequent use of the motion to reconsider was a matter of much concern and Mr. Jefferson rather inclined to a discontinuance of its use or of greatly restricting it. He preferred the English rule, "That a question upon which the judgment of the house has been expressed must stand and could not be brought forward again in the same session

of parliament." Blaine, while speaker, declared that the too frequent use of the motion to reconsider was "becoming inconvenient and vexatious." In referring to this same condition, Speaker Clark said, "There must of necessity be an end to all things." Finally the growing discontent of the house with the continued and unwarranted use of the motion to force by repeated agitations, the majority of the house to change its decisions gave birth to the rule restricting the use of the motion to the day on which the vote was taken and to the day following. (Two days.) Even this did not entirely cure the growing evil.

(A) Finally about 1843, a ruling by Speaker White pointed the way to shackle and control the motion and bring a final determination of a question. A motion to reconsider was moved and another member moved to lay that motion on the table, which was decided affirmatively. It was then moved to reconsider the vote to "lay on the table the motion to reconsider." Speaker White ruled that, "Inasmuch as this is a motion to reconsider a vote by which a motion to reconsider was laid on the table, a subject already on the table, and which if entertained would lead to inextricable confusion by piling motion upon motion, it cannot be entertained," so the whole matter was finally decided.

SECOND RECONSIDERATION

SEC. 857. In 1850, an attempt was made to reconsider a bill a second time, Speaker Howell Cobb ruled, "A motion to reconsider a vote on a bill after it has once been reconsidered has been held for many years to be out of order." Speaker Randall ruled, "It is not in order to move a second time that the house do reconsider the vote on the question that the bill do pass." (Of course, if on the first reconsideration the bill was amended, then we would have a new question, and another motion to reconsider the vote shall the bill pass as amended would be in order.) This affirmed a previous decision by Speaker White.

RECONSIDERATION OF VOTE LAYING MOTION TO RECONSIDER ON TABLE

SEC. 858. When an attempt was made in the national house to reconsider the vote laying the motion to reconsider on the table, Speaker Boyd ruled, "The practice of this body has been uniform on this question and the chair thinks he may defy any member to point to a single case in history differing from the course the chair deems to be the correct one, which is, that a motion to lay on the table a motion to reconsider is final until it is in order to take that vote or bill from the table." (The motion to take from the table is not in order in congress except by unanimous consent or a suspension of the rules. Speaker John Davis also decided that a motion to reconsider being laid upon the table no further action could take place in relation to it.)

Speaker Orr ruled that "When a motion to reconsider is laid on the table it can only be taken from the table by unanimous consent, or a suspension of the rules, which would require a two-thirds vote."

FINAL USE AND EFFECT OF MOTION

SEC. 859. The reason for making the motion after the final vote on a question was stated by Speaker Blaine, first, and afterwards in almost identical language was affirmed by Carlisle and Cannon. Blaine decision: "The vote of the house upon a proposition is not final and conclusive upon the house until there has been given an opportunity to reconsider and lay that motion on the table."

SERIES OF RECONSIDERATIONS

SEC. 860. Frequently after a question has been amended and agreed to, it is found that one or more of the amendments are not satisfactory and it is desired to change them. The common practice to reach this result is by a series of reconsiderations, retracing each step, in

the order it was taken. That is, first you would reconsider the vote agreeing to the question and so on, until in regular order the vote was reached by which the amendment needing correction was reached. Then reconsider vote on amendment, make the desired change or even remove. Then the question should be carried back again through each stage until agreed to as a whole.

MOTION TO VACATE

SEC. 861. In recent sessions of Congress a new motion similar in its effect to reconsideration has been introduced and has met with unusual favor because it removes much of the complication and uncertainty where a series of reconsiderations are necessary. The motion in question "to vacate" is not provided for by the rules of the House nor has it yet become a fixed parliamentary action, therefore it may be used only by unanimous consent. Speaking of this motion Mr. Page, Clerk of the National House,[1] says "Resort is had now and then to a request for unanimous consent to vacate certain proceedings as a short cut to a desired objective rather then follow the devious course of reconsideration of the several votes by which things were done."

USE OF MOTION TO VACATE

SEC. 862. When a proceeding or part of certain proceedings are vacated the matter again proceeds at the point left remaining and not affected by the matter vacated, that is, if a bill had been read the third time, amended and passed and all the action of the House were vacated after third reading because it was desired to reach the amendment, the question would again recur on passage and of course would be subject to amendment and the same or different amendment would be in order. After the desired correction is made the vote is again taken on passage.

[1] Mr. Page clearly indicates in this statement that any motion not provided for in the rules is allowable by unanimous consent.

UNANIMOUS CONSENT NECESSARY TO VACATE PROCEEDINGS

SEC. 862a. This is not a procedure intended to be used interchangeably with reconsideration or to take its place. Its use generally should be restricted to those cases where a series of reconsiderations would be necessary to reach an objective. The time of the assembly would be conserved by the use of vacate because all is accomplished with one vote of the body. It can only be used by unanimous consent, e. g., I request unanimous consent to vacate all proceedings on H. B. 12 after third reading. If no one objects the bill is before the House for amendment. Unanimous consent is not to be asked to make a motion to vacate. Proceedings on the journal can only be vacated by unanimous consent.

RECONSIDERATION—WHEN MOTION IS IN ORDER

SEC. 863. Originally the motion to reconsider was in order at any time and at any stage in the progress of a bill or other paper and the motion still retains this privilege, **except in those bodies** where its use is regulated by rule to a given number of days. And in the case of such rules operating, there is nothing in the rules or practice that **prevents the suspension of the rules to admit the motion to reconsider** and again consider the question.

(A) In the practice of the American House of Representatives any action or vote taken, with a very few exceptions (elsewhere noted), may be reconsidered. It is not an unusual, but it is a common practice for either House to stop the progress of a bill after its passage by both Houses, by reconsideration, followed by indefinite postponement, or ordering it to lie on the table.

REASON FOR RULE FOR RECONSIDERATION

SEC. 864. A motion to reconsider the order by which the yeas and nays were demanded can be reconsidered.

Mr. Speaker Randall said: **"The motion to reconsider under the rules gives the House opportunity to change its mind if that be the wish of the House.** This is the reason for the rule." Later he emphasized this thought saying: "It is for the House to determine the question. Under the rules the motion to reconsider is in order, and the reason for the rule is, if there should be a mistake it could be corrected. * * * Reconsideration only affords opportunity to the House under the rules to take more deliberate action.

(A) Agreeing with the foregoing the writer desires to add a sentence or two from Mr. May which he believes more fully explains the need of the rule: "It is essential that the discretion of the House should not be so far confined by its rules of proceeding as to subject its votes to irrevocable error, or to prevent it from changing its determination, when such change is clearly proper and necessary."

(B) The constitution of a deliberative assembly is necessarily such, that it may occasionally be constrained by its own rules to come to a determination which does not express its deliberate sense; but if such determination could not, under any circumstances be reconsidered or rescinded, the rules of proceeding would be the means of obstructing, rather than facilitating the will of the assembly.

(C) The motion to reconsider may not be applied **to a vote on indefinite postponement.**

(D) Speaker Carlisle ruled: "The vote of the House upon a proposition is not **final and conclusive** upon the House until there has been given an opportunity to **reconsider and lay that motion on the table."** (This affirms Blaine's decision.)

PRIVILEGE OF MOTION TO RECONSIDER

SEC. 865. A motion to reconsider is of highest privilege, and may be entertained at any time during the

two days prescribed by the rule, even after the previous question is ordered, or a question of highest privilege is pending, but it may not be considered while another question is **pending before the House.**

(A) The motion may be called up at any time, when the class of business to which it relates is in order.

(B) A motion to reconsider a vote on a proposition, having once been agreed to, and said vote again having been taken, a **second motion to reconsider** is not in order, **unless the nature of the question has been changed by amendment.**

(C) The motion to reconsider is not debatable, if the motion proposed to be reconsidered is not debatable.

(D) When the vote whereby an amendment was agreed to is reconsidered, the amendment becomes simply a pending amendment.

(E) No question is considered as finally agreed to if a motion to reconsider is pending. The effect of the pending motion to reconsider being to suspend the original proposition.

RECONSIDERATION PERMITTED IN COMMITTEE

SEC. 866. The rule of Parliament that the action of a committee is binding on its members and cannot be changed by them is entirely ignored in the practice of the American House. The motion to reconsider is permitted and used as in the House. On several occasions a committee authorized a report, then later reconsidered such action and authorized a different report. It happened that these reports were offered to the House. A question of order arising the House accepted the report authorized after the reconsideration, thus, recognizing the right of the committee to use the motion. **This motion, however, is not permitted in Committee of the Whole.**

(A) In the 68th Congress the committee on rules rescinded its vote to report a certain matter to the House.

HOW TO RECONSIDER A VOTE ON PASSAGE OF BILL, UPON WHICH THE TIME LIMIT FOR RECONSIDERATION HAS EXPIRED, AND THE BILL HAS BEEN SENT TO THE OTHER HOUSE

SEC. 867. Mr. President: (or Speaker, as the case may be) I move that the House (or Senate, as the case may be) be requested to return to this House the bill (stating number and author). After the question is put on this motion by the chair, if it is agreed to, the clerk should immediately send a message requesting a return of the bill and the member should then proceed in this manner: "Mr. President (or Speaker): I ask unanimous consent to suspend the rules to enable me to move to reconsider the vote whereby the bill just recalled from the Senate, passed this House, the time for reconsideration having expired."

ENTRY AND CONSIDERATION OF MOTION TO RECONSIDER

SEC. 868. **While the motion to reconsider has very high privilege for entry, yet it may not be considered while another question is before the house.** When the matter reconsidered relates to a particular class of business, consideration of the motion is in order only when that particular class of business is in order. It may then be called up at any time but it is not the regular order until called up. When the motion is once entered it may remain pending indefinitely. (Randall.) **In order that a motion to reconsider be given immediate attention it must relate to some business legitimately before the house or its consideration must be postponed until it can be taken up in order.** When in order it supersedes all motions except to adjourn, e. g. If the house were engaged in the introduction of bills the motion to reconsider would be in order for entry but if the vote to be recon-

sidered was the vote on passage the consideration of the matter would be postponed until the order of business was reached that would admit consideration and passage of a bill. (Carlisle.)

If by unanimous consent or in any other way, a motion were admitted to reconsider a vote to lie on the table the motion would not be debatable because the motion to lie on or take from the table is not debatable.

VOTE REQUIRED ON RECONSIDERATION

SEC. 869. The motion to reconsider is agreed to by a majority vote, even when the vote reconsidered requires a two-thirds or three-fourths, or even less than a majority for affirmative action. In the American House the motion to reconsider if made during the last six days of a session must be disposed of when made, therefore it is only in order during the last six days of the session at such times as it may regularly be proceeded with.

RECONSIDERATION OF AMENDMENT

SEC. 870. A motion to lay on the table a motion to reconsider a vote by which amendments to a bill were agreed to, does not carry the bill to the table.

RECONSIDERATION OF VOTE ON PRESIDENT'S VETO

SEC. 871. A bill was returned to the house with the objections of the president. It was moved, that the house on reconsideration agree to pass the bill, the objections of the president to the contrary notwithstanding, the vote was taken and two-thirds not voting in favor thereof, the bill was not passed. Thereupon a motion was made to reconsider the vote by which the house refused to pass the bill notwithstanding the objections of the president the speaker decided.

(A) **A motion to reconsider is carried by a simple majority vote,** but a bill can be passed over the presidential veto only by a two-thirds majority. If any other view were taken than the

one held by Speaker Jones that this vote may not be reconsidered, we might go on in a circle to the end of the session never getting anywhere Another thing, under the suspension of the rules, also requiring a two-thirds vote the motion to reconsider does not apply. For the above reasons the point of order does not apply. (Clark 3d Sess. 63d Cong. p. 391.)

(B) The motion to reconsider does not apply to the vote on passing a bill over the veto of the President. The gist of the decisions in the national house seems to be that inasmuch as the vote was taken in exactly the manner provided by the constitution, the decision must be final. That is, the constitution does not provide for repeated agitations on this subject, or that the matter is to be continued indefinitely by motions to reconsider. Once the constitutional provision is complied with the matter is final.

CHAPTER XXIII

QUORUM—CALL OF HOUSE

QUORUM DEFINED

SEC. 872. The quorum of a body is that number of its membership that may of right proceed to transact business and the action of a majority of that quorum is binding on the whole body. It seems to be a well settled parliamentary principle of American parliamentary law that a quorum of a body to do business **is a majority; and a majority is one-half and one more.**

QUORUM—COMMITTEE

SEC. 873. A quorum of a legislative body or committee is a majority of such body, that is a quorum is one-half and one more and a majority of such quorum is capable of doing business for the entire committee or House. That is any business that would be in order in the appointing body would be in order in the committee and the committee is usually governed by the same rules, occasionally the appointing body will adopt special rules to restrict the activities of its committees, but in all other cases they are to be governed by the general rules.

QUORUM AND ITS RIGHT TO DO BUSINESS ILLUSTRATED

SEC. 874. The right of a quorum to do business seems to disturb many. Let us suppose a committee of twelve members, a quorum of that committee would be one-half and one more which would be seven members and four members of that quorum are authorized to do any business that may come before the committee, an actual quorum being

present and the action of the four members is binding on the whole twelve members of the committee, unless by rule, restrictions are placed on the business such quorum may transact.

BUSINESS IN THE ABSENCE OF A QUORUM

SEC. 875. It is true that frequently business of minor importance is transacted in the absence of a quorum. Under such conditions a question of order could be raised and the chair should at once count the House to determine the presence of a quorum. The chair to protect business could declare a quorum present from which an appeal could be taken in legislative bodies they could move a call of the House.

HOW LONG A QUORUM EXISTS

SEC. 876. It should be remembered in ordinary parliamentary practice when the body is convened with a quorum present it is presumed that a quorum continues to be present until a question of no quorum is raised or a lack of a quorum is disclosed by a vote or division.

QUORUM OF VOLUNTARY ASSOCIATIONS

SEC. 877. When a voluntary association, composed of an indefinite number of members has no rule prescribing the number to constitute a quorum but has been accustomed to hold meetings, pursuant to notice in a newspaper or other similar methods, it may transact its business regardless of the number present, the members attending the meeting constitute a quorum. It is held that those who do not attend impliedly assent that those who do attend should by a majority vote transact the business of the association and the withdrawal from it of a minority does not affect the right of those remaining to proceed to the transaction of business. (43 New York Sup. Court, 852.)

QUORUM OF BOARD OF DIRECTORS

SEC. 878. The New York Superior Courts decided that a majority of the board form a quorum, unless a positive regulation exists to the contrary, and a majority of that quorum determines the action of the board. (Morawitz on Private Corporations, sec. 532.)

NUMBER NECESSARY AT MEETINGS OF SHAREHOLDERS

SEC. 879. It is not necessary for a majority of all the shareholders of a corporation to be present at a meeting to render effective and binding any resolution that may be adopted. Unless there has been an express provision to the contrary the rule is that the stockholders who actually assembled at a properly convened meeting constitute a quorum for the transaction of business and a majority of that quorum have authority to represent the corporation. (Morawitz on Corporations, sec. 476.)

PRESENT QUORUM NECESSARY

SEC. 880. No business can regularly be entered upon until a quorum is present, nor can any business be regularly proceeded with in the absence of a quorum.

HOW PRESENCE OF A QUORUM MAY BE DETERMINED

SEC. 881. The United States Supreme Court has decided that in the absence of a specific constitutional provision it is within the competency of the House to prescribe any method which shall be reasonably certain to ascertain the fact of a quorum that on the demand of any member, or at the suggestion of the speaker, the names of members sufficient to make a quorum who are present in the House and do not vote shall be noted by the clerk and recorded in the journal and reported to the speaker and be counted and announced in determining the presence of a quorum to do

business, and is a constitutional mode of ascertaining the presence of a quorum. This decision of the court affirmed a ruling to the same effect made by Speaker Thomas B. Reed and was also an approval of the rule of the House predicated on the Reed decision.

PRESENCE ONLY OF QUORUM REQUIRED

SEC. 882. The fact that a quorum is present and is not dependent on the number who participate in the proceedings or vote. The Supreme Court of the United States, as shown in the preceding paragraph has decided what is meant by a present quorum in this language: "In all cases if the number necessary to make a quorum is present it makes no difference how many or how few actually participate in the decision. Those who sit silent are regarded as consenting to the result." A House competent to do business is a present quorum and not a voting quorum.

MOTIONS IN ORDER IN THE ABSENCE OF A QUORUM

SEC. 883. When it is disclosed in any way that a quorum is not present there are only two motions in order in our American practice. (These derive their privilege from the federal constitution.) The motions to adjourn and for a call of the House. However, it is customary to receive motions incidental to the call of the House.

CHAIR MAY NOT ADJOURN BODY

SEC. 884. The presiding officers of our Congress and perhaps all our state legislative bodies are without authority to adjourn their respective bodies because the power of adjournment under all conditions is vested in the bodies themselves by the original law; therefore, the old parliamentary law of the English Parliament that the chair in the absence of a quorum may arbitrarily adjourn the body does not obtain in American practice.

BUSINESS MUST BE SUSPENDED IN THE ABSENCE OF A QUORUM

SEC. 885. In our American practice the failure of a quorum necessitates the suspension of the most highly privileged business and debate as well, there must be a quorum present before the House may proceed. It is the duty of the chair to ascertain the presence of a quorum before directing the reading of the minutes. In the absence of a quorum the House may not proceed even by unanimous consent with what is not in order in the absence of a quorum.

QUORUM OF LEGISLATIVE BODIES

SEC. 886. A quorum of either House of our National Congress is fixed by the Federal Constitution, and is a majority of the members elected to each body. A quorum of most of our state legislative bodies is fixed by the state constitution and is also a majority of those elected to each body. Accordingly it may be set down as an **established American parliamentary law, that a quorum of a body to do business is a majority, and a majority is one-half and one more.**

(A) In American practice in bodies other than legislative the English practice of the higher or controlling power fixing the number to constitute a quorum to do business seems to be well established, that is, for example, the grand lodge of Masons fixes the quorum for all subordinate lodges. In the United States Senate committees composed of more than three members fix the number of their own quorum, but it may not be less than one-third.

BUSINESS—QUORUM

SEC. 887. A motion to recess is not in order in the absence of a quorum nor is the motion to adjourn and fix the day to meet.

The previous question being ordered on a bill by unani-

mous consent in the absence of a quorum, it was ruled as null and void the next day.

The absence of a quorum having been disclosed there must be a quorum of record before the House may proceed with business. Less than a quorum may not recess even by unanimous consent.

CALLING ATTENTION TO ABSENCE OF QUORUM

SEC. 888. Whenever it becomes apparent that business is proceeding in the absence of a quorum, any member may rise in his place, address the chair and say: "I suggest the absence of a quorum." Thereupon the chair could count the House, or he may assume the responsibility and declare a quorum present.

QUESTION OF NO QUORUM

SEC. 889. When it is suggested by a member that a quorum is not present, it is the usual practice for the speaker to count the house, this is the practice of all English speakers and Speaker Cannon ruled that the speaker's count is final and may not be verified, but a call of the house would be in order.

DETERMINING QUORUM

SEC. 890. It has been the custom in Parliament from time immemorial for the presiding officer to determine, in such manner as he deems accurate and suitable the presence of a quorum.

RULE FOR REGULAR CALL OF HOUSE

SEC. 891. In the absence of a quorum, fifteen members, including the speaker, if there is one shall be authorized to compel the attendance of absent members, and in all calls of the house the doors shall be closed, the names of members shall be called by the clerk, and the absentees noted; and those for whom no sufficient excuse is made,

may by order of a majority of those present, be sent for and arrested, wherever they may be found, by officers to be appointed by the sergeant-at-arms for that purpose, and their attendance secured and retained; and the house shall determine upon what conditions they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the hall of the House, and they shall report their names to the clerk to be entered upon the journal as present. (Rule XV, Sec. 2.)

BUSINESS IN ORDER DURING A CALL OF THE HOUSE

SEC. 892. Sometimes a call of the House will continue through several hours, that is the House will refuse to come out from under the call until a quorum is present.

Under these conditions while the officers are bringing in absent members, if the Clerk has called the roll through once and the absentees a second time, it is customary for the House to receive and pass upon purely incidental motions.

(A) After the roll call is completed a motion to adjourn or a motion to "dispense with further proceedings under the call" are in order. Also a motion to revoke leaves of absence and motions to excuse absent members may be agreed to. Motions to excuse and appeals are not debatable under a call.

(B) Other motions that are sometimes admitted during a call are: The previous question, to reconsider, and to lay the motion to reconsider on the table. Motions not strictly incidental to the call are not admitted, as for a recess to enforce statutes relating to deductions from pay of members for absence, change of journal entry, etc. Questions of privilege, unless strictly incidental to call are not in order.

(C) **A motion to dispense with proceedings under a call of the house is not in order during the process of the call.**

METHOD OF ENDING CALL OF HOUSE

SEC. 893. When the roll call has been completed and the House has established a quorum or desires to proceed with its business, before doing so they must come out from under the call of the House. This is accomplished by making and agreeing to this motion, **"that further proceedings under the call be dispensed with."** This motion is in order at any time after the completion of the roll call, whether or not a quorum is present.

(A) When the call is dispensed with, business proceeds from the point where it was left off when the call was demanded.

RIGHT OF HOUSE TO COMPEL ATTENDANCE

SEC. 894. The right of the House to compel the attendance of absent members is guaranteed under the constitution, even to ordering their arrest, and when arrested they continue in charge of the arresting officer until discharged by the House. If a member appears in the House during a call and he presents himself to the speaker from the front of the clerk's desk and the clerk is directed to record him as present, he is discharged.

(A) The exercise of the constitutional power of the house to order arrest of absent members is not confined to the time of a call of the House, or when there is a lack of a quorum. A majority may compel the attendance of all members of the House. To deprive either House of such power would destroy its functions as a legislative body.

(B) A resolution revoking all leaves of absence and directing absentees to attend, and that further proceedings under the call be dispensed with, is given precedence of the simple motion to dispense with further proceedings under the call.

(C) A call of the House is not in order after the previous question is ordered unless it be shown by actual count by the Speaker that a quorum is not present.

WHEN TO DEMAND CALL OF HOUSE

SEC. 895. Members should be careful in demanding a call of the House, for the reason it consumes much valuable time. A call of House is usually demanded when the absence of a quorum is certain, and it is desired to transact important business. Frequently business is of such importance that the presence of the entire membership is desirable, in either case, a call of the House may be demanded. A pending question may require more than a majority vote for its determination, and if the House is "thin" it is customary under these conditions to have a call of the House.

PROCEDURE TO SECURE CALL OF HOUSE

SEC. 896. Members should not frivolously demand a call of the house. Before doing so they should assure themselves of the absence of a quorum. While not necessary under the rules it is the practice of the National House to call attention to the **absence of a quorum by raising a question of order** or otherwise. The usual form being **"Mr. Speaker: I suggest the absence of a quorum, before demanding a call of the House."** In this way opportunity is given the chair to count the house and save time, if the speaker's count discloses the absence of a quorum, a demand for a call of the house could follow. Or the Speaker could direct such call, which he usually does.

CALL OF HOUSE IN ORDER AFTER ORDERING PREVIOUS QUESTION

SEC. 897. It has been held in congress, notwithstanding the rule, that the call of the house must be demanded before the previous question is ordered; **a call**

of the house is in order after the previous question is ordered, if it is shown by actual count by the speaker that a quorum is not present.

(A) A demand for a call of the house is in order even though a quorum is present.

CALL OF HOUSE PENDING MOTION

SEC. 898. A call of the house is in order and may be had pending a vote on a question.

PURPOSE OF CALL OF HOUSE

SEC. 899. The absence of a quorum having been disclosed, there must be a quorum of record before the House may proceed to business, and the point of order of no quorum may not be withdrawn, after the absence of a quorum has been ascertained and announced by the chair. The purpose of the call of the House is to compel attendance of absent members and to establish a quorum.

(A) The Federal constitution provides that when either House of Congress finds itself without a quorum, it may proceed to do one of two things. It may adjourn or compel the attendance of absent members, which is accomplished by a call of the House and directing officers to bring in absentees.

BILL MAY NOT BE READ IN ABSENCE OF QUORUM

SEC. 900. The clerk was proceeding to read a bill when a question was raised **that a bill could not be read in the absence of a quorum.** Speaker Reed sustained the point and counted the House finding a quorum present. He then directed the clerk to proceed.

EFFECT OF LACK OF QUORUM ON ROLL CALL VOTE

SEC. 901. **The fact that a roll call vote shows the absence of a quorum does not adjourn the house nor affect the question.** It has been held in both the house

and senate that when there has been a roll call ordered and on such call no quorum is developed and the same day a call of the house is had and a quorum is developed, the first thing immediately to be done, then, **is to proceed with the roll call that was interrupted by the lack of a quorum.**

VALIDITY OF ACTS OF HOUSE IN ABSENCE OF QUORUM

SEC. 902. **When an action has been completed,** it is too late to raise a point of order, that a quorum was not present when it was done. But when action requiring a quorum is taken after the absence of a quorum has been ascertained, the action is null and void, and has been ruled out even the day following such action. In these cases the absence of a quorum should appear in the records of the Journal, if for this reason the legislative act is to be vacated. Where the assumption is that a quorum was present and the House action stands **uncontradicted by the Journal,** it is held in Congress that this assumption may not be overthrown by opinions of members individually.

(A) Even the reading of the Journal of the previous day is not in order in the absence of a quorum, and a point of order may be raised against such reading.

COUNT OF THOSE PRESENT AND NOT VOTING TO MAKE A RECORD OF QUORUM

SEC. 903. On the demand of any member, or at the suggestion of the Speaker the names of members sufficient to make a quorum in the hall of the House, who do not vote shall be noted by the Clerk and recorded in the Journal, and reported to the Speaker with the names of the members voting and be counted and announced in determining the presence of a quorum to do business. (Rule XV, Sec. 3.)

METHOD EMPLOYED TO PRODUCE QUORUM

SEC. 904. At this point the question will naturally arise, when we find ourselves without a quorum, how can we enforce the attendance of members and establish a working quorum? The device invented for the purpose of enforcing the attendance of members and establishing a quorum in legislative bodies, is closely related to a quorum, and that device is known as a "call of the House."

CALL OF THE HOUSE

SEC. 905. It is provided by rule in all American legislative bodies, that a certain number may join in a demand for a call of the House. The necessary number varies in different bodies from two to fifteen, usually two. That is, if one member demands and it is supported by the remainder of the given number necessary to secure such call, it is then ordered. This requirement, however, does not apply in the case where one member suggests the absence of a quorum, which represents a request for the chair to count the House, or decide a quorum present for the protection of business.

CALL OF THE HOUSE

SEC. 906. The purpose of a call of the House is to secure the attendance of absent members and to establish a quorum. In a call of the House the chair orders the doors to be closed and the clerk to call the roll of members noting the absentees, during the call excuses for the absence of members and those for whom insufficient excuses are offered may by order of a majority of those present be sent for and arrested wherever they may be found.

METHOD OF SECURING A CALL OF THE HOUSE

SEC. 907. The method now used in the National House for securing a call of the House varies very considerably from the rule of the House which provides that fifteen

members may demand a call of the House. The practice we think is more sensible than the provisions of the rule. The practice is as follows:

Mr. Begg: I raise the question of no quorum.

The speaker then counts the House and announces the result. If he declares a quorum is not present some one then moves a call of the House and the speaker then puts the question to be decided by a majority of those present.

From the foregoing, it is evident that a question of order of no quorum precedes the motion or demand for a call of the House.

MOTION TO DISPENSE WITH CALL OF HOUSE

SEC. 908. When the call of the House has continued a sufficient time or a quorum is present, it is necessary for the House to come out from under the call before proceeding with business. For this purpose the motion "to dispense with further proceedings under the call," is moved This motion is not in order while the call is in progress, the call of the House may not be interrupted. Those present may demand a second or third calling of the roll but a recapitulation may not be demanded. During the call less than a quorum may revoke leaves of absence and motions to excuse members from attendance are in order but such motions are not debatable.

FORM OF MOTION TO DISPENSE WITH CALL OF HOUSE

SEC. 909. **"I move that further proceedings under the call of the House be dispensed with."** The effect of this motion when agreed to, and it may be agreed to by less than a quorum, is to bring the call to a close and the House to proceed with the pending business.

VALIDITY OF THE ACTS OF THE HOUSE IN THE ABSENCE OF A QUORUM

SEC. 910. When an action has been completed it is too late to raise a question of order that a quorum was not present when it was done. But when action requiring a quorum is taken after the absence of a quorum has been ascertained, such action is null and void and may be ruled out even the next day or at the same meeting. In these cases the absence of a quorum should appear in **the records of the minutes** if for this reason the act is to be vacated. Where the assumption is that a quorum was present and the House action stands uncontradicted by the minutes it is held in Congress that this assumption may not be overthrown by opinions of members individually.

METHOD OF SECURING CALL OF HOUSE IN CONGRESS

SEC. 911. A call of the house in most state legislative bodies may be had at almost any time by three or more members demanding it. This was the early rule of Congress, but in practice has been obsolete many years. Under this rule the house had no voice in deciding whether its time should be unnecessarily taken up at the whim of a very few members. The present practice is sensible and the call is ordered by a majority vote of the house. As recorded in the journal the procedure is as follows:

(A) "Mr. Begg. I raise the question of no quorum."

The speaker counts the house and announces the absence of a quorum.

Mr. Tilson: **I move a call of the house.**

Speaker: Will the House order a call of the House? The motion is agreed to. The sergeant-at-arms will close the doors—the clerk will call the roll.

From the foregoing it is evident a question of no quorum precedes a call of the house. The speaker counts and then if no quorum is found it is in order to move a call of the house, to be decided by a majority of those present.

I have found no rule requiring the foregoing, but the records disclose it as the constant practice.

MOTION TO DISPENSE WITH CALL OF HOUSE

SEC. 912. A motion to dispense with further proceedings under the call is not in order while the call is in progress, that is, **the call once ordered may not be interrupted.** But those present may demand a second calling of the roll. A recapitulation of the call can not be demanded. During the call less than a quorum may revoke leaves of absence and motions to excuse members from attendance are in order, but such motions are not debatable.

When the house orders the arrest of members unexcused a motion to excuse is in order and also when an arrested member is brought to the bar of the house.

The call of the house is ended by a motion to dispense with further proceedings under the call, which may be agreed to by less than a quorum as well as by a quorum and when agreed to ends all proceedings of the call even if they have not begun. But this motion is not in order pending a motion for arrest neither may it interrupt the roll call. Mr. Fess says, "In the present practice a call of the house **is invoked only in the absence of a quorum.** The motion is not debatable."

QUORUM OF AMERICAN HOUSE

SEC. 913. The Constitution of the United States provides that a quorum of each house shall be a majority of those **chosen** (elected). The interpretation of the word chosen has given rise to several interesting and lengthy debates in both houses and it was finally decided by both houses that a constitutional quorum to do business, after the house is organized, is a majority of the members chosen, sworn, living and whose membership has not been terminated by resignation, or by action of the house. The foregoing covers a decision first made by Speaker Grow, and affirmed by all succeeding speakers.

SEC. 914. If the question of a quorum is raised the reading of the journal is not permitted until the Speaker ascertains whether a quorum is present which he does by count. No business is transacted before the reading of the journal, but the simple motion to adjourn is sometimes admitted and a motion to dispense with reading. The reading may not be interrupted even by a highly privileged question, other than stated. (See Sec. 818-a.)

ACTION WHEN QUESTION OF NO QUORUM IS RAISED

SEC. 915. In point of fact the suggestion of no quorum by a member, presents a question of order, and is in order at any time.

(A) When a question of order is raised that business is proceeding without the presence of a quorum, it is within the competence of the chair to decide that a quorum is present.

(B) The question of no quorum being a point of order, the Speaker may decide it the same as he does in other cases of order, and an appeal from such decision would be in order.

(C) The chair may assume the responsibility of deciding a quorum to be present, to protect business, because no business can proceed after a lack of a quorum is disclosed.

(D) A gentleman speaking is entitled to have a quorum present.

(E) A member who is speaking **may be taken off the floor** by a member **raising the question of order, "that a quorum is not present."**

PRESENCE ONLY OF QUORUM REQUIRED

SEC. 916. The fact of a quorum is not dependent on the number who participate in the proceedings and vote. The Supreme Court of the United States has decided what is meant by a present quorum in this language: "A quorum as required by the Constitution to constitute a House com-

petent to do business, is a 'present quorum,' and not a 'voting quorum.' "

(A) **"In all cases, if the number necessary to make a quorum is present,** it makes no difference how many or how few actually participate in the decision. Those who sit silent are regarded as **consenting to the results."**

(The theory is sometimes advanced that a silent vote is a negative and not an affirmative vote. The Supreme Court of the United States has settled that question by deciding that those "Who sit silent are to be regarded as consenting to the result as in unanimous consent vote").

MOTIONS IN ORDER IN ABSENCE OF QUORUM

SEC. 917. When it is disclosed that a quorum is not present, there are but two motions **in order** in our American practice (and these are given this privilege by the Federal Constitution). The motion to adjourn and a motion for a call of the House. **Motions incidental** to the call may be received.

(A) The presiding officers of our Congress are without **authority to adjourn their respective bodies,** because the power of adjournment **under all conditions,** is vested in the bodies themselves by the organic law of the nation, therefore the old parliamentary law, that the presiding officer in the absence of a quorum may arbitrarily adjourn the body, does not obtain in American practice.

QUORUM OF OTHER LEGISLATIVE BODIES

SEC. 918. In the English parliament, the House of Lords, consisting of about four hundred and fifty members, proceeds to business if three members are present, and the House of Commons with about seven hundred members requires forty members to establish a quorum. Each body of parliament fixes quorum of committees when they are

appointed and this is usually a very small number of the whole.

BUSINESS SUSPENDED IN ABSENCE OF QUORUM

SEC. 919. In the American house the failure of a quorum necessitates the suspension of the most highly privileged business, and debate as well, there must be a quorum before the house may proceed.

(A) It is the duty of the chair to ascertain the presence of a quorum before directing the reading of the journal.

CHAPTER XXIV

RECOGNITION (OBTAINING FLOOR)

RECOGNITION

SEC. 920. A member who wishes to **introduce business** for the consideration of the House must first get **recognition** from the chair, for that purpose, or to use the popular parliamentary phrase he must **"obtain the floor."** [1]

SPEAKER'S (CHAIRMAN'S) CALL

SEC. 921. Among the **primary responsibilities** of a presiding officer, is the duty of **"awarding recognition"** to members, that is, naming those who are entitled to address the meeting.

AWARDING RECOGNITION

SEC. 922. In our American practice we refer to this procedure as **"awarding recognition"** on the part of the Speaker (chairman) and on the part of the member, as **"obtaining the floor."** The writer prefers the English phrase **(Chairman's call)** describing this particular practice. This phrase seems more descriptive and comprehensive and fully covers both phases of this important parliamentary practice.

SEC. 923. In awarding recognition the speaker (chairman) is not vested with **arbitrary control.** He is governed in this matter by certain rules **from which he**

[1] For further interesting practice of Congress relating to recognition when bills are being considered see, Recognition, Chapter Passing Bills in Congress.

may not depart, as is also the member who seeks recognition, or, the "chairman's call."

ADDRESSING CHAIR FOR RECOGNITION

SEC. 924. A member who desires the chairman's call (recognition) must rise in his place and address the presiding officer, by his official title, whatever it may be. Example: Mr. Speaker, Mr. President, Mr. Moderator. If one should be confused or in doubt as to the official title of the presiding officer, Mr. Chairman is a general term that is applicable to any presiding officer, but Speakers, Presidents, and Moderators dislike to be addressed as chairman. It is not, however, discourteous to so address them.

ADDRESSING WOMAN IN CHAIR

SEC. 925. If a woman occupies the chair she should be addressed as **Madam** Speaker, Chairman, President or Moderator, as the case may be, and this is true regardless of whether she be married or single.

(A) After addressing the chair the member may not proceed further until he is recognized (receives the chairman's call), that is, when he hears his name announced by the chair, he may then proceed in debate or introduce business.

RIGHT OF RECOGNITION

SEC. 926. Speaker Gillette ruled: "The Speaker is constrained to first recognize members who are in the majority whether they be the proponents or opponents of a measure."

CUSTOM OF CHAIR IN AWARDING RECOGNITION

SEC. 927. In "awarding recognition" it is the custom of the chair to make a distinct announcement of **the name of the person and district or state the person represents** who is recognized, so as to indicate with certainty to the meeting who it is that has received the **"Chairman's call."**

CHAIRMAN'S CALL

SEC. 928. The right to debate or to propose business is secured through the speaker's (chairman's) call of the members, commonly referred to as recognition.

SEC. 929. In any organized body meeting for the transaction of business, before any member may of right address the meeting, make a motion, or introduce any business for the consideration of the meeting, he must first get possession of the floor for the purpose, by being recognized by the chairman. The fact that one rises and shouts "Mr. Chairman" does not award him the floor nor give him permission to proceed in debate. He must await the action of the chair. It might be possible at that moment the chair would not award him recognition. When he does award him the floor, it will be by distinctly announcing his name, and until that time the member must remain quiet. In large assemblies or when the chair is not well acquainted with the membership the member on rising should, after he addresses the chair in the usual manner, announce his own name. This action serves a twofold purpose, it acquaints the meeting with who is about to speak and saves the chair from the embarrassment in giving the "chairman's call."

EFFECT OF CHAIRMAN'S CALL

SEC. 930. The "chairman's call," or recognition of a member, establishes the right of such member to address the meeting, therefore, upon the announcement of his name by the chair, he is at liberty to proceed, in order, with the matter he desired the floor to do. When a person seeking the "chairman's call," is denied it, by the chair, it is the duty of such person to **resume his seat at once,** and give respectful attention to the further proceedings of the House.

METHODS EMPLOYED IN AWARDING RECOGNITION

SEC. 931. In American legislative bodies the speakers in **awarding recognition,** call the members by recog-

nizing and announcing the district he or she represents, thus, "the member from Ohio." In cases where there is more than one member from the same district, county or state he announces the district, county or state and the member's name also, thus, "the member from Ohio, Mr. Willis." The member from Hamilton county, Mr. Federman, etc. In those meetings where district representation does not obtain, the foregoing procedure could not be well followed by the chair. In all ordinary cases the chair should award the floor by distinctly announcing the name of the person he recognizes.

RECOGNIZING WOMEN MEMBERS

SEC. 932. In awarding recognition to a woman member of the House, the chair should remember they are members of the body and should merely announce, the member from Scioto, Miss Cramer, or the Senator from Hamilton, Mrs. Van Wye. In an ordinary meeting they should be addressed by their surnames only, with the prefix of Miss or Mrs., as the case may require.

RULES OF RECOGNITION

SEC. 933. The American method of securing recognition, or obtaining the floor, is clearly described in secs. 1 and 2 of rule XIV, of the National House of Representatives as follows:—

RULE OF HOUSE—RECOGNITION

SEC. 934. **"When any member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to the Speaker, and on being recognized, he may address the House from any place on the floor, or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personalties."** (Sec. 1.)

SEC. 935. **When two or more members ask recognition at the same time, the Speaker shall name the member who is first to speak.** (Sec. 2.)

SYLLABUS OF SPEAKER'S DECISIONS UNDER THE RULE

SEC. 936. The Speaker must recognize a member before he may of right proceed in debate, or make a motion, or introduce any business. Under the rule, **discretion in awarding recognition, is lodged in the Speaker.**

A. In modern practice the Speaker **refuses to entertain an appeal from his decision, in matters of recognition.**

(B) A member to secure recognition **must arise from his seat and address the Speaker.**

(C) In awarding recognition it is the custom of the Speaker to **alternate according to differences of opinion on the pending question,** i. e., those for, and those against the pending question.

RIGHT OF PRIOR RECOGNITION

(D) A member upon whose motion a subject is introduced for the consideration of the House, is **first entitled** to the floor in debate.

(E) The chairman or member of a committee who has reported business is **entitled to prior** recognition for all motions in order to **expedite the business.**

(F) A member who resumes his seat while a paper is being read, does not thereby lose his right to proceed at the conclusion of such reading. (Randall.)

(G) A member who **yields** the floor for a motion to adjourn, does not lose his right to proceed if the question is decided in the negative.

(H) A member who yields the floor for a motion to postpone the subject is entitled to prior recognition when the subject is again considered.

(J) A member who resumes his seat after being called to order loses his claim to prior right of recognition.

WHEN MEMBER LOSES RIGHT TO FLOOR

(K) A member who has been called to order in debate, and decided out of order loses the floor, and another may be recognized.

(L) A member who yields the floor for an amendment loses his right to the floor.

(M) It is in order for a member who has been recognized to make a motion and then at once to demand or **move the previous question on his motion,** and thereby prevent debate and amendment. In this case the chair first puts the previous question.

(N) A motion to adjourn may not be made while another member is in possession of the floor.

(O) A member in charge of a measure and having the floor in debate, does not lose the floor by proposing an amendment. (Gillette.)

(P) The fact that a member has been recognized on one matter, does not entitle him to prior recognition for a motion relating to a **different matter.**

(Q) A member loses his right to prior recognition if he neglects to claim it, before another member is recognized.

(R) After a member has **proceeded with his remarks,** it is **too late to challenge** his right to the floor.

POSSESSION OF FLOOR

SEC. 937. The foregoing on recognition illustrates the methods employed to gain **"possession of, and hold the floor."**

(A) A member being recognized by the chair is then in **"possession of the floor,"** and at liberty to debate the pending question, if any, but he must observe decorum in debate, and his remarks must be germane to the subject

before the House, else he may be compelled to yield the floor on a point of order, or by direction of the Speaker.

(B) If no question is before the House, he may introduce a subject for the consideration of the House.

CUSTOM OF CHAIR WHEN TWO OR MORE RISE AT THE SAME TIME

SEC. 938. If two members rise at the same time, it is the right of the speaker to decide which of them shall be given the Chairman's call (be recognized). By long experience it has been found expedient and is now enforced by rule that the responsibility and discretion in **"awarding recognition"** be left entirely with the chairman.

APPEAL FROM RECOGNITION

SEC. 939. In early days in this country, it was provided by rule that an appeal could be taken from the **chairman's recognition.** The futility of this action was soon discovered and the rule was repealed, so under present practice **there is no appeal from the decision of the chairman in matters of recognition.**

MOTION TO BE NOW HEARD

SEC. 940. In parliament when the Speaker persists in his refusal to recognize a member it is in order to move, that "Mr. A. **be now heard"** and on one occasion Mr. Gladstone offered the motion thus: "That Mr. B. (the member speaking) **be not now heard."** Under the early practice of congress but no longer observed (for the reason **there can be no appeal from the recognition of the speaker),** if a question arose as to the recognition of a member the speaker on demand of the house, or on his own initiative, would put the question on the member he had recognized thus: **"Is Mr. Meyers entitled to the floor?"** There was no rule requiring such practice

but it was merely a means for the chair to ascertain if the house was satisfied with his recognition. This practice was not recognized as a requirement on appeal. While the practice is obsolete in the House it could on occasion be used with gratifying results, to the chair, if his recognition for any reason were questioned.

SEEKING RECOGNITION IN CONVENTIONS

SEC. 941. In large meetings and conventions the chair cannot be expected to know the name and district of each person who rises for recognition. Therefore it is helpful and would expedite business if the member on arising would announce his name and district immediately, thus, John P. Maynard, Allen county. This prevents embarrassment to the chair in recognizing gentlemen. The foregoing is not strictly a parliamentary requirement, but is a happy and useful innovation.

QUESTIONS AND MOTIONS WHICH DO NOT ORDINARILY REQUIRE RECOGNITION BY THE CHAIR BEFORE STATING THE OBJECT OF RISING

SEC. 942.
(1) Parliamentary Inquiry
(2) Questions of Privilege
(3) Appeal
(4) A Call for Regular Order
(5) Point of Order
(6) Objection to Consideration
(7) Demand for a Division of Amendment, or the House
(8) Withdrawal of Motion
(9) Question of No Quorum
(10) Changing Vote

(A) **The foregoing list, however, is wholly dependent upon the indulgence of the chair.** But in these small matters, the members are not usually held strictly to the letter of the rules.

SEEKING RECOGNITION WHILE ANOTHER HAS FLOOR

SEC. 943. In Parliament whenever a member seeks recognition and thereby interrupts someone **speaking "in order,"** it is the duty of the presiding officer to recognize such member, and give him the floor, **long enough to explain briefly why he claims the floor.** It might be that a member so rising has something important to communicate to the assembly, that it of right should hear at once, and in this way only can it be known. It is the duty of the member speaking to resume his seat until the new matter is settled when the speaker should direct him to proceed.

EXTENT OF RIGHT TO DEBATE

SEC. 944. When a member is in possession of the House (as it is called), he has not obtained the right to speak generally, but is only entitled to be heard upon the question then under discussion, or upon a question of amendment intended to be proposed by himself, or upon a point of order. Whenever he wanders from it, he is liable to be interrupted.

CHAPTER XXV

DEBATE AND RULES GOVERNING

WHAT IS DEBATE?

SEC. 945. All parliamentary procedure is considered as debate. It is not as commonly supposed a succession of orations, but is composed of speeches of members and replies. It is a mutual play of opinion on opinion expressed by speeches and interspersed with motions.

DEBATE

SEC. 946. Debate must be relevant to the matter or question before the House or committee and when more than one question has been proposed from the chair, the debate must be relevant to the last question so proposed until it has been disposed of.

MOTION TO COMMIT NOT DEBATABLE

SEC. 947. In parliament the motion to commit is not generally debatable. If the motion is opposed the speaker may permit a brief explanatory statement if he sees fit, from the member who moves and the member who opposes, and he may then without further debate put the question.

WHEN QUESTION OPEN TO DEBATE

SEC. 948. When a question has been stated (proposed) by the chair, it is then subject to debate and amendment before the question is put for a vote and decision of the house. While there is no rule that provides that the chair shall invite discussion, yet in fairness to the house, and as a warning to those who act slowly, but wish to debate the question, the chair should

before putting the question inquire: **"Is there any discussion?" or "Are you ready for the question?"** These questions merely serve notice that members may sin away their right in debate. The response to the queries of the chair is "Vote! Vote!" Then if no one seeks recognition for debate, the chair is fully justified in putting the question and ordering the vote without further delay. Observance of the procedure herein described, while not compulsory should always be observed, because it will save the chair from the charge of unfairness in putting the question before the house is ready to vote.

WITHOUT MOTION AND QUESTION THERE CAN BE NO DEBATE

SEC. 949. Debate must always have relation to some definite question before the house. There must be a motion and question proposed to the house by the chair for the purpose of ascertaining the will of the house. Debate begins with the statement of the question and ends when fully put. Without motion and question there can be no debate. This is a fundamental principle of parliamentary law. In the case of reports or introduction of other papers, the question on adoption is presumed to be pending without the cooperation of a mover from the floor.

RIGHT OF MEMBER IN DEBATE

SEC. 950. A member may not be deprived of his right to close debate except by ordering the previous question. **A member may not be taken off the floor by a question of personal privilege.** A member only loses his right to the floor when he yields for an amendment. A member having the floor in debate may without objection yield it for questions and explanations connected with the subject before the house.

COURTESY IN DEBATE

SEC. 951. As a matter of courtesy, a new member who has not spoken in the house, is usually called upon in preference to other members rising at the same time.

REFERRING TO MEMBERS BY NAME

SEC. 952. To guard against the appearance of personalities in debate, it is a rule that no member shall refer to another by name.

THE RULES FOR THE CONDUCT OF DEBATE

SEC. 953. The rules for the conduct of debate divide themselves into two parts, viz.: (1) Such as are to be observed by members addressing the House, and (2) Those which regard the behavior of members listening to the debate.

(a) A member while speaking to a question, may not allude to debate upon a question already decided by the House in the same session;

(b) Nor speak against, or reflect upon any determination of the House unless he intends to conclude with a motion for rescinding it.

It is a wholesome restraint upon members to prevent them from reviving a debate already concluded; for otherwise debate might be interminable, and there would be little use for the rule preventing the same question from being offered twice, if without being offered its merits could be discussed again and again.

SEC. 954. Any matter awaiting adjudication in the courts is not to be brought forward in debate.

CONCLUDING SPEECH WITH MOTION

SEC. 955. A member who has possession of the floor and is speaking may conclude his speech by making any motion that is in order at the moment.

REFLECTIONS IN DEBATE

SEC. 956. No member in debate is permitted to reflect on a prior determination of the house unless it is his purpose to conclude with a motion to rescind the matter referred to. (See motion to rescind.)

DEBATE ON QUESTION OF ORDER

SEC. 957. Debate on a point of order is closed whenever the speaker makes a ruling thereon.

MOTION TO CLOSE DEBATE

(Not Privileged)

SEC. 958. The English motion to adjourn or close debate is not in order. It may be offered at any time by unanimous consent or under suspension of rules. The American motion to close debate is used exclusively in the committee of the whole where the prevous question is never in order.

SEC. 959. **It is not in order on a question of amendment to discuss the merits of the general proposition.**

FREEDOM OF SPEECH

SEC. 960. Freedom of speech does not mean unrestrained speech but equal freedom to all the members in the house, and equal latitude in the application of the rules of the house. Freedom of speech implies voluntary obedience to all the rules of debate.

DEBATE IN NATIONAL HOUSE

SEC. 961. **Indecent language against the proceedings** of the House or **reflections** on **its prior determinations** are **not in order** in debate. **Mentioning a member by name, arraigning** the **motives of members** and **personalities** generally are not in order in debate, and it is the duty of the chair to **suppress personalities in debate.** It is not in order in debate to cast reflections on either

the House or its membership, or its decisions, whether present or past.

DEBATE NOT TO PROCEED IN ABSENCE OF QUORUM

SEC. 962. During debate in National House former Speaker Banks raised a question of order that a **quorum was not present.** Speaker Randall deciding the point said: **"The House is not a House without a quorum,** and debate may not proceed. A motion for a call of the House is in order." A point was then raised that there was no requirement in the rules that a **quorum should be present during debate.** The Speaker said: **"A quorum is necessary at all times."**

DISORDERLY WORDS IN DEBATE

SEC. 963. "They have their **agents here upon this floor;** they have their **interested stockholders here to vote** upon this measure and rob the people of the West of the great God-given right to navigate freely the great Mississippi River." (Held disorderly.) Green Clay Smith was called to order for pronouncing the opinions and decisions of the House, damnable heresies.

(A) John A. Bingham was called to order for the following words in debate: "I say now and here, and stand ready to make it good before the tribunal of history and the great tribunal of the American people, that the proposition to be set up here of the right of the minority to stay indefinitely the right of the majority to legislate is **disgraceful,** and **dishonorable"** — Speaker Blaine ruled that the foregoing words were unparliamentary.

(B) It is not in order in debate to call a member by **NAME** or comment upon **his actions in a preceding Congress.** It is improper in debate to arraign the motives of members. **A member who has been called to order in debate, and directed to sit down cannot proceed**

except by consent of the house, e. g.: In March, 1903, Mr. George A. Pearce, referring to an opponent in debate, said: **"The gentleman is guilty of a worse offense in concealing the truth from the House,** especially when the gentleman **knows the motive was a personal one."** Thereupon, Mr. Speaker Henderson called him to order and said: **"The motives of gentlemen must not be impunged."**

(C) Personalities aimed at a member in his **capacity** other than that of **representative** or **senator** are **not in order,** neither is it in order to accuse another of an offense not connected with the **representative capacity** of the latter.

DUTY OF MEMBER WHEN CALLED TO ORDER

SEC. 964. If a member is called to order in debate, he should immediately **sit down,** unless the House on motion, but without debate, shall permit him to explain or proceed in order.

(A) Mr. Jefferson says: "If repeated calls do not produce order, the chair **may call by name** any member **obstinately persisting in irregularity,** whereupon the House may require the member to **withdraw."** [1]

(B) Words spoken in debate being held out of order, and the House having permitted the member to **explain, it is then in order to move** that he be permitted to **proceed in order.**

CHARGES OF BRIBERY

SEC. 965. Where charges of bribery have been made against a member, a question propounded to him by another on the subject has been held in the House to be in order.

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[1] If a member does not voluntarily withdraw, the House expresses its approval of the Speaker's act by the cry "Withdraw! Withdraw!" If the member should not heed this invitation then it is time and in order for a motion to be offered that the offending member withdraw. If decided affirmatively and the member does not withdraw the Speaker directs the sergeant-at-arms to do his duty and remove the member quietly or otherwise if necessary.

(A) It has been held, while in debate, the assertion of one member may be declared **untrue** by another, but in so doing, an accusation of **intentional misreprentation** must not be implied.

(B) A member may not be required to give authority for any respectful statement which he may quote in debate.

MEMBERS IN DEBATE SHOULD NOT ATTACK THE CHAIR

SEC. 966. Complaint of the conduct of the chair should be presented directly for the action of the House,[1] and not by way of debate on other matters. **Allusions to or criticism of the presiding officers are not in order,** not that such officers **are always above criticism or attack,** but because they are **presiding officers and such attacks are not conducive to the good order of the House,** and because the chair cannot reply to them except in a very fragmentary fashion, and it is not desirable that he should reply to them. Therefore, such attacks should not be made.

OBJECTION TO ACTS OF SPEAKER

SEC. 967. If there be any objection to the acts of the chair they **ARE NOT** above criticism by **direct presentation for the action of the House.** Although debate on a question of order is within control of the chair, yet he puts to the House the question whether a member called to order during such debate shall be allowed to **proceed in order.** A member who has been called to order in debate and decided out of order loses the floor and another may be recognized.

MATTERS DECIDED NOT TO BE REVIVED IN DEBATE

SEC. 968. Speaker Onslow of the English House of Commons, on a question of order ruled: "Matters once

[1] In these instances the Speaker should vacate the chair and call another to preside until the matter is settled.

decided by the house may not be revived in debate on other questions. To cavil at or throw reflections upon what the house has actually decided, besides the indecency which such proceeding bears upon the face of it, can have no other possible effect than to introduce, reply and recrimination, which, as the house is not called upon to put to and end by a question, must deviate into warm and personal altercations."

Redlick, one of the more recent English parliamentary writers, declares that in the practice of parliament, it is strictly forbidden in debate to wander off to matters already decided on a former occasion, or to matter appointed for future discussion.

Among the most ancient rules of parliament relating to debate is recorded by Hooker as follows: "If a man do speak to a bill and he be out of his matter, he ought to be put in remembrance of the matter by the speaker and be willed to come to the matter."

REFERENCES TO COMMITTEE, THE OTHER HOUSE OR CHIEF EXECUTIVE

SEC. 969. It is against order to refer to **proceedings of a committee** in debate, unless the committee has formally reported its proceedings to the House. **Neither the chairman of a committee nor any other member of a committee or of the House can be permitted to allude, on the floor, to anything which has taken place in committee or in any way relate in debate what was done by said committee, or by the individual members of the committee, except it be done by a written report made to the House by authority of the committee.**

(A) It is in order in debate to refer to the President, or his opinions, either with approval or criticism, provided that such references be relevant to the subject under discussion, and otherwise conformable to the rules.

(B) But a reference in debate to the **probable action of the President** was held in Congress to involve no breach of order, but it is a breach of order to refer in debate to the debate or votes on a subject in the other House.

(C) **Neither House can exercise any authority over a member or officer of the other,** but should complain to the House of which he is a member, and leave the punishment to it. It is the duty of the House, but more particularly the chair, to interfere immediately and not to permit expressions to go unnoticed **which may give ground of complaint to the other House.** (See secs. 82 and 83.)

(D) References to methods of procedure in the House for the purpose of **influencing the other** are out of order, neither is it proper to **refer to the actual or probable action of the other House.** If the motives of a member of either House have been impugned in the other House, he may refer to the proceedings of that body sufficiently to explain his own motives, but may not under the rights of privilege bring into discussion the whole merits of the controversy.

DEBATE BEFORE MAKING MOTION

SEC. 970. Under the old English parliamentary law, if a member were recognized to make a motion, **he could debate it,** before he **actually proposed his motion,** upon the understanding that he speak to the question, and propose his motion before he concluded. **In our American practice this procedure is not permitted.**

(A) **There can be no debate whatever unless a question is pending before the House.**

INTERRUPTING MEMBERS IN DEBATE

SEC. 971. It is evidently within the discretion of the member occupying the floor in debate to **determine when and by whom he shall be interrupted.**

LIMITING DEBATE

SEC. 972. When it is desired to expedite business by limiting debate it can be done most effectively in this manner: before debate begins a member should rise and if recognized, say: "Mr. Speaker, I ask unanimous consent that the debate on this bill be limited to one-half hour (or other time), one-half to be given to the opponents and one-half to the proponents of the bill." At the end of such time the previous question shall be considered as ordered on the bill and any pending amendments.

METHOD OF CONTROLLING DEBATE IN CONGRESS

SEC. 973. On motion of Mr. Brown by unanimous consent, the debate on H. B. 48 was limited to twenty minutes, the time to be controlled by Mr. Brown, and at the end of twenty minutes the previous question be considered as ordered on the passage of the bill. (Under this and the following resolution the Speaker is deprived of his right of recognition. The right to speak on the pending question is arranged through the courtesy of the member who has charge who announces to the Speaker the persons to be recognized and the time limit they may speak.)

USUAL METHOD OF CONTROLLING DEBATE IN CONGRESS

SEC. 974. The House was about to proceed to the consideration of a bill when Mr. A. by unanimous consent, presented the following:

"Ordered: That general debate be had on the said bill for three hours, one-half of the time to be controlled by Mr. A. (a Democrat) and one-half by Mr. G. (a Republican) and at the close of general debate, the bill be considered under the five minute rule for amendments."

MODE OF INTERRUPTING MEMBER IN DEBATE

SEC. 975. If a member should desire to ask a question of a member who is speaking, he may do so indirectly

through the Speaker, but it is discourteous and a strict violation of parliamentary etiquette and rules for him to do so directly. The procedure in interrupting a speaker in debate is as follows: The member desiring to ask the question should arise and proceed, Mr. Speaker: (He need not wait for recognition) Will the gentleman yield to a question? (Then he should pause.) The member speaking may at this point consent or decline. If he does neither the Speaker proceeds to ask the gentleman speaking if he will yield to the gentleman from ———— county for a question? If the member consents, the Speaker announces to the questioner, the gentleman yields. This is the signal for the question to be asked and it is not in order until permission is given through the chair. Any procedure different from the foregoing degenerates into mere conversation.

(A) In deliberative bodies it is against order and an infringement on the privilege of the House for members to engage in conversation except it be carried on through the chair. Members in debate may not directly address one another.

DEALING WITH OBSTREPEROUS MEMBER ON FLOOR

SEC. 976. In Parliament, when after two warnings from the chair, if a member persists either in obstructing business or in otherwise disregarding the authority of the chair, the chairman does not allow him to proceed but always calls upon another member to address the House. If no other member desires to speak, he then forthwith puts the question to a vote, subject of course to the right of reply. (May Parliamentary Practice.)

PROTECTING HOUSE IN DEBATE

SEC. 977. A good but very old rule of parliament dating back to April 14, 1640, but still observed in practice is: That if any member speak impertinently or beside the question in hand, it stands as an order of the House that

Mr. Speaker shall interrupt him and ascertain the pleasure of the House whether they will further hear him.

GRANTING ADDITIONAL TIME TO A MEMBER SPEAKING

SEC. 978. When debate has been limited and it is desired that a member be heard for a longer time than that specified in the rule or order of the House, it may be accomplished in this manner: "Mr. Speaker, I ask unanimous consent for the gentleman to speak ten minutes longer."

Speaker: "Without objection, **it is so ordered.**"

MEMBER MAY REQUEST ADDITIONAL TIME IN DEBATE

SEC. 979. If a member consumes his allotted time in debate before he has fully concluded his remarks and no member moves for an extension of his time, it is in good parliamentary taste for the member speaking to request the House for additional time, thus: "Mr. Speaker, I request unanimous consent to continue my remarks five minutes."

ADDRESSING PRESIDING OFFICER

SEC. 980. In the House the presiding officer is always addressed as "Mr. Speaker"; in the Senate as "Mr. President." In the committee of the whole in both Houses the presiding officer is addressed "Mr. Chairman".

QUESTIONS TO MEMBERS

SEC. 981. Questions addressed to members in the House must relate to a bill, resolution, motion or other matter connected with the business of the House in which such members are concerned. **A question addressed to the leader of the minority inquiring the course he intends to adopt regarding the business of the House** is out of order. Questions may not be asked relating to a circumstance that occurred outside the assembly, if it would impugn the veracity of a member in respect to a statement made by him in the House.

PURPOSE OF ASKING QUESTIONS IN DEBATE

SEC. 982. The real purpose of a question is to obtain information, and not to supply it to the House. A question may not contain statements of facts, unless they be necessary to make the question intelligible, and can be authenticated; nor should a question contain arguments, inferences, imputations, epithets or controversial or ironical expressions.

(A) Question may not refer to debates, or answers to questions in the current session. A question may not be asked regarding proceedings in a committee which have not been placed before the House by a report of a committee; no question may be asked which reflects on the character or conduct of a member. No questions may be asked that reflect upon the Governor or others in official life. (Bourinot, p. 249-50.)

READING INSULTING LETTERS OR PAPERS AN INVASION OF PRIVILEGE

SEC. 983. It is an invasion of privilege for a member in debate or at any time to read a letter from a person not a member, calling in question the acts of a member, its officers or the House itself. The reading of all communications that are abusive or critical are against order and should not be permitted.

DISORDERLY WORDS IN DEBATE TAKEN DOWN

SEC. 984. When disorderly words are used by a member in debate, notice should immediately be taken of the words by the member objecting to them, and if the member desires that the words be taken down, he must repeat the words to which he objects and state them exactly as he conceives the words to have been spoken. Then the Speaker, if in his opinion the words are disorderly, directs the clerk to take down the words to which objection has been taken. Then the question as to whether the words are disorderly is submitted to

the House. The member using the objectionable words is permitted to explain and apologize to the House. If the offending member refuses to apologize, it is the duty of the Speaker to censure such member. **Even the Speaker is subject to the rule in relation to disorderly language.** (May 337.)

(A) When disorderly words are voted on, the chair puts the question thus, "Are the words written down, the words spoken by the member?"

WORDS TAKEN DOWN

SEC. 985. Mr. Madden demanded that certain words spoken by a member **be taken down.** The words were taken down and then Mr. Madden moved that the words taken down be stricken from the record. A question of order was made that before any other procedure was in order it must determine whether said words are out of order. The Speaker overruled the question of order.

TO ADJOURN DEBATE

SEC. 986. The parliamentary motion to adjourn debate seems not to have found any favor in the legislative practice of American assemblies, but they accomplish the purpose of such motion by the motion to postpone the further consideration of the bill, or by the previous question. Of course, if a bill under debate is postponed, the debate on same would be concluded for that time (Adjourned).

THE FOLLOWING BUSINESS MAY INTERRUPT A MEMBER WHILE HE IS SPEAKING

SEC. 987. Point of order.
Call for regular order of the day (regular order).
Division of the question.
To enter in the Journal a motion to reconsider.

Calling attention to special order.
Calling attention to disorderly conduct.
Calling attention to disorderly words in debate.

SYLLABUS OF SPEAKER'S DECISION RELATING TO DEBATE

SEC. 988. **A member in addressing the House must address the Speaker.**

(A) The question must be stated before debate may begin.

(B) After a motion has been made, the House has the right to determine before debate begins whether it will consider it. This is done by raising the question of consideration.

(C) Every motion must be reduced to writing, if required by the Speaker, before debate begins.

(D) The withdrawal of any matter precludes further debate.

(E) No member may speak more than once on the same question, unless he be the mover or proposer, in which case, he may speak in reply, after all choosing to speak have spoken.

(F) The right of the mover or proposer to speak twice does not extend to one who has merely moved a formal motion.

(G) A member who has spoken to the main question may speak again to an amendment.

(H) A member may yield the floor for a motion to adjourn, without losing his right to continue when the subject shall be considered again.

(I) A member who yields the floor for a motion to adjourn is entitled to prior recognition, if the motion to adjourn is decided in the negative.

(J) A member who resumes his seat after being called to order loses his claim to prior right of recognition.

(K) A member having the floor in debate, if he yields to another to offer an amendment, loses his right to resume.

(L) In the practice of the Ohio assemby a member may not yield his time in debate to another as was tersely put by Mr. Speaker Beetham, of Ohio. "He has no time at his disposal to give to another."

(M) On a motion to amend, debate is confined to the amendment, and may not include the merits of the general proposition.

(N) It is not in order in debate in the House to answer arguments made in any committee.

(O) **It is not in order to refer to a bill in debate, that is in committee and not reported.**

(P) On an appeal from the decision of the chair, it is not in order to debate the merits of the measure under consideration when the question of order is raised.

(Q) The chair frequently **interposes to prevent a breach of order in debate, without waiting for a point of order.**

(R) It is against order to impugn the motives of a member.

(S) **If a member obstinately persists in irregularity, the Speaker may call him by name** and the House may require him to **withdraw.** The Speaker should then state wherein he thinks the member has violated the rules and submit the question for the determination of the House.

(T) A member may not be required to give authority for any respectful statement he may quote in debate.

(U) A member called to order in debate must immediately sit down, unless the House on motion and without debate permit him to proceed.

(V) The demand that disorderly words be taken down must be made at once before debate or other business intervenes.

(W) Words spoken in debate being out of order, and the House having permitted the member to explain, a motion is then in order to permit such member to **"proceed in order."** In this manner the opinion of the House may be tested. The usual form of the motion is: "That the gentleman be permitted **to proceed in order."**

(X) A member called to order, and decided out of order, loses the floor and another may be recognized.

TIME ALLOWED IN DEBATE

SEC. 999. In debate the House is governed by what is known as the hour rule, which is not given here, for the reason it would not be practicable in small assemblies. Ten minutes or less is the best rule for most assemblies.[1]

GENERAL EXTENT OF DEBATE

SEC. 1000. A motion being pending to strike out the enacting clause in a bill, Mr. Joseph Cannon proceeded to debate the question when a point of order was raised that the question was not debatable. Mr. Speaker Crisp in his decision on the point of order, said: "The chair thinks that under our system of rules **all matters are debatable unless** there is some express limitation in the rules. The **general rule is that any proposition is debatable."**

QUESTION DECIDED WITHOUT DEBATE

SEC. 1001. The following list is not to be considered as giving all questions that are not debatable, but merely the principal motions in common use.

(1) Adjourn
(2) Recess. (If other question is pending.)
(3) Lay on table
(4) Previous question

[1] Under the hour rule each member recognized may speak one hour on the pending question and one hour on an amendment.

(5) Take from table (when permitted)
(6) Call of House
(7) Discharge of committee (limited)
(8) Suspension of rules (simple motion)
(9) All questions relating to priority of business
(10) Commit—is debatable in a very limited degree
(11) Reconsideration when question being reconsidered is undebatable
(12) Motions to amend titles
(13) Questions of consideration
(14) Lay aside without prejudice.

SEC. 1002. "A resolution providing for sine die adjournment is not debatable," decided Speakers Clark and Longworth.

ASCERTAINING MEMBER'S PURPOSE IN DEBATE

SEC. 1003. It frequently occurs that before the chair will recognize a member for debate, he will inquire: **"For what purpose does the gentleman arise?"** If the answer is unsatisfactory the chair says: **"The chair refuses to recognize the gentleman for that purpose."** In this way the chair is able to **determine whether the member will propose business** out of order or a motion having precedence. If the business is out of order and not one of higher precedence, the Speaker will declare that he **refuses to recognize the gentleman for that purpose.**

OPENING AND CLOSING DEBATE

SEC. 1004. **The member reporting the measure under consideration from a committee may open and close, where general debate has been had thereon; and if it shall extend beyond one day he shall be entitled to one hour [1] to close, notwithstanding he may have used an hour in opening.** (Rule XIV.)

CALL TO ORDER IN DEBATE

SEC. 1005. **If any member, in speaking or otherwise, transgress the rules of the House, the Speaker (chairman) shall, or any member may, call him to order, in which case he shall immediately sit down, unless permitted, on motion of another member, to explain, and the House shall, if appealed to, decide on the case without debate. If the decision is in favor of the member called to order, he shall be at liberty to go forward, but not otherwise; and if the case require it, he shall be liable to censure or such punishment as the House may deem proper.** (Rule XIV, Sec. 4.)

MEMBERS MAY SPEAK BUT ONCE

SEC. 1006. **No member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every member choosing to speak shall have spoken.** (Rule XIV, Sec. 6.)

(A) If a pending matter is withdrawn, it precludes further debate on that subject.

(B) It is too late to make the point of order that a member has already spoken if no one claims the floor until he has made some progress in his speech.

(C) **A member who has spoken once to the main question may speak again to an amendment.**

(D) The right to close debate does not extend to the mover of a formal motion.

MOTION TO EXPLAIN

SEC. 1007. When a member is called to order in debate, either by the Speaker, or upon a point of order raised and sustained, it is the duty of such member to

[1] That is, a member may use the same time in closing as he was allowed in opening.

resume his seat. It is then **in order, and usual,** for a motion to be made that the member be permitted to **"Explain".** If the House grants this courtesy the member called to order may then "explain" his reason for not observing the rules. If such explanation is satisfactory, it is then **in order, and customary,** for a motion to be made that the member be allowed to **"proceed in order".**

MOTION TO PROCEED IN ORDER

SEC. 1008. Under the rule and rulings the motion to **"Proceed in order"** is always offered after the motion to explain is acted upon satisfactorily. If the motion to proceed in order prevails the member may then proceed in order with his remarks but he must observe all the rules of debate. The Speaker should not receive or entertain a motion to "proceed". This motion would give the member speaking too much latitude. The rule does not recognize the unqualified motion, the motion here described is **"Proceed in order".**

WHEN DEBATE IS IN ORDER

SEC. 1009. Speaker Crisp ruled: Before debate is in order a **motion must be made by a member, stated by the chair or read by the clerk, or even reduced to writing if required, and announced by the chair,** after the foregoing, the motion is said to be in possession of the House, **and is then open for debate,** and **cannot be debated until then.** After a motion has been put to the House, the House has the right to determine whether it will consider it, before debate begins. This is accomplished by raising the question of consideration.

EXCEPTION TO FOREGOING RULING

SEC. 1010. Speaker Blaine ruled that a communication or report being before the House, it is debatable before any

specific motion is made in relation to it. The communication itself forms a basis for discussion, and the House need not be forced to a particular line or policy before debate.

WHEN SPEAKER RISES IN DEBATE

SEC. 1011. When the Speaker rises to interpose in the course of a debate, he is to be heard in silence. If a member is speaking, or offering to speak, he should immediately take his seat. Members who do not keep silence, or who attempt to speak, should be called to order by the House with loud cries of order, hear the chair.

WHEN MEMBER LOSES RIGHT TO SPEAK

SEC. 1012. If a member moves to adjourn during a debate and his motion is negatived, he is not permitted thereafter to speak to the then pending question.

RESUMING ADJOURNED DEBATE

SEC. 1013. On resuming an adjourned debate, the member who yielded the floor for the motion to adjourn, is entitled to speak first, but he must rise in his place and be recognized to avail himself of this privilege. If he does not rise and seek recognition, it is not the duty of the Speaker to call upon him. However, the member would not be debarred from subsequently taking part in the debate.

DEBATE ON DIVIDED QUESTION

SEC. 1014. When a debatable question is divided, general debate is taken on the first division, and although much disputable matter remains for discussion in the remaining divisions or paragraphs, only very brief debate should be permitted when separately stated by the chair. (Speaker of Commons.)

DEBATE NOT TO STRAY

SEC. 1015. When a question is under debate, members must confine themselves to the question before the

House. **Debate must not stray** from the question before the House to matters which have been decided during the current session or sitting, nor anticipate a matter to be considered at a future time. (Speaker of Commons.)

SEC. 1016. The rule of the national house relating to debate dates from the year 1789 and has remained practically unchanged in its principal provision, as follows: "And shall confine himself to the question under debate" (Rule XIV, sec. 1). The rule of the English House of Commons is similar, "When a question is under debate, members must confine themselves to the question before the house. Debate must not stray from the question before the house, to matters that have been decided during the current session nor matters decided in a previous parliament, nor anticipate a matter to be considered at a future time." (Sutton.)

It is held in the National house to be out of order to cast reflection on prior determinations of the house.

Before the Civil War the house adopted a rule that no member could present a petition on the subject of slavery. John Quincy Adams ignored this rule and introduced such a petition. A resolution was then introduced censoring Mr. Adams. In debate on the question a member proceeded to discuss the question of slavery and to offer the opinions of the great leaders. Objection was made that the gentleman was not confining himself to the subject. Speaker James K. Polk decided **"Reference to the opinions of former statesmen on the subject of slavery is out of order."**

REFERENCE IN DEBATE TO SUBJECT IN COMMITTEE

SEC. 1017. It is out of order and unparliamentary to refer in debate to a bill or other matter in committee and not yet reported.

UNPARLIAMENTARY EXPRESSIONS

SEC. 1018. Dodge, calumnious charges; factious opposition, accusing member of deliberately raising a false

issue; passing an impertinent censure; hypocritical lovers of liberty; jockeying, rude remarks, falsehood, villainous. These words and expressions **are not to be used in debate.**

CITING PAPERS

SEC. 1019. A principle of English debate is that no member may quote or cite, in debate, from any book, paper or document of any kind, unless he be prepared to lay such on the table of the clerk.

DEBATE ON BILL

SEC. 1020. Debate on a bill is confined to the bill under consideration and may not extend to a criticism of the provisions of other bills before the House or in committee relating to the same subject.

DEBATE ON AMENDMENTS

SEC. 1021. Debate on amendments does not extend to and include the merits of the main proposition.

Reason: The amendment supersedes and takes the place of the main question, it being held in abeyance until the question on the amendment is settled, that is, at the time the amendment is pending the bill is temporarily removed from before the House and therefore may not be discussed until the question on the amendment is disposed of and the question recurs on the bill. Mr. Cushing says, "When an amendment is moved it supersedes the original question until it is decided. While the amendment is pending the main question may not be spoken to."

To the foregoing rule there is one exception that a secondary motion does not involve the main question in its decision and that is when the decision of the secondary motion involves the main question and decides it. The best and possibly the only example of this is the motion to indefinitely postpone. The decision of this motion also decides the main question, therefore the debate on the motion to

indefinitely postpone opens the merits of the main question to debate.

DEBATE ON MOTION TO WITHDRAW BILL OR OTHER PAPER

SEC. 1022. It is not in order to discuss the merits of a bill or other paper upon motion to **withdraw or postpone.** In these cases debate must be confined strictly to the object or purpose of the motion, otherwise the merits of a question could be forced to debate by any **method of postponement.**

IRRELEVANCE OR REPETITION IN DEBATE

SEC. 1023. A member who resorts to persistent irrelevance should be directed by the speaker or chairman to discontinue his speech, after the attention of the House has been called to the conduct of the member; akin to irrelevancy is the frequent repetition of the same arguments of the member speaking, or the arguments of other members.

APPLICATION OF RULE IN DEBATE THAT MEMBER MAY SPEAK BUT ONCE

SEC. 1024. In Parliament the rule that no member may speak twice on the same question without leave of House is strictly applied and enforced. Interpreting this rule in the House of Commons, Speaker Sutton said: "The rule prevents a member **speaking if he seconds a motion or has made a motion in reference to the subject under debate.** In American legislative bodies this rule is not so strictly applied, **but should be.**

(A) When a debate is adjourned or postponed by any method to a future time, the resumed debate is considered as a continuation of the same debate and those who spoke previously are not again permitted to speak. This rule, however, would not apply when the subject is twice submitted to the House as by reconsideration.

EFFECT OF YIELDING FLOOR IN DEBATE

SEC. 1025. A member occupying the floor in debate may not yield the floor to another, if objection is made, without surrendering his right to the floor. It is customary for a member temporarily yielding the floor to protect his rights by declaring, **I will yield but without taking myself from the floor.** If no objection is made following this statement and the member yields the floor and takes his seat he will not later be subject to a point of order, or taken from the floor, because he yielded it temporarily to another.

USING NAME OF CHIEF EXECUTIVE

SEC. 1026. The irregular use of the name or office of the chief executive to influence a vote of the House is unparliamentary and inconsistent with the constitutional independence of the House. (Henderson.)

RESTRICTING DEBATE BY UNANIMOUS CONSENT OR RULE

SEC. 1027. When a unanimous consent agreement has been made or where a specific rule governs the time allowed members in debate, say ten minutes, it is not in order for a member to speak ten minutes on the main question and then continue to speak ten minutes more on a pending amendment, on the same recognition, and thus double his time. When the gentleman has spoken his allotted time the chair should call him to order and notify him of the expiration of his time.

(A) The foregoing decision resulted from a practice in Congress of members speaking their full time and then offering amendments for the purpose of continuing their speeches. Of course it would be in order for a member to again seek recognition, and if secured, then discuss his amendment.

COURTESY IN DEBATE

SEC. 1028. It is not in order to mention a member present **by his name,** but you should describe him by his seat in the House, or who last spoke, or on the other side of the question, or the learned gentleman from New York, etc. It is not in order in debate **to address another member** in the **second person.** On one occasion Speaker Reed called ex-Speaker Cannon to order for referring to Wm. Hepburn and using the pronoun "you", instead of saying "the honorable gentleman from Iowa".

(A) Debate cannot be reopened after the question is fully put, except the question be reconsidered.

(B) In Parliament the rule is strictly enforced that a member may not speak twice on the same question, unless he be the proposer or introducer, accordingly, if a member speaks to a question and resumes his seat before presenting an amendment he had intended to propose, he may not thereafter rise to move such amendment, he having already spoken to the question before the House.

(C) Any violation of the rules, any member may notice either by a cry of "order," or by rising in his place, and addressing the chair and directing attention to the point complained of.

RIGHT OF REPLY

SEC. 1029. Right of reply is allowed to the mover of a substantive motion, but not to the mover of an amendment or a purely formal motion such as reconsideration. After a mover has commenced his reply no other member may speak to the question. If no amendment is offered to the original motion, the mover thereof replies at the end of the discussion on his motion but no new matter may be introduced by the mover in his reply. If an amendment is offered he makes his reply at the close of debate on the amendment and this reply exhausts his rights as mover of the original motion. The mover of an amendment which is agreed to

and is put by the chair as the original motion, has no right of reply. A member speaking in reply may have the same time for reply as was permitted in his original remarks on the main question. (Practice of Parliament.)

CHAPTER XXVI

OF COMMITTEES

WHAT CONSTITUTES A COMMITTEE AND COMMITTEE ACTION

SEC. 1030. **A paper was circulated for the signature of members of committee to authorize one of its members to call up a certain bill for consideration.** The bill was called up and objection was made that the committee did not authorize the member to call up the bill, citing the circumstance of the **circulation of the paper for signatures.** Speaker Clark ruled: The committee has 21 members, eleven of them signed the paper—a majority—therefore a sufficient number to constitute a quorum, signed this paper, **as individual members, but not as a committee.** It is not claimed that these eleven members **met in committee to give the necessary authorization.** The duty of the Speaker is to rule **to preserve the integrity of the proceedings of the House.**

WHAT CONSTITUTES A HOUSE

(A) It has been held, and the present occupant has held two or three times **that a House consists of a quorum of the members elected and qualified, excepting those who have died or resigned or have been expelled from the House.**

WHAT CONSTITUTES A COMMITTEE

SEC. 1031. A committee consists of a quorum of the membership of that committee meeting. (Cannon.)

SEC. 1032. **A committee consists of a quorum of the membership of that committee, meeting together as a**

committee. At this point the Speaker cited and had read a decision of Speaker Cannon. In this case members of a committee **signed a report out of committee** and presented same as **a report of the committee.** The Speaker ruled the report out of order, saying "The chair understands that in point of fact, the **formal report has not been made from the committee. There is a paper on the clerk's desk, signed by the majority of members of that committee.** To rule that this kind of a paper may take the place of a report from a committee at an authorized meeting would do much harm and open the doors wide to a proceeding not authorized by the rules of the House **and would partially do away with committee meetings."** (3d Session 58th Cong. Record, p. 602.)

COMMITTEE MAY REPORT AND RETAIN THE BILL

SEC. 1033. A committee having under consideration a proposition of any kind upon which they cannot reach agreement, may report that fact to the House and retain the subject matter, subject to the pleasure of the House. In a case of this sort the motion to discharge the committee of further consideration is privileged. (See Congressional Record, 1st session 57th Congress, pp. 5953-5954.)

The report of a committee in the nature of an argument or an explanation does not by itself come before the House for amendment or other action and is merely received and does not come before the House to be voted upon, therefore is not subject to amendment.

Sometimes reports are accompanied by simple or joint resolutions, in which case the question is first taken on agreeing to the report and then on the accompanying resolution, if the report is adopted.

It is competent for a committee unable to agree on a subject before them to transfer the controversy to the House, thus:

FORM OF REPORT

SEC. 1034. Your committee to whom was referred the bill of the House No. —— find themselves unable to agree, and report to the House without recommendation; further, the entire committee reserves the right to offer such amendments to the bill as they may think proper hereafter.

A committee report in the nature of an argument or explanation does not by itself come before the House for amendment or other action. (Vol. 4, sec. 4674.)

COMMITTEES DEFINED

COMMITTEE OF WHOLE

SEC. 1035. A committee of the whole is a committee embracing the entire House membership.

SELECT COMMITTEES

SEC. 1036. A select committee is one embracing any number less than the whole membership.

STANDING COMMITTEES

SEC. 1037. A standing committee is one composed of any number of members agreed upon and appointed to serve for the life of the session.

SPECIAL COMMITTEE

SEC. 1038. A special committee is a select committee other than a standing committee usually appointed for a specific and not general purpose.

EFFECT OF REPORT OF STANDING COMMITTEE

SEC. 1039. After a standing committee reports to the House in full, such committee continues to exist, but has no further control of the matter reported, without a new reference.

AUTHORITY TO MAKE COMMITTEE REPORTS

SEC. 1040. Mr. Hinds, among the greatest parliamentarians of the United States and for many years parliamentarian of the National House of Representatives, says: "In committee a majority vote, a quorum being present is sufficient to authorize a report, even though, later by action of absentees, those signing minority views, outnumber those who voted for the report."

That is to say, a quorum of a committee, may transact business, and a majority of that quorum even though it be a minority of the whole committee may act and the action of the **majority of a quorum is binding on the whole committee.** The foregoing describes the rights of the committee under general parliamentary law. The authorization of the report would complete the process with the exception of instructions from the committee to the chairman or a member to sign the report and make same to the appointing body. Committees in the Ohio General Assembly become confused in this matter, because each House has adopted a rule somewhat modifying the parliamentary law. That is in Ohio, after an agreement is reached to report a matter to the House such report must be signed by a majority of the whole committee. Rule 62 of the House (1932) rules provides "All committee reports shall be signed by the majority of the members of the committee reporting." No action of a committee in transacting business can be taken unless a quorum of the entire committee is present. If present, they may proceed to transact business and a majority of that quorum decides for the entire committee. If this is not true, then every act of the quorum of the committee must be unanimous. To illustrate the foregoing, let us take a committee composed of fifteen members, a quorum of that committee competent to do business would be eight members, and a majority of that quorum, five members, would be competent to act upon all business brought before it except in the case of the above noted modification of the House rule.

ADJOURNED MEETING

SEC. 1041. Notice of an adjourned meeting is not necessary as that meeting will be, in fact, a continuance of the original regular meeting. Either a regular or special meeting may be adjourned, **but never beyond the time for the next regular meeting.** If an adjourned meeting does not complete its business, it may adjourn again, subject to the limitation, **not beyond a regular meeting time.** Any business that was in order in the original meeting would be in order at that adjourned meeting.

CALLED OR SPECIAL MEETINGS

SEC. 1042. A special meeting is one called to transact definitely specified business; in this it differs from a regular or an adjourned meeting. The business to be transacted at a special meeting must be **set out in the call** for the meeting and **no business is in order except that set forth in the call.**

When a special meeting is called **notice of such call must be given to each member individually.**

REGULAR ADJOURNMENT OF COMMITTEES

SEC. 1043. **All committees, after the completion of the business of a meeting, ought to be regularly adjourned,** upon motion and question put, that is, from one meeting to another. In the practice of some legislative bodies the reassembling of a committee is sometimes left to be afterwards arranged by the chairman by whose direction the members are summoned for a future meeting. This latter practice is strictly irregular and is to be resorted to only for the convenience of the members. The meeting time of a committee having been fixed for a certain time or day, the chairman may after consultation with and upon consent of a majority of the members of such committee, fix an earlier or later day for the meeting in extraordinary cases. (May, p. 391.)

A rule of Congress and many of our state legislative bodies provides **"It shall be the duty of any committee to meet upon the call of any two members, if the chairman is absent, or declines to call a desired meeting." It is irregular for any committee to proceed to the consideration of business in the absence of a quorum.**

COMMITTEES OF PARLIAMENT MAY EXCLUDE STRANGERS

SEC. 1044. The rule of parliament as to strangers being present at committee meetings, Mr. May says, is liberal. **Until the committee begins its deliberations,** while witnesses are being examined, the proceedings are public. Members, not of the committee, may of right remain for the discussion, but it is strict parliamentary etiquette that they withdraw before it begins. A late decision, says Redlick is, **it is open to a committee to exclude strangers from its deliberations at its own discretion, but not members of the House without first obtaining an order from the House to that effect.**

A rule of the Ohio Assembly provides that all committee meetings shall be open to the public.

JOINT LEGISLATIVE COMMITTEES

SEC. 1045. **A joint legislative committee** consists of two select committees, one appointed by each house and sitting together under a chairman; usually the first named of the senate committee.

Of course it is the right of this committee acting jointly to select a chairman, but even then it is considered courteous to bestow the honor on a member of the senate committee. **A quorum of a joint committee is a majority of its combined membership and a majority of that quorum, if a quorum is present, is capable of transacting business.** In voting a joint committee, ex-

cept a conference committee,[1] **votes per capita, no distinction being made as to the houses they represent.**

MINUTES OF COMMITTEE MAY NOT BE READ IN HOUSE

SEC. 1046. **It is not in order for the minutes of a committee to be produced in the House and made public,** but the chairman as the authorized organ of the committee, is at liberty to make a statement of fact in regard to any action taken by such committee regarding a pending bill. (Reed H. J. 2d Sess. 51st Cong., p. 67.)

NATURE OF COMMITTEES

SEC. 1047. Thomas B. Reed says: "The committee is the eye, the ear, and hand, and very often the brain, of the assembly. Freed from the very great inconvenience of numbers it can study a question, obtain full information, and put the proposed action in proper shape for final decision by the House."

KINDS OF COMMITTEES

SEC. 1048. In legislative assemblies there are several kinds of committees employed, such as, Standing, Sessional, Select and Conference committees. Standing committees are appointed for the life of the body; Sessional committees, for the entire session; Select committees as the nature of business may demand, and Conference committees to settle differences that may arise between the two bodies.

FUNCTION OF COMMITTEES

SEC. 1049. **All committees are creatures and instruments of the body appointing them,** and are **supposed to carry out the will of the body. Their functions are**

[1] Conference committees are not considered as joint committees but select committees of either house meeting together, therefore they always vote separately.

merely advisory. Upon the appointment of a committee and the submission of a question to it, they should proceed to obtain full information and put such information in proper form for submission to the appointing body for its information and its final determination.

APPOINTMENT OF SELECT COMMITTEES

SEC. 1050. In moving the appointment of a select committee for any purpose, such purpose should be generally specified in the motion, and the mover should name the number of persons to compose the committee. He may also, if he choose, name the persons to be appointed.

(A) In cases where the mover for the appointment of a committee does not specify the number of persons to be of such committee, it is then within the authority of the chair to use his own discretion as to the number and who shall compose the committee.

(B) In Congress it is customary for the mover to fix the number and the chair fills the committee, and this is more satisfactory.

(C) After the House orders the appointment of a select committee, it is in order even after the committee has met to request the reading of the order authorizing such committee and then to move to discharge the order, and later to move the appointment of another committee for the same purpose with different instructions.

APPOINTMENT OF COMMITTEES GENERALLY

SEC. 1051. It is a general rule almost universally observed in legislative bodies that the chair appoint all committees, but occasionally a legislative body exercises its rights and appoints its own committees. This may be done by resolution or by nomination and vote.

(A) A motion to increase the number of members in a committee is not in order except on previous notice, also

previous notice must be given to discharge a member from committee service.

(B) The method to employ would be to suspend the rule fixing the number of the committee and then move the increase desired. Thus, I move to suspend the rules and increase the membership of the committee from 10 to 12.

QUORUM OF COMMITTEES

SEC. 1052. In America **a quorum of committee is a majority, or one-half and one more,** and such number is competent to do business.[1] There is one exception to this rule, and that is conference committees. When a conference committee comes to a final determination of a question there must be a majority of each committee, the committees must vote separately, not jointly.

(A) In the Commons a quorum of committees having a membership of 15 or more is 5, sometimes 3. In the Lords 3 are considered a quorum. If no quorum is fixed by the House, then the presence of the entire committee is necessary to do business.

COMMITTEES MERELY AGENTS

SEC. 1053. A committee is merely **an agent** of the appointing body, and all acts are subject to review, adoption or rejection by the appointing body. **No committee should act with the idea that its acts are final and conclusive** unless such authority is specifically delegated by the appointing body.

PURPOSE OF APPOINTMENT OF COMMITTEES

SEC. 1054. It should be remembered by all committees that the purpose of their appointment is merely **to divide business of the main body** by referring it to them

[1] A majority of the present quorum is competent to transact business but a majority of a quorum is not capable of doing business unless a quorum of the committee is present when business is transacted.

for consideration, investigation and recommendation for final action by the appointing body.

ENGLISH AND AMERICAN RULE FOR APPOINTMENT OF SELECT COMMITTEES

SEC. 1055. Those who take exceptions to some particulars in the bill are to be of the committee, but none who speak directly against the body of the bill, for he who would totally destroy would not amend. (Jefferson.)

IMPORTANT ACTION AT FIRST MEETING OF SELECT COMMITTEE

SEC. 1056. A select committee appointed for any purpose should always at its first meeting order spread upon its minutes the resolution or order of the house creating it and defining its duties. It is the duty of the chairman to lay such order or resolution, attested by the clerk, before the committee because such resolution, so attested, is the authority and power of the committee to act.

DISSOLVING SELECT COMMITTEES

SEC. 1057. It is occasionally found expedient to stop the proceedings and discontinue a select committee. This may be done as follows: First, read the motion or order authorizing the appointment, and then move to discharge or vacate such order or motion. If decided affirmatively, the committee is dissolved and has no further power to act.

REVIVAL OF SELECT COMMITTEES

SEC. 1058. A select committee expires at the end of the session of a legislative body, unless continued by resolution of the House, or revived by the reference of a matter to it by the House.

(A) It has been uniformly held by Speakers of the House, affirmed and reaffirmed, that the reference of any matter to a select committee that has expired has the

effect to **revive such committee.** This is substantially the same as the creation of a new committee.

WHEN SELECT COMMITTEE IS DISSOLVED

SEC. 1059. When a select committee reports to the appointing body in full, it is thereby dissolved; but it may be revived by a vote or by reference of another matter to it.

OPINION OF MEMBERS NOT TO BE COLLECTED SEPARATELY

SEC. 1060. A **quorum** of a committee must be present to transact business, and a **quorum** must meet formally to transact business. The opinion of the members of a committee **cannot** be **taken separately,** nor can the chairman, or any other member of the committee **circulate a report** to procure signatures of a majority of the members and submit same as a report of the committee to the main body. Everything done by the committee must have been submitted to the committee **in actual session** and an opportunity given for consideration and discussion. It is irregular for a committee to make a report of any matter that **has not been considered in a formal meeting** of the committee, and the report authorized by such committee. The chair should reject any report that he knows was not considered in committee.

AUTHORITY OF COMMITTEE TO TRANSACT BUSINESS

SEC. 1061. **A quorum of a committee may transact business and a majority of that quorum may, even though it be a minority of the whole committee, authorize a report.**

RIGHT OF MAJORITY OF QUORUM TO REPORT

(A) On February 8, 1875, in the Senate, Oliver P. Morton, of Indiana, presented a report from the election committee. Senator Hamilton, of Maryland, raised a

question of order. He stated: "That the whole membership of the committee was **nine,** that **seven** were present when the report was ordered and that only **four** of the seven voted for it; therefore, the question is, whether or not four members may make a report from a committee of nine." Senator George F. Edmonds, of Vermont, argued that **seven** being a **quorum** and **four** a majority of that **quorum,** the report was properly authorized. The presiding officer, Henry B. Anthony, ruled: "The chair understands that a **quorum represents that committee."** The point of order is not well taken.

VALIDITY OF COMMITTEE ACTION AT SPECIAL OR ADJOURNED MEETING WHEN ALL MEMBERS ARE NOT NOTIFIED

SEC. 1062. On August 12, 1856, Mr. Walbridge presented a committee report. A question being raised as to the validity of the report, Mr. Walbridge explained that every member of the committee was notified of the evening meeting and a quorum attended. Not reading the bill that evening, the committee adjourned until the next morning. At the adjourned meeting a **quorum was present** and ordered the bill to be reported. Mr. James Orr, South Carolina, made the point of order, that inasmuch as it appeared from the statement of the gentleman, that the report was authorized at an adjourned meeting and that all the members of the committee **were not notified,** the report was not properly authorized. The Speaker, Mr. Banks, said: "A **quorum of the committee was present** and a **majority of the quorum authorized the report,** the point of order is overruled." Upon appeal the decision of the Speaker was sustained. (It should be noted that the Speaker in this instance did not directly touch upon the real point of order—the neglect to **notify all members** of the committee meeting. Evidently the chair thought this neglect was of but little moment so long as a quorum of the committee was present.

However, it should be observed that originally the whole committee was notified, a quorum met and then adjourned. The adjourned meeting was a part of the meeting, originally properly called.)

OFFERING AMENDMENTS TO BILLS IN COMMITTEE

SEC. 1063. In parliament after bills are sent to committees, it is in order to give notice in the House of proposed amendments to bills, and the same are printed in the Journal, and referred to the committee having charge of the bill. The member offering such amendment need not be a member of the committee that has the bill. ("The practice is permitted in the lower House of Congress.")

FORM FOR OFFERING AMENDMENTS TO BILLS IN COMMITTEE

(A) The mode of procedure in this practice is: The member arising in his seat would address the chair, as follows: Mr. Speaker, I desire to offer an amendment to H. B. ——— now in the———committee and ask that it be read and referred to such committee for consideration. This would not operate as a direct instruction to the committee to adopt. No debate would be permissible on such amendment until reported by committee, as they are not presented for the consideration of the House, but merely for reference and printing in journal. Of course, if committees adopted them and reported same to the House and they were found objectionable, the House could strike them out or refuse to agree to the committee report.

DISCHARGING MEMBERS OF COMMITTEE

SEC. 1064. The appointing power may at any time in its own discretion discharge members appointed on committees and appoint others.

WHO MAY ATTEND COMMITTEE MEETINGS

SEC. 1065. It is the right of members of the appointing body to attend its committee meetings, but they have no voice in the proceedings and must not interfere in any way with the business of the committee.

APPOINTMENT OF SUB-COMMITTEES

SEC. 1066. It is competent for committees to appoint sub-committees, and refer to their consideration any matter pending before the committee, and instruct them to investigate and **report to the committee,** in cases demanding special inquiry and investigation. This practice has been found very convenient in many legislative bodies.

AUTHORITY OF SUB-COMMITTEE

SEC. 1067. **A sub-committee,** however, is without **any authority to report to the House,** or make any request thereof. Such committees must report to the committee which created it for approval of its acts, and may send communications to the House only through that committee.

AMENDING TITLE IN COMMITTEE

SEC. 1068. The old Parliamentary law that the title of a bill could not be amended until after third reading and passage is no longer strictly enforced in Parliament or Congress. Both these bodies now permit committees to amend titles. In Parliament the committees amend bills as they may desire and then change the title to embrace the amendments.

COMMITTEE MUST CONSIDER BILL BEFORE REPORTING

SEC. 1069. **It is irregular for a committee to make a report of a bill or other matter when no meeting of the**

committee has been held for its consideration and it is the duty of the speaker to reject such report if he be acquainted with the facts. In discussing this question Edmond Cushing says a committee is essentially a miniature assembly; it can only act when regularly assembled together as a committee and not by separate consultation and consent of the members, nothing being the agreement or report of a committee but what is agreed to in that manner.

NECESSITY FOR CAREFUL PREPARATION OF REPORTS

SEC. 1070. The necessity for exercising care in the preparation of amendments **is to insure the completed bill against error.** From these reports and amendments made in the House the clerk must engross the bill in its final form for passage.[1] If amendments and **committee reports are drawn up without due care and are not plain and intelligible** the clerk must follow them as best he can in engrossing, **and even when he finds an error he has no authority to change it. He must follow his copy. Many mistakes that creep into bills are there because of the carelessness of members in drawing up committee reports and amendments.**

CONSENT TO MEET DURING SESSION

SEC. 1071. **If it be necessary for committees to meet during the sessions of the House, they can do so only by consent of the House.** To get this consent the chairman should make a motion to that effect, asking permission. Thus, I request consent of the house for the committee on————to meet during the sessions of the house this day.

MEMBERS MAY ATTEND COMMITTEE MEETINGS

SEC. 1072. Any member of the House may be **present at a committee meeting but cannot vote** and must

[1] In Congress the mechanical engrossment of a bill takes place after final passage and is printed before being sent to other house.

give place to all the committee and sit below them. (Jefferson.)

POWERS OF ASSEMBLY TO CONTINUE COMMITTEES[1]

SEC. 1073. Committees may be appointed to sit during recess by adjournment but not after sine die adjournment. Neither House can continue any portion of itself, in any parliamentary function beyond the end of the session without the consent of the other branch. When done it is by a bill constituting them commissioners for a particular purpose. (Sec. XI, Jefferson.)

JOINING COMMITTEES

SEC. 1074. It is competent for the House to authorize two standing committees to sit as one committee for the consideration of a specified bill. (4 Hinds.)

REFERRING BILLS BEFORE APPOINTMENT OF COMMITTEE

SEC. 1075. It is in order to refer a matter to a committee before its members have been appointed. In December, 1863, Mr. Thaddeus Stevens moved to refer a matter under consideration to the election committee. Mr. S. S. Cox, of Ohio, raised the point of order **"That the committee had not yet been appointed."** Mr. Speaker Colfax said: "The chair overrules the point of order. **The uniform practice of the House has been to refer matters to committees before they are appointed."** Speaker Longworth in the 70th Congress, reversed this ruling by holding bills could not be referred until the committee was appointed.

DIVIDING COMMITTEES

SEC. 1076. In Congress, standing committees are sometimes divided into sub-committees by the House to each of

[1] It is thought that under the Ohio constitutional provision of 1912 either House may now continue committees for legislative purposes. Sec. 8, Art. II, Constitution.

which is given a power to report directly to the House. (Hinds.)

MOTIONS IN ORDER IN COMMITTEE

SEC. 1077. The motions to lay on the table, indefinitely postpone, to recess and reconsider are permitted in standing and select committees in Congress, but not in committee of the whole (4, 4567, 4568). **Committees of whole do not adjourn, but may recess.** When a committee of whole completes its business, it rises on motion **"that the committee rise and report."**

COMMITTEE MAY MAKE FINAL DISPOSITION OF SUBJECT

SEC. 1078. Since the adoption of the committee system in the House of Commons, it has been held by the Speaker that a committee could not destroy a bill, but **"may lay it down"** (on the table) that is, the committee could dispose of the bill in a manner beyond its own recall to revive its consideration. Mr. May says, that in case a motion is made that **the chairman of a committee leave the chair** or the committee finds itself without a quorum it would not be possible to instruct to report the matter under consideration, therefore, the matter under consideration would become a **dropped order,** and could not again be proceeded with, except by a direct order from the House. **(In our American practice it would revive as unfinished business.)**

RESIGNATION OF MEMBER OF COMMITTEE

SEC. 1079. A member desiring to resign his membership on a committee may file such resignation with the Speaker, but he may not accept it, it is the House that must pass on such resignation and accept or reject it.

SPEAKER MAY NOT EXCUSE FROM COMMITTEE SERVICE

(A) Members desiring for any reason to be excused from committee service, should make their request direct to the House, not to the Speaker or committee. The Speaker or committee is not clothed with authority to excuse members from any legislative service, such authority belongs alone and entirely to the House.

MEMBERS MAY ATTEND COMMITTEE MEETINGS

SEC. 1080. If members insist on attending committee meetings the committee has no power to exclude them except upon authority received directly from the House. If there should be a desire on the part of the committee that members should not be present at their deliberations, when there is reason to apprehend opposition, **they should apply to the House for an order giving to them such authority. This same action should be taken when a committee desires to hold secret sessions.** (May.)

APPOINTMENT OF SECRET COMMITTEES IN PARLIAMENT

SEC. 1081. Secret committees are sometimes appointed whose inquiries are conducted throughout with closed doors, and it is the invariable practice for all members not of the committee to be excluded from the room throughout the whole of its proceedings. (May, p. 302.)

STANDING COMMITTEES OF PARLIAMENT

SEC. 1082. The House of Commons in 1882 adopted the American system of standing committees to which bills are referred and the Lords adopted the system in 1890. The rule provides that all bills after second reading shall be referred by the Speaker to a standing committee or the committee of the whole, and bills considered by standing

committee need not be considered in committee of whole. Standing committees operate under the rules governing the committee of the whole. Standing committees are nominated by a "Committee of Selection."

PUBLISHING COMMITTEE PROCEEDINGS

SEC. 1083. **Neither the members of the committee nor anyone else are at liberty to publish the proceedings (or any portion of them) of a committee, until they have been reported by the committee to the House.** The publication of a report of the committee before it is presented to the House is considered and treated as a breach of privilege of the House. (May, p. 204.)

MODE OF MAKING AMENDMENTS IN COMMITTEE

SEC. 1084. The committee may not erase, or interline or in any way blot the bill itself, but must, in a paper by itself set down the amendments which they desire to be inserted or omitted, and where, by reference to word and line of bill. (Rule of National House.)

IN ORDER TO INSTRUCT JOINT COMMITTEE

SEC. 1085. **The competency of the House to take a proposed course of action is a matter for the decision of the House rather than the Speaker.**

(A) In 1852, Mr. James Orr, a former Speaker, moved to instruct a joint committee of Congress. Mr. Gorman raised the question of order, "That **it is not competent for the House alone to instruct a joint committee."** Mr. Speaker Boyd overruled the point of order, saying: **"It is not my place, but rather the House to decide upon the effect of its action."** An appeal was taken and the decision of the Speaker was sustained. (See Journal, 32nd Congress, page 611.) This decision of the Speaker was affirmed at a later date. The House instructed the joint committee.

SELECT COMMITTEE

SEC. 1086. "Select committees are discharged from the consideration of a matter when it is reported but this does not apply to standing committees." (Longworth.)

WHEN COMMITTEE MAY OF RIGHT INTRODUCE NEW BILL

SEC. 1087. In an early ruling by Speaker Boyd touching the powers of committees to introduce bills, he said: "A petition properly referred to a committee gives jurisdiction for reporting a bill."

JURISDICTION OF COMMITTEE

SEC. 1088. The National House is very jealous of its rules, and usually insists that they be followed, and particularly as they relate to the reference of bills. The rules of the House give certain committees jurisdiction of certain subject matters and in case of erroneous reference of private bills which are referred as suggested by the author, a point of order is good against such reference at any time.

(A) Ohio rules do not specifically extend jurisdiction to committees over specified subject matters, but the very creation of certain committees, by inference, at least, implies that they are to consider bills on certain subjects. The question of jurisdiction in our practice is seldom or never raised. **The House itself may refer a subject to any committee and jurisdiction is thereby conferred.**

RIGHT OF COMMITTEE TO INTRODUCE BILLS

SEC. 1089. In 1877, the committee on naval affairs sought to introduce a bill in the House. William Frye, of Maine, made the point of order "That the House not having referred any measure, resolution or any other subject matter upon which to base such bill, it was not competent for the committee to introduce a bill." The

Speaker, Mr. Carlisle, sustained the point of order **on the ground that a committee has no right to originate and report bills upon any subject which had not been generally or specifically referred to it.**

WHEN COMMITTEE MAY SIT—IN PARLIAMENT

SEC. 1090. Since 1888, the following has been a standing rule of Parliament: "All committees shall have leave to sit, except during the sitting of the House and notwithstanding any adjournment of the House."

SELECTION OF ADDITIONAL MEMBERS TO ASSIST COMMITTEES

SEC. 1091. In both Houses of Parliament, standing committees are selected by what is known as a "Committee of Selection." This committee by rule is empowered at any time to appoint additional members to serve on committees during the consideration of very important bills. (May.)

COMMITTEE MEETINGS IN HOUSE

SEC. 1092. No committee is permitted to occupy the House or Senate chamber for meeting purposes without first securing the consent of their respective bodies. Requests for this purpose are frequent and are usually granted.

TITLE OF SUBSTITUTE

SEC. 1093. In the National House it is permissive for a committee reporting a substitute to also report a new title, which procedure is sensible and now practiced in Parliament.

ADVANCING BILL FOR CONSIDERATION WHEN REPORTED FROM COMMITTEE

SEC. 1094. When a bill is reported from committee with favorable recommendation, and there is on the calendar of business for third reading, a bill of similar subject, that

is preferred, a motion is in order that the bill reported from committee be substituted for the bill on the calendar and this motion may also include immediate consideration. The bill on the calendar should be indefinitely postponed.

(A) Form of motion: I move that H. B. No. —— just reported from committee be substituted for S. B. No. —— now in the calendar for third reading and that the further consideration of S. B. No. —— be indefinitely postponed.[1]

SECRET COMMITTEE MEETINGS

SEC. 1095. In the National House, it is within its rules and practice for the committees to **conduct their proceedings in secret.** Speaker Blaine, ruling on this question, laid down this rule: "It is a principle of parliamentary law that the proceedings of a committee may not be published before being reported to the House. To protect its proceedings a committee **may meet in secret."** [1] The foregoing decision was sustained by the House on appeal. Previous to this ruling it was the custom for the committee to move for consent of the House to conduct its proceedings in secret, particularly investigating committees, but following this ruling, committees upon motion in committee sustained by a majority vote, proceeded with business behind closed doors.[2]

WHEN COMMITTEE MEETINGS ARE ADJOURNED BY SERGEANT-AT-ARMS

SEC. 1096. If at the opening of any session or at any other time a quorum is not present, the Speaker may direct the sergeant-at-arms to call any committee that may be sitting. When such officer enters the presence of the com-

[1] The reason for the indefinite postponement is the House would not desire to pass two bills on the same subject matter. In this procedure both bills are passed upon—one perhaps favorably, the other adversely.

[1] In Congress committees report by filing such report with the clerk, at any time. This practice expedites business and avoids the usual confusion that attends committee reports in the Ohio practice.

[2] The rules in Ohio provide for open committee meetings.

mittee and announces his instructions from the chair, the committee is at once adjourned and any action taken thereafter is null. This is also true before the hour of convening when the sergeant-at-arms in the performance of his duty notifies the committee of the approach of the hour for the House to convene.

NON-VOTING MEMBERS ON COMMITTEES

SEC. 1097. Extra members are sometimes appointed to sit with a committee to consider important matters but without the power to vote, but possessed of all other rights the committee enjoy. (Parliament.)

DIVIDING COMMITTEES IN PARLIAMENT

SEC. 1098. Near the end of Parliament they frequently divide a committee into two committees and divide between them the business referred to the original committee with power given to both branches of the committee to report direct to the House. They also at the time named suspend the rules and reduce the quorum of the committee which in Parliament is a very small part of the whole committee. This action expedites business very much.

(A) A reference to a select committee of any matter does not prevent the consideration of the same matter by the House. (May.)

EXTENT OF POWER OF COMMITTEE TO AMEND BILL

SEC. 1099. The question is frequently asked whether a committee to which a bill is referred may by amendments so change the provisions and substance of a bill as to make it entirely different from the bill the House referred.

SEC. 1100. A committee may negative every clause in a bill and substitute entirely new matter if such new matter is relevant to the title and subject of the original bill. **A substitute is considered as one amendment and not a new bill.** Several of our state Supreme Courts,

including Ohio, have decided that a substitute is not a new bill, when the foregoing restrictions have been observed.

COMMITTEE OF PARLIAMENT

SEC. 1101. "Every vote taken in committee bindeth and cannot be altered by themselves. Thus everything agreed to in committee ought to be reported to the House. Of course not everything spoken or debated in committee, but all definite actions, because the acts of committee are not binding on the House until confirmed by it." (Rule of Parliament.)

(A) In Parliament the doors of a committee room are locked before a division (vote) is taken.

(B) Admission of strangers to committee rooms is optional with committees in Parliament.

HOLDING BILLS IN COMMITTEE

SEC. 1102. The rule relative to committees reporting back to the House all matters referred to them is the ancient rule and practice of Parliament and is strictly enforced as to select committees. Under our American system of standing committees the rule is treated with great laxity and in fact **its observance is almost obsolete.**

BURIAL GROUNDS FOR BILLS

(A) In nearly all American legislative bodies there are certain committees that are commended because they have **become dependable burial grounds for objectionable bills,** and efforts to take such bills from committees are usually vigorously objected to and rarely successful. The taking of a bill from a committee is about the roughest parliamentary route a member may undertake to travel. While it is the rule not practice, that all committees should consider and report to the House all matters referred to it, in actual practice a very large per cent of bills never get out of committees and when they do

they are **buried still deeper on the House calendar.** It is a useless effort to discharge a committee of consideration of a bill unless a member is sure he can procure immediate and satisfactory consideration of the bill by the House.

COMMITTEE ADJOURNMENT

SEC. 1103. No committee may adjourn for a longer time than the next sitting of the House nor should a committee adjourn before fixing a time for a reassembling. When a committee adjourns because of a lack of quorum or without fixing a time to meet, it is powerless to meet again **except by order of the House.** Committees have sometimes adjourned over long periods to prevent consideration of important matters, result, above rule. If a committee should adjourn for a longer period than allowed the secretary should report such fact to the Speaker, when the House may order it to meet and proceed. (May.)

SECTIONS NOT SUBJECT TO COMMITMENT

SEC. 1104. While it would be out of order to commit a particular section or paragraph of a bill, yet it would be in order to commit the bill confining the committee to a particular section by way of definite instruction.

WITHDRAWAL OF SIGNATURES FROM COMMITTEE REPORT

SEC. 1105. **A member may not, upon his own initiative, erase or withdraw his signature from a committee report he has regularly signed.** The signing of a committee report giving their views relative to the matter embraced in the report indicates to the main or appointing body that the report represents the deliberate judgment of the committee. The signing of a report is, in fact, **the act of the committee itself, not the members,** although the signatures are appended by the individual members. Therefore **a member may not erase or vacate**

his signature to a committee report, except by consent of the committee, ascertained upon motion and question put or by unanimous consent. The member's act in signing a committee report is final so far as he is individually connected therewith. Of course if a report were made to the House and the member afterward found reason for vacating his signature, the House could take such action, and if found necessary, after the removal of names, recommit the report. The United States Supreme Court and the Ohio Supreme Court and other state supreme courts have decided that the signing of a bill by the presiding officers of either House is the act of the House itself. The House has the right to reconsider or rescind its own act or otherwise modify the same, and this would apply to committees.

RIGHT OF COMMITTEE TO INVESTIGATE

SEC. 1106. Ruling on a question of order involving the right of committee to investigate, Speaker Longworth said, "The chair thinks without having given the matter any thought that a committee may consider any subject-matter that comes within its jurisdiction whether a resolution has been referred to it or not, as to how far the committee may go is another question. The chair thinks that without question the committee on Ways and Means would have the right to consider a question of taxation and revenue, notwithstanding the fact that there has been no resolution or petition referred to it. The chair has no doubt about that. How far they may proceed in the investigation and the appointment of clerks for that purpose is another question." (Longworth.)

CHAIRMAN

CHAIRMAN OF COMMITTEES

SEC. 1107. In general **the first named person** on a committee is **chairman,** and continues to be unless the committee chooses its own chairman, which they may do notwithstanding any appointment by the chair.

PROPOSER NOT TO BE CHAIRMAN

SEC. 1108. The old parliamentary courtesy, that the proposer of a committee should be appointed chairman, is almost entirely disregarded in Congress. In fact, very often the proposer is not even given a place on the committee.

WHO TO ACT IN ABSENCE OF CHAIRMAN

SEC. 1109. In the absence of the chairman the second person named on the committee is acting chairman and so on down the list.

DUTIES OF CHAIRMAN OF COMMITTEES

SEC. 1110. The chairman presides over all meetings, puts questions and decides points of order, subject to appeal to the committee, but there can be no appeal to the chairman (Speaker) of the House.

(A) Usually the chairman prepares a draft of the report to be made and submits it for the approval of the full committee, who instructs him to report same to the appointing body for its approval. The chairman is never justified in **making a report** that has not been first passed upon by the committee.

CHAIRMAN IS MOUTHPIECE OF COMMITTEE

SEC. 1111. "The chairman is the mouthpiece of the committee, but the committee itself is the agent of the House, and the House has a perfect right to order the committee to do its will in whatever fashion it sees fit." (Speaker Reed.)

EFFECT OF RESIGNATION OF CHAIRMAN OF COMMITTEE

SEC. 1112. The chairman of a committee may resign his chairmanship with the permission of the House, and still retain his membership on the committee.

RIGHT OF CHAIRMAN TO VOTE

SEC. 1113. According to the established rules of the Commons the chairman of a committee can only vote when there is an equality of voices. (In other words, the chairman has a casting or deciding vote only.)

(A) However, the Commons has a different rule to govern committees that consider private bills.

(B) This rule is: "That all questions shall be decided by a majority of voices, including the voice of the chairman, and whenever the voices are equal, the chairman shall have a second or **casting vote."**

(C) In the House of Lords the Chairman **votes like any other member of the committee, and if the vote is equal the question is lost.**

(D) **In the American practice the rule is the same as in the House of Lords.**

CHAIRMAN'S VOTE—HOW GIVEN

SEC. 1114. As a general rule the **chairman of committees** in the House of Commons does not **vote unless** there be an **equality of voices,** and usually he casts his vote so as to revert the question to the committee again, that is, he seldom finally decides a question. It is, however, his right to cast a deciding vote. On all important matters he refrains, as chairman or speaker, from possible antagonism **from** the committee, if he should cast a **deciding vote.**

WHEN DUTY OF CHAIRMAN AND COMMITTEE TO RISE[1]

SEC. 1115. So soon as the House sits, and a committee is notified of it, the chairman is in duty bound to rise instantly and the members to attend the service of the House. (XI, Jefferson.)

[1] When the House meets it is the duty of the sergeant-at-arms to notify all committees "sitting," that the Speaker is in the chair.

RESIGNATION OF CHAIRMAN OF COMMITTEE

SEC. 1116. When a chairman of the committee resigns with consent of the House the Speaker may appoint another chairman or the committee may elect and notify the House of its action.

APPOINTMENT OF CHAIRMAN IN PARLIAMENT

SEC. 1117. The Committee of Selection appoints a **chairman's panel** composed of a sufficient number to supply the committees with chairmen, and the chairmen's panel appoint from among themselves the chairman of each standing committee, and have power to change the chairman appointed from time to time. In the absence of the chairman so appointed the committee selects its own chairman for that meeting. Mr. May says: "The standing committee system was adopted to meet the demand made upon the time of the bodies by considering bills in committee of the whole." The motion to discharge a committee from consideration of a matter referred to it is not permitted in the House of Commons, but the motion to discharge the order of reference is frequently made, which results the same.

APPEAL FROM DECISION OF COMMITTEE CHAIRMAN

SEC. 1118. There is no appeal from the decision of the chairman of a committee, to the Speaker of the House.

REPORTING FROM COMMITTEE

GRANTING LEAVE TO REPORT AT ANY TIME

SEC. 1119. A question being raised as to the right to report at any time. Mr. Speaker Randall said: "The question as to the right to report at any time is a very important one, because the question of the **right to report** at any time changes the order of committee reports and interferes with the rights of the House in that respect. Therefore, the chair holds that the rule of the

House which recognized the order of reports from committee would be interfered with by permitting a special committee to report at any time, and such change of the rules **would require a suspension of the rules."**

EFFECT OF LEAVE TO REPORT AT ANY TIME

(A) The motion to commit with leave to report at any time, when granted, carries with it the right to consider at any time when reported. (Reed.)

(B) When authority is given a committee to report at any time, the right follows to consider at that particular time, also the right to report at any time carries with it the right to consider the matter when reported, and such committee so authorized may report in part at different times.

MAY RECOMMEND BILL DO NOT PASS

SEC. 1120. If a committee is opposed to the whole paper and thinks it cannot be made good by amendment, it cannot reject it but must report it back to the house without amendments and then make their opposition. **It is regular for a committee to report a bill with the recommendation that it do not pass.**

PRIVILEGE OF MEMBER REPORTING

(A) A member reporting a measure under consideration is entitled to open and close debate, and under the invariable practice he is entitled to be first recognized, notwithstanding another member may have risen first.

PUTTING QUESTION ON AGREEING TO REPORT OF COMMITTEE

SEC. 1121. The committee of the whole reported a bill with several amendments and recommended that the bill and amendments be referred to the committee on agriculture.

Objection was made that the committee exceeded its right in making that recommendation under the special

rule of the house. Speaker Longworth overruled the question of order and put the question, thus, **"Will the house agree to the recommendation of the committee of the whole and refer the bill and amendments to the committee on agriculture?"** It will be perceived that the question was not put on agreeing to the report alone but was also put on agreeing to the specific recommendation of the committee. The house refused to agree to the recommendation and they at once proceeded to the consideration of the committee amendments. (H. J. 69th Session, p. 685.)

After the amendments of the committee were disposed of Mr. A.—moved to recommit the bill to the committee on agriculture, with instructions to amend the bill by striking out all after the enacting clause and insert the text of another pending bill and to report back forthwith. A question of order was raised as to germaneness and sustained by the speaker but no objection was raised as to substituting a bill pending in the house for another because it is now permissible in that body.

AUTHORITY FOR MAKING REPORT

SEC. 1122. Committee reports must be authorized by a majority of a quorum meeting in committee. It is not necessary that the report be signed by all those agreeing to it. A quorum of a committee may transact business and a majority of that quorum even though it be a minority of the whole committee may authorize a report.

EFFECT OF AGREEING TO COMMITTEE REPORT

SEC. 1123. If a committee report is agreed to, such motions as are necessary should be submitted to the house to carry out its object, if any are necessary. When the report of a committee is properly agreed to the act of the committee thereby becomes the act of the appointing body. If the committee should recommend that the resolution, bill or other matter do lie on the table

and the committee report is agreed to, such matter would be indefinitely postponed without further action. In these cases according to Speaker Longworth, it is better practice for the question to cover the specific recommendations of the committee, thus, **"Will the house agree to the committee report and lay the bill on the table?"**

QUORUM OF COMMITTEE

SEC. 1124. A quorum of a committee is a majority of the whole number and a majority is one-half and one more, and a majority of that quorum may authorize a report, but an actual quorum must be present to make the action valid, that is, the majority of a quorum may not meet and transact business, but an actual quorum must be present when business is considered and a majority of that present quorum may do business. The house may authorize less than a quorum to act.

(A) "If a report is actually sustained by a majority of a quorum of a committee it is not impeached by the fact that a less number sign it, or by the fact that later, by the action of the absentees, more than a majority of the whole committee are found to have signed the minority views."

WHAT COMMITTEES MAY REPORT

(B) Committees may report bills, joint or simple resolutions, on any subject referred to them and these come before the house for immediate consideration and have precedence of the report itself.

Sub-committees are without authority to report directly to the house, sub-committees report to the committee appointing them.

(C) It should be kept in mind that no one has authority to make a report from a committee, except they be **authorized to do so by the committee.**

ABBREVIATIONS NOT PERMISSIBLE

SEC. 1125. In preparing amendments and committee reports, it is not permissible to use abbreviations or figures of any kind, except for line and section numbers and in appropriation of money.

CONSIDERING BUSINESS IN COMMITTEE

SEC. 1126. The usual method of considering a paper of any kind in a committee is by sections and paragraphs. In other words, the **chairman reads the first section or paragraph by number** and then gives opportunity for discussion and amendment, before passing to the next section. This procedure is continued until the entire paper has been considered paragraph by paragraph.

SEC. 1127. The question is not put on agreeing to each section separately, but the chair waits until the last section has been considered, and then puts the question on the whole paper, which is then again open to amendment and discussion. There is no objection to putting the question on each section as considered, thus, shall this section stand as part of the bill?

(A) When the paper as a whole is agreed to, then the committee should decide upon the kind of report to be made to the main body. When this is agreed upon a motion should follow directing the chair or some other member to **make the report.**

COMMITTEE INSTRUCTED TO HOLD BILL OR OTHER PAPERS

SEC. 1128. A motion to **commit with instructions** to hold bill in committee until a specific time or until after the consideration of specified matter, was held by Speaker Clark in the 62nd Congress to be in order.

SEC. 1129. If a committee report should be recommitted before it is agreed to by the house, what has previously passed in committee relative to such bill, is

of no validity. A new report must be submitted to the house as if nothing had hitherto been done by the committee. **Two motions to commit are not in order at the same stage of the bill.**

PUTTING QUESTION ON COMMITTEE REPORT

SEC. 1130. Speaker Longworth does not put the question on agreeing to the report in general, but puts it on the specific recommendation of the committee agreeing to the report, thus, if the committee should recommend the bill be referred to another committee, say agriculture, he would put the question "Will the house agree to the report of the committee and refer the bill to the committee on agriculture?" In case they should recommend indefinite postponement, "Will the house agree to the report of the committee and indefinitely postpone the bill?" etc. This procedure is fair and gives the house opportunity to know exactly how to answer with their vote.[1]

RIGHT OF COMMITTEE TO REPORT TWO BILLS ON SAME SUBJECT

SEC. 1131. Although a committee has reported a bill dealing with a certain subject the committee is not thereby precluded from reporting another bill dealing with the same subject and subsequently referred to such committee.

COMMITTEE REPORTS

SEC. 1132. Committee reports must be authorized by a majority of a quorum meeting as a committee. It is not necessary that the report be signed by all those agreeing to it.

[1] It should be noted that in this procedure the question is put on two or more questions at the same time and all decided by the same vote. Putting more than one question to a vote is not objectionable in the practice of Congress and there seems to be no reason why there should be, it certainly expedites business.

MAJORITY OF QUORUM MAY AUTHORIZE REPORT

SEC. 1133. A quorum of a committee may transact business and a majority of the quorum, even though it be a minority of the whole committee may authorize a report.

REPORT OF BILL OR RESOLUTION WITH RESOLUTION

SEC. 1134. It appears to be the practice and in order in the American house for a committee to report a matter referred to it and at the same time to accompany the report with a resolution to carry into effect the provisions of the matter reported. **In these cases the committee resolution is given immediate consideration.**

PRINTING OF REPORTS

SEC. 1135. On Dec. 15, 1922, in deciding a question of considering a report which had not been printed as specifically required by the rules, Speaker Gillette ruled: "The requirement that reports shall be printed does not mean that the report must be printed before the matter is called up for consideration and the fact that a report was not printed as originally made to the house does not prevent the consideration of the matter reported. (H. J. 4th Sess., 67th Cong., p. 32.)[1]

(A) "Thus in the case of a bill referred to a committee by the house before printing, if considered and reported by such committee before the bill was printed; the fact that such bill was not printed would not operate to prevent the reception and consideration of the report. It is the right of a committee to report to the house any matter referred to it by the house. If referred before printing the committee would necessarily report before printing or else be deprived of its right to report, because such committee is without authority to order the printing of any documents.

[1] The question involved is not on accepting the report, but on considering the report before printing. The report it seems was received without question.

DEFERRING CONSIDERATION OF COMMITTEE REPORT

SEC. 1136. When committees are reporting under the regular order, and a report is presented embracing important amendments and the house should desire time for more careful consideration, a motion would be in order to postpone consideration of such amendments and place them on the calendar for consideration on a future day.

RIGHT OF COMMITTEE REPORTER

SEC. 1137. A member reporting a measure from the committee has charge of same on the floor of the house and is entitled to prior recognition for all purposes of expediting the measure and continues in control of the bill until deprived of same by an adverse vote of the house.[1]

SIGNING REPORT

SEC. 1138. In some legislative bodies it is required that a **majority** of the members shall **sign a report.** In Congress the rule is more sensible, one signature, usually the chairman or any other member, certifying that the report was authorized by a **majority of the committee in actual session,** is sufficient and valid.

(A) In those cases where the requirement is that a majority of the members shall sign a report, it is not insisted that all such members shall be in accord with all the statements in the report. A report signed by a majority of a committee is valid, although a necessary one to make such majority does not concur in all the statements of that report.

RULES GOVERNING COMMITTEES

(B) The business of a committee is transacted with less formality than in the main body which creates it. The members are permitted to speak as often as they

please and are not required to stand when addressing the chair. The rules governing the appointing body are the rules which govern in committee, so far as applicable and practicable, except as otherwise provided in the manual.

(C) It is customary for committees to take up business for consideration in the order in which it is referred to them. But they may, upon motion and **suspension of the rules,** advance matters by taking them up out of order.

(D) If a question should be raised as to whether a committee report has been properly authorized by the committee, the question as to reception is not decided by the chair, but should be submitted to the House.

MINORITY REPORTS OR VIEWS OF COMMITTEE

SEC. 1139. In his discussion of minority reports Mr. L. S. Cushing says: "These views are sometimes submitted under the somewhat incongruous name of minority reports, when they are in no sense reports."

(A) Ruling on the acceptance of a minority report in Congress, Speaker Keifer said: "The chair would state that **there is no such thing as a minority of a committee to make a report.** A committee has no right to report **except as a committee.** The receiving of a minority report is a **mere matter of courtesy."** Speaker Blaine affirmed this ruling.

(B) The practice of Congress appears to be that the views of the minority of a committee must be filed in the House at the time the report of the committee is filed and printed with such report.

MINORITY REPORTS OR VIEWS OF COMMITTEE

SEC. 1140. In the earliest practice of Congress they admitted what was then called minority or counter reports but about the 51st Congress they were accepted only by

[1] In Ohio the author or introducer of the bill has charge of it.

unanimous consent. In the 41st Congress, Speaker James Polk ruled, "There is no right recognized on the part of a minority of a committee to make a report. It is a question for the house to determine whether such report shall be received." At a later day Speaker Keifer affirmed this decision. At the time of these decisions the house had no rule governing such reports except decisions of its speakers. In 1870 a report of the minority of a committee was presented and objected to. A question of order was raised that it required a majority vote to reject the report, and not one objection. Speaker Polk ruled, "The receiving of a minority report is a mere matter of courtesy because there is no such thing as the right of a minority to make a report." In an earlier decision Speaker Barbour decided, "Nothing can be received as the act of a committee but the majority report and that committee can make but one report."

MINORITY VIEWS RECOGNIZED

SEC. 1141. Congress in its present practice and by rule gives restricted recognition to views of the minority of a committee.

FILING MINORITY VIEWS

SEC. 1142. After a committee report has been made to the house, minority views may not thereafter be filed in the house except by unanimous consent.

(A) The following notation is frequently found in the journal of the house:

On motion of Mr.————, by unanimous consent he was given permission until 12 o'clock tomorrow, or other time, to file minority views.

MINORITY REPORT (VIEWS) OF COMMITTEE WHEN TO FILE

SEC. 1143. **After the report of a committee (majority) has been regularly filed in the house, a member cannot file minority views except by unanimous consent**

of the house. A member may however, at the time of filing such report or later by unanimous consent, move that he be permitted to file such views at a specified later time. This motion not being in order it can be made only by unanimous consent. (Cannon.)

THE RULE ON MINORITY VIEWS

SEC. 1144. All reports of committees, except as provided in clause 61 of rule XI, together with the views of the minority, shall be delivered to the clerk for printing and reference to the proper calendar under the direction of the speaker.

Under this rule the views of the minority of a committee collectively or individually are received and entered in the journal and printed. The purpose of such reports was given by Speaker Keifer, based upon the rule given by Mr. Cushing.

Minority views are received by courtesy of the house expressed by a majority vote and usually receive the same destination with the report; that is they are printed but they are not in any parliamentary sense reports, nor are they entitled to any privilege as such, their only effect is to operate on the minds of the members as arguments; to serve as a basis for amendments to be moved on the resolution or other conclusion of the report. If they contain a bill or resolution it is read but not as a bill or resolution, but as a part of the report for the information of the house.

In the case of the reception of minority views accompanied by a joint resolution, Speaker Keifer said, "A joint resolution presented by the minority of a committee has no possible parliamentary status, except that when the majority report shall come up for consideration it might be referred to as a matter of information to the house and it might furnish a basis upon which amendments might be offered to the action of the majority."

It is quite evident that minority views must be presented at the time the majority report of the committee is

presented, otherwise they are received only by leave of the house. It appears from the ruling of Speaker Keifer that their only purpose is to serve as information to the house and furnish a basis for amendment to the majority report. The writer in a very careful and diligent search has never found a case where the minority views were taken up and considered and but one instance is recorded where an effort was made to substitute the minority views for the majority, but it would seem such action would be permissive under the right of amendment, but before such action could be taken it would be necessary for the majority report to be under consideration.

In the case referred to the substitution was prevented by reference of the entire matter to a committee.

HOW TO DISSENT FROM COMMITTEE REPORT

SEC. 1145. If a member desires to dissent from a report he may do so as follows: Following the signature of those recommending the report may be added the following:

"We, (or I) the undersigned, do dissent from the foregoing report." In one instance, Senator John Sherman wrote on a report, "I dissent from paragraph 3 relating to the military and agree to the remainder of the report."

(Signed) John Sherman.

REPORTING ABSENCE OF MEMBERS FROM COMMITTEE MEETINGS

SEC. 1146. In representative bodies, elected by the people and whose members receive pay for their services, the absence of members from committee meetings should be reported to the main body to take such action as the case may require, always making due allowance for unavoidable absence or illness.

ALL COMMITTEES ARE BOUND BY ORDER OF REFERENCE

SEC. 1147. In parliament it is a clear principle of parliamentary law that a committee is bound by, and is not at liberty to depart from the order of reference. The foregoing principle is essential to the regular dispatch of business; for, if it were admitted that what the House entertained or received in one instance and **referred to a committee,** was so far **controlled** by that committee, that it was at liberty to disobey the order of reference, or **"kill" a bill in committee,** all business would be at an end; and, as often as the circumstances would afford a pretense, the proceedings of the House would be involved in confusion. Consequently, when a bill or other paper is referred to a committee, it is not competent for that committee to go beyond the subject of its provisions, not to "smother" such bill in committee. If it be necessary to go beyond the order of reference, authority must be obtained from the House, in the shape of special instructions. "Instructions to committee may be mandatory or merely permissive." (Bourinot, p. 470.) Mr. May says that in Parliament in case of a bill sent to a committee, the bill stands as the **order of reference and must be reported** to the House with or without amendments.

RULE FOR MAKING AMENDMENTS IN COMMITTEE

SEC. 1148. The committee **may not erase, or interline or in any way blot the bill itself,** but must, **in a paper by itself** set down the amendments which they desire to be inserted or omitted, and where, by reference to word and line of bill. (Rule of American House.)

MEANING OF ORDER OF REFERENCE

SEC. 1149. By "order of reference" is meant any subject or bill that may be referred to the consideration of a committee.

REPORT WHEN COMMITTEE CANNOT AGREE

SEC. 1150. It is the duty of all committees to make report to the House of all matters referred to their consideration. If it should occur that a committee cannot reach an agreement, then that fact should be reported to the House. The following is an example of such report made in the National House. "A majority of your committee have been unable to agree, four members are of opinion the bill should pass, and the remainder of the committee are opposed to the bill and insist it cannot be made satisfactory by amendment."

WHEN TO QUESTION RIGHT OF COMMITTEE TO REPORT

SEC. 1151. The validity of a committee's action in reporting a bill may not be questioned after actual consideration of the bill has begun in the House. Ruling on this question, Mr. Speaker Reed said: **"There must of necessity be always a point beyond which a challenge to the fact cannot go.** The chair thinks under ruling hitherto made that the preliminary facts on which jurisdiction was dependent cannot be contested after the debate begins. This is a matter entirely within the power of the House which can always take such action as the House deems suitable with regard to the disposition of the bill itself."

VALIDITY OF COMMITTEE REPORT

SEC. 1152. If objection is made as to the validity of the report of any committee and there being doubt as to its validity, neither the speaker nor the clerk may reject such report but the question of its reception is referred directly to the house. However, if the speaker is satisfied of its validity or invalidity he may decide the question, but not the clerk. The clerk is the recording officer and is without authority to interfere with the parliamentary or legislative procedure and has no parliamentary or legislative authority to reject any business sent to his desk. In case he finds or

observes error, or an infraction of the rules in presenting business, he may direct the attention of the speaker to such errors and the speaker explains and submits same for the decision of the house. A bill improperly reported is not entitled to a place on the calendar but the validity of a report may not be questioned after the house has voted to consider it or after actual consideration has begun.

GIVING LEAVE TO REPORT AT ANY TIME

SEC. 1153. A question being raised as to the right to report at any time, Mr. Speaker Randall said: "The question as to the right to report at any time is a very important one, because the question of the **right to report** at any time changes the order of committee reports and interferes with the rights of the House in that respect. Therefore, the chair holds that the rule of the House which recognized the order of reports from committee would be interfered with by permitting a special committee to report at any time, and such change of the rules **would require a suspension of the rules."**

ERRONEOUS REFERENCE OF PAPERS

SEC. 1154. Ruling upon a point of order that presented this question, Mr. Speaker Crisp said: "An erroneous reference of a bill may be corrected any morning immediately after the reading of the journal, either by unanimous consent, or on action of a member representing the committee, to which the bill has been erroneously referred, or on motion of the committee claiming jurisdiction. Where a bill has been suffered even erroneously to be considered by a committee and that committee has reported it back to the House, **there is no way of raising the question of jurisdiction."**

WHEN ANY COMMITTEE IS AUTHORIZED TO CONSIDER AND REPORT BILL CARRYING AN APPROPRIATION

(A) Speaker Reed ruled on the above question "That after a committee reported a bill it is too late to raise the question as to the right of the committee to consider." On this same question Mr. Speaker Henderson ruled: "The point of order is made that this committee has no jurisdiction over the bill because it carries an appropriation.

(B) It was decided by Speaker Crisp, Speaker Reed and others that an **erroneous** reference of a bill **remaining uncorrected, in effect gives jurisdiction to the committee.** The House has had its day in court to have the erroneous reference corrected and has failed to do so. Therefore, the bill is properly within the control of the committee and it is within the power of the House in considering this bill to determine whether to leave the appropriation in the bill or to strike it out."

SUPPLEMENTAL COMMITTEE REPORTS

SEC. 1155. It is not in order for any committee, after it has made a report upon any subject and has given up possession of the subject, to bring in a supplemental report. This, however, could be accomplished by requesting the House to recommit the subject. If this request were granted the committee could then add the supplemental part of the original report when it was again reported.

STATUS OF REPORT OF SELECT COMMITTEE

SEC. 1156. A select committee appointed to examine and report on a certain subject, its report has no privileged status; that is it is not privileged in such sense that it comes before the House for consideration. It is only privileged to be reported. (Speaker Reed.)

SEC. 1157. "A question of order that a bill contains an appropriation may be made against a Senate bill and at any time."

"In the event the House itself refers a bill to a committee not having jurisdiction of the subject matter jurisdiction is thereby conferred on such committee to consider and report such bill."

ACTION ON COMMITTEE AMENDMENTS

SEC. 1158. Under the present practice of the House committee reports are not acted upon when received. But when the bills are taken up for consideration on second reading, after the clerk completes the reading of the bill, he then reads the committee amendments, if any, and such amendments are disposed of before the bill is open to amendment generally. **It is in order to offer amendments to committee amendments. Frequently the House orders the previous question on the committee amendments and the bill to its final passage, thus preventing further amendment. After the second reading of the bill it is then open to debate and amendment.**

CONSIDERATION OF COMMITTEE REPORT IN PARLIAMENT

SEC. 1159. Mr. May in his great parliamentary work on the English practice says on this subject: "When the report has been received, if no amendments have been made by the committee, the bill is usually ordered to be read a third time on a future day. If amendments have been made by the committee, the report is a formal proceeding and the bill as amended is ordered to be considered on a future day. At this stage it is customary to order the reprint of the bill if several amendments have been made, for no verbal explanation of numerous amendments can possibly make the amended bill intelligible, and the practice of both houses is to rely upon the reprint of the bill, rather than upon a verbal statement of numerous and important amendments."

AMENDING COMMITTEE REPORT

SEC. 1160. "When the bill as amended by the committee is considered, the House may not only agree or disagree to the amendments but may make other amendments and add new clauses, whether they be within the title or not; but the practice of adding clauses at this time is inconvenient and should be avoided as far as possible."

(A) The amendments of the committee are considered, first: clauses may then be offered, after which amendments may be made to other parts of the bill." (May.) (In the practice of Parliament all clauses offered to a bill are read three times and the final question on the clause is: "That it be made a part of the bill.") In Congress amendments now are given but one reading.

ACTION ON IMPROPER REPORT OF COMMITTEE

SEC. 1161. A bill improperly reported from a committee is not entitled to its place on the calendar. A member of the committee notified the House that the action of the committee in reporting a bill **had not been taken in due form** and then moved that the bill be recommitted. Mr. Speaker Reed said: "It has been found that the vote by which this bill was reported to the House was not taken in due form. If the vote in committee was **improperly taken** the bill would not be **properly on the files of the House.** The easiest way, therefore, to reach the matter would be to ask unanimous consent, which proposition the chair will regard as agreed to if there be no objection. The chair hears no objection, the bill is recommitted."

EFFECT OF AGREEING TO A COMMITTEE REPORT

SEC. 1162. If a committee report is agreed to, such motions as are necessary to carry out its object should immediately be submitted to the consideration of the meeting, if any are necessary. When the report of a

committee is agreed to, the action of the committee becomes the **act of the appointing body.** Example: If the committee should recommend that the subject matter under consideration be **indefinitely postponed** and the committee report was agreed to, such matter would be indefinitely postponed without further action.

SEC. 1163. If a report is actually sustained by a majority of a quorum of a committee it is not impeached by the fact that a less number sign it, or by the fact that later, by the action of the absentees, more than a majority of the whole committee are found to have signed the minority views.

(A) Committees may report bills, joint and simple resolutions on any subject referred to them and these come before the house for immediate consideration and have precedence of the report itself.

(B) The right of a committee generally to report at any time is of course confined to privileged matters.

MODE OF PREPARING AMENDMENTS

SEC. 1164. Each line of a bill is separately numbered and if amendments are made by striking out certain words or lines of a bill or by inserting words in the bill, the number of the line or lines must be stated where the words are to be stricken out or inserted in describing the amendments made. All words stricken out should be written out in full and duplicate copies sent to the clerk.

COMMITTEE REPORTS—RULES FOR PREPARING

SEC. 1165. In making out reports the following rules should be observed by the secretary or the person making out the report. **A separate report should be prepared for each bill or other paper to be reported by the committee.**

HOW TO PREPARE REPORTS

SEC. 1166. The original bill received by the committee from the clerk, must be returned with the report. It should be pinned to the report but must not be permanently attached thereto. If a bill is amended by the committee a statement of such amendments must be written out in full upon the blank report and such statement **must indicate the line or lines in which amendments are made and the words to be inserted or stricken out.** Such words should always be enclosed in quotation marks so as to show in detail and proper form all amendments made to the bill.

REPORTS OF COMMITTEE, HOW MADE

SEC. 1167. All committees in the national house make their reports by filing them with the clerk for entry in the journal and each report is given a consecutive number.

PRIVILEGED COMMITTEE REPORTS

SEC. 1168. All committees that have the privilege of reporting at any time make their reports from the floor of the house on being recognized by the speaker for that purpose and such reports frequently have a distinct advantage because leave to report at any time carries with it the opportunity for immediate consideration of the matter reported unless otherwise ordered by the house.

The sufficiency of a report is to be passed upon by the house, not by the speaker or any other officer. That is, if a question as to the sufficiency of a committee report should arise the chair would not decide it as he would a question of order, but he would submit the question to the judgment of the house.

RULES FOR PREPARING COMMITTEE REPORTS

SEC. 1169. In making out reports from committees the following rules shall be observed by the secretary or the person making the report. A separate report should be

prepared for each bill or resolution to be reported by the committee. This facilitates business and avoids parliamentary disputes.

The original bill, if engrossed, received by the committee from the clerk or other authorized officer, must be returned with the report even though a substitute for the original is reported by the committee. It should be fastened to the report, but must not be permanently attached thereto. If a proposition is amended by committee, a statement of such amendments must be written out in full in the report, indicating the line or lines in which amendments are made and the word or words to be added or stricken out. Such words should always be enclosed in quotation marks so as to show in detail and proper form all amendments to be made.

Each line of a bill is separately numbered and if amendments are made by striking out or inserting the line or lines must be stated in describing the amendments. Words stricken out or inserted should be written out in full and duplicate copies sent to the clerk.

ADVERSE COMMITTEE REPORT

SEC. 1170. The committee on Judiciary to which was referred H. B. No. ..... by Mr. ..... **having had** the same under consideration report it back adversely (or without recommendation).

(A) A report of this kind and bill goes on the table by direction of the Speaker, and without motion to that effect. In this case the motion to table is considered as pending and agreeing to the report sends the bill and report to the table. However, at any time during three days thereafter a motion is privileged to take up said bill and place it on the calendar for third reading and this motion is decided by a majority vote which automaticaaly removes the bill from the table.

AMENDING REPORT PREVIOUSLY MADE IN HOUSE

SEC. 1171. By unanimous consent a committee having reported may amend or correct its report previously made.

FORM OF ADVERSE COMMITTEE REPORT NOT ACCEPTABLE

SEC. 1172. The standing committee on taxation to which was referred H. B. No. 223—Mr. Beetham, having had the same under consideration, reports it back with the following amendments and without recommendation. A report of this kind should not be accepted.

WHY ADVERSE REPORT IS NOT ACCEPTABLE WITH AMENDMENTS

SEC. 1173. It may be asked why the foregoing report should be rejected. Such a report is incongruous. It contradicts itself. It recommends that the bill be amended and then tells the House that the committee makes no recommendation, or in other words denies its recommendation.

(A) When the committee desires to amend a bill so that if passed it would be in a more acceptable form, a form of report similar to the following should be used. It will accomplish what the committee desires to do and will be more intelligible.

FORM FOR REPORTING ADVERSELY WITH AMENDMENTS

SEC. 1174. The standing committee on taxation to which was referred H. B. No. 223—Mr. Dunn, having had the same under consideration, reports it back with the following amendments and further than this the committee makes no recommendations, each member of the committee reserving the right to take such action in the House as to him may seem best when the bill is considered.

(A) A member desiring to be excused from committee service should make his request direct to the House.

REPORT ADVERSELY WITH RECOMMENDATION INDEFINITELY POSTPONE—(Form)

SEC. 1175. The standing committee on taxation to which was referred H. B. No. 223—Mr. Gordon, reports the same adversely, and moves that it be indefinitely postponed.[1]

REGULAR FORM FOR COMMITTEE REPORT

SEC. 1176. The following form for a committee report has been in use in both House and Senate for many years for bills with amendments.

The standing committee on agriculture to which was referred S. B. No. 118—Mr. Gardner, having had the same under consideration, reports it back with the following amendments:

In line 13 strike out the word "Women" and insert in lieu thereof "female".

In line 15 strike out the word "men" and insert in lieu thereof "male," and recommend **its passage when so amended.**

(A) **A verbal report is never received in either House or Senate as the report of any committee.**

SUFFICIENCY OF REPORT

SEC. 1177. Every bill reported from committee, must be accompanied by a written report and **the sufficiency of the report is passed on by the House and not the Speaker or President. The report of a committee does not necessarily contain a recommendation for action. It may report simply a finding of facts.**

JOINING BILLS

SEC. 1178. In the House of Representatives of Congress bills are joined by offering the text of one as an

[1] In this case the motion to indefinitely postpone is considered to be pending and adopted on the vote agreeing to the committee report.

amendment to the other, **but under the rules of the Ohio House this action is not permissible except by unanimous consent or suspending rules.** Rule 76 expressly providing against this action, however, the Senate has no such rule. Where it is proposed to divide, it may be done by referring to a committee with instructions to make such division and report two bills. Two bills could be joined in the same way.

FORM OF REPORT WHEN TWO BILLS ARE JOINED

SEC. 1179. Your committee on.....to which was referred H. B. No..... with instruction to consolidate into one bill, report that they have followed instructions and report back (number and title) with such amendments as were found necessary in making such consolidation in addition to the following amendment: In the title of bill immediately following the name of the author Doe insert a hyphen and the name Roe, your committee further recommend that H. B. No. .... (title) be passed. If other amendments are made they should be included in report in the regular way.

EFFECT OF DIVIDING BILL

SEC. 1180. In dividing a bill into two bills, one bill retains the old number, the other should be introduced by the committee, when the clerk will furnish a new number. The new bill will need to go through the several stages as other bills, except there will be no necessity of referring it back to the committee for consideration, having been considered and reported by the committee it would be a useless waste of time. In fact, it should, under suspension of the rules, be advanced to the stage of the original bill and be placed on the calendar with it, so that both bills could be considered as nearly together as possible. When bills are joined, of course it is necessary to discard one of the numbers.

FORM OF REPORT WHEN BILLS ARE DIVIDED BY COMMITTEE

SEC. 1181. When bills are divided the following form will help the members in making out report to be submitted to the House:

Your committee on..... to which was referred H. B. No..... with instructions to divide into two bills, reports that they have followed instructions and report the original bill with such amendments as were found necessary in making such division, also report a new bill introduction of which is made with this report. The committee recommends the passage of both bills and further recommends a suspension of the rules and that the new bill herewith submitted be advanced to the same stage as H. B. No. .... (title) and the two bills be placed on the calendar together.

.....

Committee.

COMMITTEE REPORT WHEN COMMITTEE DOES NOT AGREE

SEC. 1182. It may sometimes occur after a committee has fully considered a bill or other matter before them, they feel that the subject matter is such they do not desire to recommend same for passage, neither do they desire to report the bill adversely, but the committee is agreed that the bill should be considered by the whole House, they could then report the bill in the following manner and not express any opinion whatever as to the merits or demerits of the bill:

(A) Form: The Committee on judiciary to which was referred H. B. No..... (title) having had the same under consideration reports it back for the consideration of the House without recommendation, each member of the committee reserving to himself the right to take such course in the House concerning the bill as to him shall appear and seem proper

REQUIREMENTS OF ENGLISH COMMITTEES

SEC. 1183. Rule 60—The House of Commons provides: "The names of the members present each day on the sitting of any committee shall be entered on the minutes of the committee, and reported to the House on the report of such committee."

(A) Rule 61—"In the event of any division (vote) taking place in the committee, the question proposed, the name of the proposer, and the respective votes thereupon of each member present, shall be entered on the minutes, and reported to the House on the report of such committee."

EFFECT OF AUTHORITY TO REPORT AT ANY TIME

SEC. 1184. The right of a committee to report at any time **carries with it the right to have the matters reported considered at once.** In January, 1852, Mr. Gorman reported, a resolution; debate having arisen, Joshua R. Giddings, of Ohio, raised the point of order: "That this day has been set apart for the introduction of resolutions and consequently the resolution reported must go over to a future time." Mr. Speaker Boyd ruled "That inasmuch as the report was made under leave to report at any time, the authority to report at any time **carries with it the authority to dispose of the matter reported."**

A JOINT COMMITTEE MAY REPORT IN EITHER HOUSE

SEC. 1185. On Jan. 7, 1907, the House was considering the following resolution: "Ordered, That the bill of the House 7984 is hereby committed to the joint committee on the revision of laws and that said committee have leave to report at any time and that said bill shall have all privileges pertaining to such bills so reported." After the reading of the resolution Mr. James Mann, one of the best parliamentarians in the House, rising to a parliamentary inquiry said: "Is it possible for a joint committee to make a report of

[1] In the Ohio Senate it is provided by rule that the committees may introduce bills.

a bill to the House or would that be made by the House members of the committee?"

Replying, the Speaker, Mr. Cannon, said, **"A joint committee can report to either House, that is, the section of the committee composed of members of the House may report to this House and that section on the part of the Senate may report to the Senate."**

REPORTS OF COMMITTEES

SEC. 1186. Committee reports are sometimes received out of order, by unanimous consent, or under suspension of rules and when so made the bill is up for immediate consideration, without motion to that effect. These reports are regularly made under the order of business. "Reports of Standing Committees." When this order of business is reached in the day's proceedings the Speaker announces "Reports of Standing Committees, the clerk will call the roll of committees." When the name of a committee is called having a report to make, the member of such committee having in his possession a report which he has been directed by the committee to make, arises in his place and addresses the Speaker saying: "A report, sir." A page then takes the report to the desk of the clerk where it is read, agreed to or disagreed to and is entered in the Journal. It is not customary in Ohio practice to discuss or oppose committee reports at this time, however, the rules do not preclude discussion or opposition, or amendments to committee reports at this time. (Ohio Practice.)

FORM OF COMMITTEE REPORT WITH SUBSTITUTE

SEC. 1187. The form for reporting a substitute bill from committee in the National House is simple and sufficient as follows:

Strike out all the bill after the enacting clause and substitute the following and recommends passage of the substitute.

Part II

METHOD OF PROCEDURE

in

AMERICAN CONGRESS

in

CONVERTING BILLS INTO LAWS

EDWARD WAKEFIELD HUGHES

State Parliamentarian for Ohio

DEDICATION

TO THE

HON. CAPT. JOHN P. MAYNARD

Clerk of the House of Representatives in the 78th, 81st, 83rd, 84th, 85th, 86th, 87th, 88th and 89th General Assemblies of Ohio, with whom the Author has been associated in the legislative halls for a quarter of a Century

and the

MEMBERS

of the

89th General Assembly of Ohio

with cherished recollections of responsibilities and labors shared Books II and III are humbly and gratefully inscribed.

—Edward Wakefield Hughes.

(REVISED 1932 EDITION)

CHAPTER XXVII

PASSING BILLS IN CONGRESS

(Part Two)

INTRODUCTION

SEC. 1188. In the preceding chapters or part 1 of this volume we have concerned ourselves with a **survey of the elementary, but fundamental forms of parliamentary procedure as we find them in use in the American House of Representatives,** the popular branch of the American Congress. These forms and rules as codified we have designated correctly "United States Fundamental Parliamentary Rules." Under these rules and forms heretofore described the business of the house—except the passing of bills, is considered and disposed of each day. We will now proceed to a description of the forms into which all legislative work of Congress is thrown, that is, the exercise of its supreme function,—converting bills into an act of Congress—making statutory law.

(A) It should not be necessary to observe here that procedure in law-making is somewhat different than the procedure heretofore discussed, but all these forms enter into and are highly necessary and useful in every stage of procedure by bill, but these rules and forms standing alone, would not be effective in producing the ultimate form desired—law.

ANCIENT LAWMAKING

SEC. 1189. Before we proceed with a description of the process of American Lawmaking, it seems proper to a better understanding of procedure to describe briefly the original procedure and ancient process of lawmaking.

In the early days or in the mediaeval parliaments known as the Parliament of Estates, all laws were based upon petitions of the people presented to parliament through its members. These petitions would be read in open house by the member presenting them and debate would follow on the subject of the petitions. If approved by the Parliament they were sent to the king, and if approved the petition with the king's answer subjoined was sent, at the close of parliament, to the judges of the courts. The judges from these often imperfect records drew up the laws which were then entered on the statute rolls. So it is apparent that the early parliaments had but little to do with early lawmaking except to make grants of money to the king. The history of this procedure is that very frequently the judges exceeded their authority by inserting in the law, matter not petitioned for by the people, resulting about the 15th century in lawmaking by petition being superseded by the invention and adoption of "Procedure by Bill" and by the end of the reign of Henry VII, procedure by bill and the three reading stages were firmly established and continue to this day in nearly if not all legislative bodies in Continental Europe and the United States of America. Information relating to this early procedure is scanty and more would serve no good purpose save as a history of the development of the forms of procedure. Under procedure by bill, from its beginning, bills were, as now, **introduced in the form of complete statutes.**

SEC. 1190. The original stages of "procedure by bill" were as follows:

(1) Request to introduce.
(2) Committee appointed to prepare and introduce bill.
(3) Introduction and fixing time for first reading.
(4) First reading—Fixing time for second reading.
(5) Second reading—Commitment.

(6) Consideration in committee of whole for amendment.
(7) Report of committee.
(8) Engrossment.
(9) Third reading.
(10) Passage.
(11) Transmission to Lords.
(12) Return to Commons.
(13) Settlement of disagreement (if any) by conference.
(14) Authentication by Speaker and Lord Chancellor.
(15) Royal assent.

(A) These stages have undergone but slight if any change since their first adoption. **The changes that have taken place in procedure by bill is confined almost entirely to** the methods of passing from one stage of a bill to another. The American procedure was originally adopted from the English system and almost in its entirety.

STAGES IN PROGRESS OF BILLS IN NATIONAL HOUSE

SEC. 1191. The stages of bills in Congress, are substantially the same as in the English Parliament, but it will be observed there is much difference in the method of proceedings from one stage to the other.

(1) Introduction (by filing with clerk at any time.)
(2) Reference to committee (public bills by speaker, private as indicated by member).
(3) Report from committee **(by filing with clerk at any time).**
(4) Reference to calendar (by direction of speaker).
(5) Second reading (in committee of whole or house for amendment).

(6) Engrossment and third reading (one question).
(7) Passage.
(8) Transmission to Senate (by message).
(9) Consideration by Senate substantially the same stages as in the House.
(10) Return to House.
(11) Settlement of disagreement (if any, usually by conference).
(12) Enrollment.
(13) Signing by Speaker and President of Senate.
(14) Transmitted to President for approval or disapproval.
(15) If approved, filing with Secretary of State.
(16) If disapproved, return to originating House.
(17) Reconsideration by originating House when disapproved.
(18) Reconsideration by other House.
(19) Filing with Secretary of State.

(A) Since the adoption of the bill plan for making laws it has been under constant development and improvement, both in England, where the system had its birth and in all other countries that have adopted the system. However, the original stages of bills remain substantially the same, **the changes in practice being found in the methods used in reaching the several stages.** The stages of a bill are **substantially the same in all legislative bodies.**

(B) Before entering upon a description of the methods employed in legislative bodies, we will first undertake a description of a bill, the instrument used to work with in producing the ultimate result—law.

BILL DEFINED

SEC. 1192. **A bill is a proposed law introduced in the form of a complete draft of such law.** It is composed of

a series of constituent parts, some of which are provided by the constitution and rules, others by long parliamentary usage.[1]

By a bill we are to understand a legislative project generally divided into several parts or clauses. Bills must be formulated in accordance with the law and rules of Congress.

JOINT RESOLUTION

SEC. 1193. A joint resolution in Congress, is merely a bill with another name attached to it, so far as the process of Congress in relation to it is concerned. It is considered a bill, and is subject to all the restrictions and requirements of a bill.

FORM OF BILL—FOR INTRODUCTION

(U. S. National House)

59th Congress
First Session
H. B. No. 526.

IN THE HOUSE OF REPRESENTATIVES:

Jan. 4, 1907

A BILL

For the erection of a National sanatorium for disabled soldiers

BY MR. JONES

Referred to Committee on Military and ordered printed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

That (Here follows text).

SEC. 1194. Congress also enacts laws by introducing

[1] A full description of the several parts of a bill and the several stages through which it passes will be found in part 3 of this volume where we describe the process of state legislative bodies.

and adopting joint resolutions. Such resolutions are treated in all respects as are bills.

(A) Form of resolution to be enacted into law.

JOINT RESOLUTION

No. 214

60th Congress
First Session

IN THE HOUSE OF REPRESENTATIVES

March 12, 1909

BY MR. BROWN

Authorizing the transfer of certain funds.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled:

That (Here follows text).

MEANING OF TERM PASSING OF BILLS

SEC. 1195. A bill is merely a legislative proposal submitted to either house of Congress in the form of a complete draft of the proposed law. This proposal when agreed to as provided by the parliamentary rules and the constitution and the several branches of the legislature becomes a law of the nation. The procedure in effecting this agreement, herein described, is what is meant by **passing a bill.**

(A) The purpose of all the parliamentary forms and different stages of a bill is to enable the individual members and the assembly as a whole ample opportunity to ascertain with certainty just what its will is toward a given legislative proposal and to express in a suitable

[1] It should be observed that while joint resolutions are employed in Congress to make laws, they are considered as bills and are acted upon and considered exactly as other bills even to being sent for the approval of the President, joint resolutions in state legislative bodies are analogous to concurrent resolution in Congress.

form of words its purpose, that the people they serve may understand, and know their will.

PROCEDURE IN CONGRESS

SEC. 1196. The first business of the national House on assembling is to proceed to its organization,—election of officers. This is usually preceded by a motion or resolution that the House proceed to the election of Speaker, which election is accomplished as elsewhere described in this volume. **The clerk of the preceding House always presides at the organization of a new House.**

PROCESS OF LEGISLATION—RULES AND FORMS NECESSARY FOR CONVERTING A BILL INTO AN ACT OF CONGRESS

SEC. 1197. When the House is organized, its first important activity toward law-making is the introduction of bills. The present rule governing introduction of bills describes the procedure comprehensively, but could be reduced to the following words: **"Members having bills or other business to bring before the House may do so by filing with the clerk."**[1] The rule in full is as follows:

INTRODUCTION OF BILLS

SEC. 1198. Rule XXII, Sec. 1. Members having petitions or memorials or bills of a private nature to present, may deliver them to the clerk, indorsing their names and the reference or disposition to be made thereof, and said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an

[1] In the present practice of the English House of Commons in filing bills with the clerk. There is no necessity, nor indeed is it customary, for a member when laying a bill on the table of the House (filing with clerk) to present the text of his proposal. The practice is as follows: The member obtains a bill form called a *"dummy bill,"* upon which he writes the title under which his bill will appear in the journal and the name of the introducer. This is the document he introduces by laying on the table of the house, the bill itself is afterward handed in to the clerk and then printed.

obscene or insulting character, shall be entered on the Journal with the names of the members presenting them.

(A) Any petition or memorial or private bill excluded under this rule shall be returned to the member from whom it was received, and petitions and private bills which have been inappropriately referred may, by direction of the committee having possession of the same, be properly referred in the manner originally presented, and an erroneous reference of a petition or private bill under this clause shall not confer jurisdiction upon the committee to consider or report the same.

(B) All other bills, memorials and resolutions may, in like manner be delivered, endorsed with the names of members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions and documents referred under the rules shall be entered on the Journal of the next day, and correction in case of error of reference may be made by the House without debate, in accordance with rule XI, on any day immediately after the reading of the Journal, by unanimous consent, or on the motion of a committee claiming jurisdiction or on the report of the committee to which the bill has been erroneously referred.

HISTORY AND PRACTICE UNDER THE RULE OF CONGRESS

SEC. 1199. The method of introducing business, during the life of our congress, has undergone several important changes. The first congress adopted the rule of its predecessor the continental congress, it having borrowed it from the English parliament, as described by Pettyt in his Lex Parliamentaria, which work was adopted as the guide of the first congress. Under the rule here referred to, in order to introduce a bill, the member was required to request leave of the House to make such introduction; that is, the member on a certain day would announce to the House his intention of

moving the House on the next or subsequent day for leave to "bring in," introduce a bill.[1] If the House agreed to consider the subject the member was given leave and on another day the bill could be introduced, at any time the House was not engaged with other business.[1] If the House did not consider the subject matter of the proposed bill worthy of consideration, leave was denied, and the member could not introduce his bill and the entire matter was disposed of. Under this rule committees were permitted to introduce bills without leave. With slight and unimportant changes in the wording of the rule it continued in force until about 1838 when a new rule was adopted, providing the roll of **the states should be called on alternate Mondays for the introduction of bills.** Then about 1860, it was provided that petitions, resolutions and private bills could be introduced by filing with the clerk, but the most important change was made under the leadership of Speaker Thomas B. Reed, by the adoption of section 3 of the rule about 1890 for introduction which practically provides for the introduction of all business by filing same informally with the clerk.

(A) It is claimed that this new method is a great time saver. It does away with long call of states, and the consequent delay in waiting for page or messenger boys going to and from members' seats to deliver bills to the clerk. The rule provides that papers of all kinds shall be introduced by **filing them with the clerk,** but in actual practice the intent and purpose of the rule is fully carried out by members depositing all such papers in a receptacle prepared for such purpose by the clerk. This receptacle is known as the BILL BOX, and is in the cus-

[1] One day's notice of this motion was required.

[1] Under the rule the member did not introduce a bill, he merely was given the privilege of suggesting the introduction. In fact all bills were introduced either by select or standing committees. As soon as a member was given leave to bring in a bill the next step was the appointment of a committee to prepare and bring in the bill, of course the member making the request was usually named on the committee and was permitted to introduce bill for the committee.

tody of the clerk. At a convenient time each day the clerk removes all papers from the box and has them entered on the Journal as provided in the rule. Before doing so the clerk numbers all bills and resolutions. Then the private bills and other papers that are referred to committees are sent to the committee indicated as indorsed on the bill or paper by the member. Public bills are delivered to the Speaker who refers them and they are returned to the clerk for distribution to the proper committees.

(B) The rule of the House provides that all bills should be read the first time by title and the second time in full, and the third time by title. Consistent with this rule, it was the early practice to read all bills the first time by title upon their introduction. But since 1890, or the time of the adoption of the new system of introducing bills by filing with the clerk, the reading by title on introduction was rendered impossible. But the printing in the Journal of all titles of bills introduced is said to accomplish the real purpose and satisfies the rule.

DISTINCTION BETWEEN PUBLIC AND PRIVATE BILLS

SEC. 1200. The line of demarcation between a public and private bill is not easily drawn. In general a private bill is one for the relief of, or relates to one or several specified individuals, corporations or institutions, etc., and is distinguished from a public bill which relates to public matters and deals with individuals only as a class.

TITLE OF BILL

SEC. 1201. Unless amendment is offered or a separate vote demanded the title of a bill is assumed to be agreed to on the passage of the bill.

NOT IN ORDER TO INTRODUCE BILL IN NAME OF ABSENT MEMBER

SEC. 1202. A bill or resolution may not be introduced in the name of another member or one who is absent at

the time of introduction. If so introduced a motion to strike same from the files of the House is privileged even though the bill may have been printed and referred to a committee. However this could be accomplished by consent of the house.

CONSIDERING CLASS OF BILLS

SEC. 1203. When the consideration of a class of bills has been made a special order, the motions in the rule of precedence are in order, such motions being authorized by the term consideration. (H. J. 1st Sess. 49th Cong., p. 918.)

RULE FOR READING BILLS

SEC. 1204. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be: Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title, unless the reading in full is demanded by a member, and the question shall then be put upon its passage.[1] (Rule XXI.)

READING BILLS[2]

SEC. 1205. In congress, according to Speaker Cannon, it is not one time in a hundred that an engrossed bill is read, or that it is even engrossed when read and passed. The universal practice is to use the printed bill, unless a demand from the House is made to read the engrossed bill, which is very rare. Unless there is objection the right to have a full reading of a bill is presumed to be waived, that is the rule requiring the full read-

[1] The provisions of this rule relative to reading bills the first time is under the new rule for introduction, now obsolete. The remainder of the rule is still in full force.

[2] For a general statement relating to reading bills see Reading bills, part III, this volume.

ing is considered as suspended. The demand for full reading is in order only before the clerk reads the title.

SEC. 1206. **It is not in order for two or more members to join together and introduce a bill.** This of course does not refer to the drawing and preparation of a bill, but merely to its introduction.

REQUESTS TO INTRODUCE BILLS

(A) Frequently members of congress are requested by individuals or societies to introduce bills they have prepared themselves or had prepared by others. Members are permitted to introduce such bills and resolutions but in doing so they are required to insert after their own name, as the introducer, the words, "by request". In some of the state legislative bodies, not congress, there is the further requirement that they shall add the name of the person, firm, company or association making the request, to the end that the House will know the source of its inception and who to hold responsible for its introduction. However, it is to the credit of congress that bills so labeled rarely get more than a decent burial. Much of this undesirable, extraneous matter that is forced upon our legislative bodies by outside self appointed law-makers could be avoided entirely by adopting the practice of parliament providing that the expense of such bills so introduced should be assessed against the persons requesting such introduction and passage.

(B) If it should be discovered at any time that a bill, resolution or other paper has been fraudulently introduced in the House it is within the authority of the Speaker, (or a member to demand or move) **to strike same from the files of the House.**

COMMITTAL OF BILLS

SEC. 1207. The next important stage in the progress of a bill is its reference to a proper committee for con-

sideration and it is the invariable practice of congress to insist on the consideration of all bills by proper standing committees.

SEC. 1208. In introducing **private bills** the member is permitted to select the committee he wishes to consider his bill, this he does by endorsing the name of the committee on the bill. In exercising this privilege he is controlled by the rule of jurisdiction. He could not send a bill relating to education to the rivers and harbors committee because he liked the personnel of that committee best.

SEC. 1209. All public bills are **referred by the Speaker,** private bills are indorsed with the name of the committee to which they are to be referred by the member introducing them and they are so delivered by the clerk. Senate bills are also referred by the Speaker. Communications addressed to the House from the executive department or from other sources are referred to committees by the Speaker, which give authority to the committee to **originate bills on the subject referred to them.** It is also provided that all bills shall be referred to the standing committee in accordance with the jurisdiction of the committees, viz., to the election committee subjects relating to elections and election of members, subjects relating to appropriations to the committee on appropriations.

(A) The rule relative to bills going to proper committees is mandatory on the Speaker in referring public bills and on the member in referring private bills. But when the House itself refers a bill it may be sent to any committee without regard to the rules of jurisdiction and jurisdiction is thereby conferred. The erroneous reference of a public bill, if it remain uncorrected, gives jurisdiction, that is to say, bills referred by the Speaker. This, however, is not true of a private bill or petition.

(B) When it is found that private bills have been

sent to committees without jurisdiction to consider them it is customary for points of order to be raised. In this way the bill is brought before the House and if improperly referred, it is again referred by the House. Sometimes the point of order is not raised until after the committee has reported and when the bill is under consideration on second reading or when considered in committee of the whole. Questions of order of this kind are usually held to be in order and if sustained the bills are again referred to the proper committee for consideration.

(C) **Motions to change the reference of public bills are not open to debate or subject to amendment.** If the question of order is raised in committee of the whole and it is sustained the committee should rise at once and report the matter to the House, the House would then discharge the committee from further consideration and refer the bill to the proper committee.

(D) Rule XI of the House provides the various subjects that shall be referred to certain committees.

(E) In referring bills, all such as are excluded by the Speaker are returned to the members presenting them.

(F) **Correction of errors in reference of bills are in order on any day by the House without debate, immediately following the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on report of a committee to which the bill has been erroneously referred.**

(G) Petitions and private bills which have been inappropriately referred may, by the direction of the committee having possession of the same, be properly referred in the manner originally presented by making the corrections at the desk of the clerk. That is, the chairman of the committee having the bill indorses on it the fact that the jurisdiction of the bill belongs to another specified committee and delivers same to the clerk who sends the bill to the proper committee.

(H) Bills for the purpose of reference are not divisible. It has been the general practice of the National House under this later procedure not to permit bills to originate in committee or to permit their introduction by committee. **However, a bill may be originated by a committee having jurisdiction of a subject by means of petition.**

(I) **After a committee is in possession of a bill and has considered it, it is then too late to reconsider the order of reference, and it cannot be brought into the House again on a motion to reconsider.** This latter rule, relative to reconsideration, however, does not hold good on a bill, wherein the House after considering a bill, recommitted it. **After a committee reports a bill, it is too late to reconsider the vote by which it was referred.**

PRINTING OF BILLS

(J) Bills are printed as soon after introduction and reference as possible.

SEC. 1210. The printing of bills introduced in Congress is specifically provided for by statute. All bills and resolutions are required to be printed in bill form unless otherwise ordered by either house. **The first printing follows reference to committees** and bills may not be printed unless referred to committees. **A second printing is always had when bills are favorably reported from committee.**[1] **They are printed again after passage by either house.** In the two latter cases the final action and result of such action is printed on the bill. That is, the date it was reported from committee and the committee's recommendation and if amended, the amendments are inserted in the proper place in the new print. Thus at all times the bill as perfected from one stage to another is before the member and he can act intelli-

[1] In all additional printing of bills but 400 copies are printed or enough to supply the House ordering the printing.

gently and does not need to guess or take valuable time to trace previous action of the House on the bill. The number of bills printed on introduction is 625. **The clerk of the House has discretionary powers in ordering reprinting of bills and other legislative documents, etc. Extra copies of bills, etc., may be ordered by either House by a simple resolution of the House if the cost does not exceed five hundred dollars,** otherwise by concurrent resolution of both houses. The committee on printing may order extra copies but not in excess of a cost of two hundred dollars. All bills are distributed as provided by statute.

(A) (The printing of bills is not considered as one of the stages in its progress, but it is a very necessary part of congressional procedure.)

SEC. 1211. The next stage of a bill after reference is its consideration by committee and the report thereon to the House.[1]

COMMITTEE REPORTS

(A) **All committees that have the privilege of reporting at any time make their reports from the floor of the House and these committees have a distinct advantage because leave to report at any time may carry with it the opportunity of the immediate consideration of the matter reported.**[1] All other committees report by filing with the clerk at any time. The bill and report are printed when reported.

SEC. 1212. The rule of the House provides: "All petitions, bills, memorials or resolutions reported from committee shall be accompanied by reports in writing." This rule is rigidly enforced by the House. But the sufficiency of a report is always passed upon by the House, not the Speaker.

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[1] For procedure on bill in committee refer to Chapter on committees.

(A) A report is not necessarily signed by all those concurring or even by any of those concurring, but minority ones are signed by those submitting them.

(B) **All committees having leave to report at any time report from the floor of the House, other committees make their reports by laying them on the table of the clerk, informally.**

(C) The practice of the House requires that all committee reports must be agreed to by a majority of the committee being present, **reports agreed to by a majority of a committee are sometimes reported and only signed by one member.**

CALENDARS

SEC. 1213. One of the most interesting and practical features of the procedure of the House is its system of calendars which makes possible a classification of bills for consideration, according to their respective merits. Members of Congress have referred to these calendars contemptuously as the House **"burial ground."** This statement is not as applicable to the calendars of the national House as it is to the calendar of the State legislative bodies where there is but one calendar. Unimportant bills usually are referred to committees that have little to do and they give immediate and final consideration to such bills, which are reported early and are given first place on the calendar. The important bills usually go to committees crowded with business and they are not considered until reached in their regular turn, therefore it often occurs they necessarily find place low down on the single calendar and can only be reached by suspension of rules, or by first considering and disposing of less important matters.

DISTRIBUTION OF BILLS TO CALENDAR[1]

SEC. 1214. Committee reports are distributed to three calendars by the Speaker. It is in order for a privileged report and bill to be considered when reported; but the usual practice is to place it with unprivileged bills on the calendar where it belongs under the rule.

"(A) House rule XIII provides as follows: Sec. 1. There shall be three calendars to which all business reported from committees shall be referred, viz.: First, a calendar of the committee of the whole House on the state of the Union to which shall be referred bills raising revenue, general appropriation bills and bills of a public character directly or indirectly appropriating money or property.

(B) Second—a House calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property.

(C) Third—a calendar of the committee of the whole House, to which shall be referred all bills of a private nature."

(D) Sec. 2. All reports of committees, except as provided in clause 56 of rule XI, **together with the views of the minority, shall be delivered to the clerk for printing** and reference to the proper calendar under the direction of the Speaker, in accordance with the foregoing clause, and the titles or subjects thereof shall be entered on the Journal. Provided, that **bills reported adversely shall be laid on the table,** unless the committee reporting a bill, at the time, or any member, within three days thereafter shall request its reference to the calendar, when it shall be referred, as provided in clause one of this rule.

UNANIMOUS CONSENT CALENDAR

SEC. 1215. (3) After a bill which has been favorably reported and shall be upon either the House or union cal-

[1] The several calendars provided by the House are distinct calendars, but all are printed in one document or general calendar containing all.

endar, any member may file with the clerk a notice that he desires such bill placed upon a special calendar to be known as the Consent Calendar. On days when it shall be in order to suspend the rules the Speaker shall, immediately after the approval of the Journal, direct the clerk to call the bills which have been for three days upon the consent calendar. Should objection be made to the consideration of any bill so called, it shall immediately be stricken from such calendar, but such bill may be restored to the calendar, at the instance of the member, and if again objected to, it shall be immediately stricken from such calendar, and shall not be called twice on the same legislative day.[1]

(A) (4) There shall also be a calendar of motions to instruct committees as provided in section 4 of rule XXVII.

MOTION TO INSTRUCT COMMITTEE CALENDAR

SEC. 1216. Sec. 4, Rule XXVII. "Any member may present to the clerk a motion to instruct a committee to report any public bill or joint resolution which may have been referred to such committee fifteen days prior thereto. All such motions shall be entered in the Journal and printed on a calendar to be known as a calendar of motion to instruct committees. After the unanimous consent calendar shall have been called on any Monday and motions to suspend the rules have been disposed of it shall be in order to call up any such motion which has been entered at least seven days prior thereto. Recognition for such motions shall be in the order in which they have been entered. When such motion shall be called up, the bill shall be read by title only and no such motion shall be entertained as to a bill or joint resolution—the title of which contains more than one hundred words; after the reading of said

[1] This rule was changed in the 68th Congress, by leaving out *unanimous* and calling it *consent calendar*. It also provides that if a bill is objected to and stricken from the calendar when first called up, it may again be placed on the calendar, when three objectors shall be necessary to remove it from the calendar the second and last time.

bill by title the motion shall not be submitted to the House unless seconded by a majority. If such motion fails of a majority, it shall immediately be stricken from the calendar and shall not be thereafter placed thereon. If a majority do second the motion, debate on such motion shall be limited to twenty minutes, one-half thereof in favor of the proposition and one-half in opposition thereto. Such motions shall require for their adoption an affirmative vote of a majority of the membership of the House. Whenever such motion shall prevail the bill so taken from the consideration of a committee shall thereupon be placed upon its appropriate calendar and called up on the call of committees from which any bill has been taken. It may be called up for consideration by any member prior to any bill reported by such committee at a date subsequent to the discharge of said committee, provided, no member shall have upon the calendar more than two motions at the same time."[1]

SEC. 1217. After bills have been reported by committees and distributed to the proper calendar the next important step is to lift them from the calendar for consideration.

COMMITTEE CONTROL OF BILL

SEC. 1218. In this connection it should be noted that after a committee considers and favorably reports a bill, the committee retains control of the bill through all its subsequent stages to its adoption or rejection and it can only be taken up for consideration and advanced on the authority of the committee reporting it. The original introducer of the bill has no control over it whatever. In the future progress of the bill recognition plays an important part and should be described here to give a better understanding of the practice that follows.

[1] At the opening of the 69th Congress this rule was again changed, but it has been but little improved.

RECOGNITION WHEN CONSIDERING BILLS

SEC. 1219. When the House proceeds to consider bills, instead of recognition being based on the rights of the individual members, it is transferred to **the recognition of the importance of the pending business.** Discretion in recognition is lodged in the Speaker and there is no appeal from his recognition, but he is not entirely a free agent in determining who is to have the floor, in debate on bills. He must follow the rules and practice of the House, namely: When the order of business brings before the House a certain bill he must first recognize the member representing the committee that reported the bill, this is, usually, but not always, the chairman of the committee, because a chairman who opposes a bill in committee, must yield his right to recognition to a member who favored the bill. The member recognized by the chair first, whether he be the chairman, reporter, or other friendly member of the committee entitled to such recognition **is said to be in charge of the bill on the floor.** The member in charge is entitled to prior recognition at all times, at all stages of the bill, for motions to expedite it and for debate. The member who introduced the bill has no claims for prior recognition opposed to claims of members of the committee reporting it.

(A) This prior right of recognition of members of the committee holds good for amendments as well as general debate.

(B) Although another member may rise, seeking recognition to offer amendments to a bill, the Speaker will recognize the member in charge, even though he does not seek recognition to offer amendments authorized by the committee to perfect the text of the bill. On one occasion it was objected that the member was offering his individual amendments and not amendments authorized by the committee. The Speaker overruled

the objection and said: **"It has always been held in the House that the member in charge of a bill is entitled to prior recognition to offer amendments and for allowable motions to expedite the bill."** "If such amendments are offered in behalf of and on authority of the committee they are much more strongly commended to the House." ("That is to say, he may offer his own amendments but they will not have the same weight with the House as they would if considered by committee and authorized.")

(B) In a case where a proposition is brought directly before the House by a member the mover is entitled to prior recognition for motions and debate. In awarding recognition the Speaker alternates between those for and those against the pending proposition. Example, after the Speaker first recognizes the member in charge of the bill who represents the majority of the committee, he then recognizes a member of the minority or one who is opposed to the bill and so on **alternating down through the committee.**

(C) A member of a committee having occupied the floor in favor of the pending proposition and no member of the committee wishing to oppose it, the Speaker recognizes a member opposed to the measure but not of the committee.

(D) It is permissible for a member of the committee in charge of a bill to debate it and then resign his control of the measure to the member who introduced it. Such member then has control until he loses it by adverse action of the House. This may be done even though the introducer is not a member of the committee reporting the bill. In a case where no member of the committee desires or they all refuse to oppose a bill the Speaker recognizes and gives control to the first member of the House who rises in opposition.

(E) A member having charge of a bill on the floor may lose his right of control, and to prior recognition

under the following conditions: The right of prior recognition passes to the opponents of a measure, if a motion to direct or control consideration of the subject offered by the member in charge is negatived by the House, e. g., defeat of the motion for the previous question, a negative vote on the recommendation of the committee reporting the bill, a negative vote on a motion of a member reporting a conference report.

SEC. 1220. Subsequent stages and consideration of bills is controlled by the rule fixing the order of business and the rules governing calendar Wednesday and the morning hour and procedure in committee of the whole. Therefore it would seem proper before proceeding to the actual consideration of a bill we should insert and describe the order of business, also the allowable interruptions that may intervene. Business in the committee of the whole is fully treated in that particular chapter in this volume.

ARRANGEMENT OF BUSINESS RULE XXIV

SEC. 1221. The daily order of business shall be as follows:

First: Prayer by chaplain.

Second: Reading and approval of the Journal.

Third: Correction of reference of public bills.

Fourth: Disposal of business on the Speaker's table.

Fifth: Unfinished business.

Sixth: The morning hour for the consideration of bills called up by committees.

Seventh: Motions to go into committee of the whole on the state of the Union.

Eighth: Orders of the day.

PRACTICE UNDER THE RULE

(A) The foregoing rule is the result of a gradual evolution from the earliest time of Congress and was not put in present form until 1890.

Orders of the day are mentioned in the order of business, but in the practice of the House they have been obsolete for many years. This rule does not, however, bind the House to daily routine, because of the practice of making certain important subjects privileged. See Rule XI, Sec. 56, XVI, Sec. 9. On any day, however, when the order of business is interrupted by a privileged matter, the order of business goes on from the place of interruption and after an adjournment the House begins again at the beginning. While privileged matters may interrupt the order of business, they may do so only with the consent of a majority of the House, expressed as to appropriation bills by the vote of going into the committee of the whole to consider such bill, and as to conference reports, questions of privilege by raising and voting on the question of consideration. The only exception to the principle that a majority may prevent interruption is contained in Rule XIV, Sec. 7, which provides for a call of committees on Wednesdays.

(B) With this combination of an order of business with privileged interruptions the House is enabled to give precedence to its most important business without at the same time losing the power by majority vote to go to any other bills on its calendar.

PRIVILEGED MATTERS WHICH MAY INTERRUPT THE ORDER OF BUSINESS

SEC. 1222. The privileged matters which may interrupt business are, in the order of their frequency, as follows:

(1) General appropriation and revenue bills. (Rule XVI, sec. 9.)

(2) Conference reports. (Rule XXVII, sec. 1.)

(3) Special orders reported by the committee on rules for consideration by the House. (Rule XI, sec. 56.)

(4) Consideration of amendments between the Houses after disagreement.

(5) Questions of privilege. (Rule IX.)

(6) Privileged bills reported under the right to report at any time. (Rule X, sec. 56.)

(7) Call of committees on Wednesdays for bills on Union calendar. (Rule XXXIV, sec. 7.)

(8) Private business on Fridays. (Rule XXIV, sec. 6), Clark's Digest, pp. 390-391.

PROCEDURE AT OPENING OF DAILY SESSION

SEC. 1223. Having examined the rules of procedure we will proceed with the further consideration of bills after reaching the calendar. Let us assume that the day is Tuesday, the speaker satisfied of the presence of a quorum, calls the house to order and calls on the house chaplain for prayer. Then he directs the clerk to read the journal; at its conclusion if no one offers corrections, he announces, without objection the journal stands approved as read. Before approval motions are in order to correct erroneous references of bills which is usually accomplished as follows: "I move that the committee on judiciary be discharged from consideration of H. B. No.———— and that it be properly referred to the committee on Taxation." This being merely a change of reference, it requires but a majority vote. Frequently the Speaker without objection orders such corrections if they are brought to his attention. If there are no corrections to be made the Speaker proceeds to dispose of business on his table. Any errors in recording votes, or any other error in making the journal are subject to correction at this time.

SEC. 1224. Next in the order of business is the dispo-

[1] No interruptions may occur that are not provided for in the rules,

sition of business that has accumulated on the Speaker's table under the provisions of the following rule:

DISPOSAL OF BUSINESS ON SPEAKER'S TABLE

SEC. 1225. Rule XXIV, Sec. 2. Business on the Speaker's table shall be disposed of as follows: Messages from the President shall be referred to the proper committee without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions and messages from the Senate may be referred to the appropriate committees in the same manner and the same right of correction as public bills presented by members; but the House bills with Senate amendments which do not require consideration in a committee of the whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in committee of the whole, may be disposed of in the same manner on motion directed to be made by such committee.

PRACTICE UNDER RULE

SEC. 1226. Such portions of messages from the Senate as require action by the House, all messages from the President except those transmitting his objections to bills, and all communications and reports from heads of departments, go to the Speaker's table when received, to be disposed of under this rule, all the President's messages and such portions of Senate messages as, being House bills with Senate amendments, do not require consideration in the committee of the whole are laid before the House for action, but communications other than messages from the President, all portions of Senate messages requiring consideration in committee of the whole and Senate bills of all kinds (with the exception noted in the rule) are referred to the appropriate standing committees under direction of the Speaker, without action by the House.

(A) A House bill returned with Senate amendments involving a new matter of appropriation, whether with or without a request for a conference, is referred directly to a standing committee, and on being reported therefrom is referred directly to the committee of the whole. A Senate bill to come before the House directly from the Speaker's table must conform to the conditions prescribed by the rule, and must come to the House after and not before the House bill "substantially the same" has been placed on the House calendar. House bills must be correctly placed on the House calendar. In determining whether a House bill is substantially the same as Senate bill, amendments recommended by House committees must be considered. This rule applies to private as well as to public Senate bills and to resolutions as well as to bills. Although a committee must authorize the calling up of the Senate bill, the actual motion need not be made by a member of the committee. Authority of committee to call up a bill must be given at a formal meeting of the committee. (Clark's Digest, p. 392.)

SEC. 1227. Having disposed of the business on the Speaker's table the house is ready to proceed to its unfinished business of the preceding day or that has come over from prior sittings. The disposition of unfinished business is governed by the following rule:

UNFINISHED BUSINESS

SEC. 1228. Rule XXIV. "The consideration of unfinished business in which the House may be engaged at an adjournment, except business in the morning hour shall be resumed as soon as the business on the Speaker's table is finished, and at the same time of day thereafter until disposed of, and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules."

PRACTICE UNDER RULE

SEC. 1229. The business in which the House may be engaged at an adjournment means, literally, business in the House, as distinguished from the committee of the whole, and it further means business in which the House is engaged in its general legislative time, as distinguished from the special periods set aside for special business, like the morning hour for calls of committees, Fridays, for private bills, etc. In general, all business unfinished under the rule, but there are a few exceptions. A motion relating to the order of business does not recur as unfinished business on a succeeding day, even though the yeas and nays were ordered on it. The question of consideration also, when not disposed of at an adjournment does not recur as unfinished business on a succeeding day.

(A) When the House adjourns before voting on a proposition on which the previous question has been ordered, either directly or by the terms of a special order, the question comes up the next day immediately after the reading of the Journal, regardless of the requirements of the rule for the order of business. If several bills come over in this manner, they have precedence in the order in which the several motions for the previous question were made. The rule excepts by its terms certain classes of business which are considered in periods set apart for classes of business, viz.: (a) Bills considered in the morning hour for the call of committees.

(1) Bills in committee of the whole.

(2) Private bills considered on Fridays.

(3) Bills brought up under rule setting apart days for motions to suspend the rules. A bill brought up in the morning hour and undisposed of when the call ceases for the day remains as unfinished business in the morning hour, that is, it is considered when the House next goes to a call of committees. Business unfinished when the committee of the whole rises remains unfinished; to be first

considered when the House next forms the committee of the whole to consider that business. Private bills unfinished go over to the next Friday and must be considered before the motion to go into the committee to consider other private bills. But when public business is considered on Friday, the unfinished business goes over to the next legislative day. Bills going over from calendar Wednesday with previous question ordered, should be disposed of on the next legislative day.

SEC. 1230. Having disposed of its unfinished business and assuming no interruptions will occur, the House is ready to proceed to the business of the day, the consideration of bills on its House calendar. Therefore it enters its morning hour to consider bills authorized by committees to be called up under the following rule:

SEC. 1231. Rule XXIV, Sec. 4. **The Morning Hour for the Call of Committees.** After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order, and then select committees and each committee when named may call up for consideration any bill reported by it on previous day, and on the House calendar and if the Speaker shall not complete the call of the committees before the House passes to other business, he shall resume the next call where he left off giving preference to the last bill under consideration. Provided, that whenever any committee shall have occupied the morning hour on two days, it shall not be in order to call up any other bill until the other committees have been called in their turn.

PRACTICE UNDER RULE

SEC. 1232. The foregoing rule is known as the morning hour rule. Originally the morning hour was a fixed period of sixty minutes. The rule relates only to such bills as are on the House calendar, and the hour is not limited to sixty minutes, thus enabling a bill once taken up to be concluded, in other words, it does not terminate

until the call is exhausted or until the House adjourns or votes to go into the committee of the whole, which motion must be made at the end of sixty minutes. Before the expiration of the sixty minutes, the Speaker sometimes declines to permit the call to be interrupted even by unanimous consent, when the business for which the call is interrupted is concluded, the call is resumed unless there be other interrupting business, or the House adjourns.

(A) A bill once brought up on the call continues in that order of business until disposed of, unless withdrawn by authority of the committee before action which puts it in possession of the House.

(B) It may not be made a special order for a future day by a motion to postpone to a day certain. In order to be called up in this order a bill must actually be on the House calendar and properly there, in order to be considered. In case the authority of a committee to call up a bill is disputed the Speaker does not consider it his duty to decide the question but has made decisions on statements from the chairman and other members of the committee. (Fess' Digest.)

SEC. 1233. Rule XXIV, Sec. 5. **Interruption of the Call of Committee by Motion to go into Committee of Whole.** After one hour shall have been devoted to the consideration of bills called up by committees, it shall be in order, pending consideration thereof to entertain a motion to go into the committee of the whole House, or when authorized by a committee to go into the committee of whole to consider a particular bill, to which motion one amendment only designating another bill, may be made, and if either motion be determined in the negative, it shall not be in order to make either motion again until the disposal of the matter under consideration or discussion.

PRACTICE UNDER RULE

SEC. 1234. The words of this rule "after one hour" has been interpreted to mean a less time in case the call

of committees shall have exhausted itself before the expiration of one hour, but not otherwise, after the House has been in committee of the whole under this order and has risen and reported, and the report has been acted upon by the House, other motions to go into the committee of the whole to consider other bills, are in order. The motion to go into the committee generally may be made by the individual member, **but when it is proposed to designate a particular bill, he must have the authority of a committee.** The amendment to the motion to consider a particular bill must refer to a bill on the union calendar. This order of business is not used for consideration of privileged bills, but is used entirely for unprivileged bills.

CONSIDERING BILLS IN MORNING HOUR

SEC. 1235. The morning hour is entered upon by the Speaker directing the clerk to call the roll of the committees. When the name of a committee is called, say, education or temperance, a member having been previously authorized by such committee, in a meeting of the committee, to do so, arises in his place and announces the number and subject of a bill the committee wishes to be taken up and considered. The bill so called up must be on the calendar of the House as distinguished from the other calendars and it also must be a bill previously considered and reported by that committee and regularly on the House calendar.

SECOND READING OF BILL

(A) It will be recalled that bills have not been given a first reading, such reading being assumed by printing in the journal of the title. Therefore we have reached the stage of second reading of the bill and the clerk at this time reads the bill in full unless such reading is dispensed with.

CONSIDERATION OF COMMITTEE AMENDMENTS

(B) At the conclusion of the second reading **and before debate the clerk reads any amendments that may have been recommended and reported by the committee. These amendments are subject to debate and amendment.** When the committee amendments are disposed of the bill is before the House as amended and is open to debate and further amendment. At this point and frequently when committee amendments are taken up, it is the custom to move the previous question on all motions and amendments to the adoption or rejection of the bill, if affirmed the effect is to preclude debate and cut off further amendments and bring the House to a vote on committee amendments. (For a detailed discussion of debate and amendments see under those chapter titles this volume.)

ENGROSSMENT AND THIRD READING

SEC. 1236. When the House has perfected the bill and is satisfied with the text, the Speaker, without cooperation of a mover from the floor, puts the question of engrossment and third reading as one question, thus: **"Shall the bill be engrossed as amended and read the third time?"**[1] If affirmed the bill is read a third time at once, by title, and may be further debated **but amendments are received only by unanimous consent** and of course debate would be precluded if the previous question has been ordered. Here again the second and third reading being on the same day a suspension of the rules, if no one objects, is assumed.

PASSAGE

(A) If further debate does not occur, at this point or after debate the Speaker without motion from the

[1] For full explanation of the term Engrossment see Part III of this volume.

floor puts the question "Shall the bill as amended pass?" The vote is taken by voice unless the yeas and nays or a division of the House is **demanded. All amendments to bills in the House must be made prior to engrossment and third reading except they may be offered after engrossment by unanimous consent.** The title is now perfected if necessary and approved.

TITLE OF BILL

SEC. 1237. When a bill has been read a third time and is being considered, amendments to the title are not in order until after the passage of the bill.

SEC. 1238. Unless amendment is offered or a separate vote demanded in the House, the title of a bill is assumed to be agreed to with the passage of the bill. The Speaker usually announces "Without objection this title will remain the title of the bill."

MORNING HOUR

SEC. 1239. The morning hour we have been working under is not a fixed period of sixty minutes but continues until adjournment or the call is exhausted, or the House on motion at the expiration of the sixty minutes' period may move to go into the committee of the whole on state of the union.

If this motion is affirmed, the House closes its morning hour and lays aside the House calendar and if the motion was to go into the committee to consider bills generally they proceed with bills in their regular order on the calendar on the state of the union, generally called the union calendar. If committee authority has been given the motion may be made to go into the committee to consider a particular bill. An amendment is in order to this motion designating another bill and this is the only motion in order at this time. The morning hour to consider bills notwithstand-

ing the rule is not used as frequently since the adoption of section 7 of this rule, as it was in former years, however the practice under section 7 is substantially the same with the exception under the latter rule bills may be called up on authority of committee from either the House or union calendar. (If a bill is called up on the union calendar, the House automatically resolves into the committee of the whole to consider the bill.) These proceedings may be interrupted by privileged matters and when such are disposed of the business is resumed where the interruption took place.

CONSIDERING BILLS IN COMMITTEE OF WHOLE

SEC. 1240. When the House on motion goes into committee of the whole to consider bills the bill is read the second time in full in committee but is not read a second time again in the House. After second reading general debate is had and it is the custom for the House to fix the time to be spent in general debate, otherwise the hour rule prevails except on amendments which are controlled by the five minute rule. (See chapter on committee of whole.)

DISPOSING OF COMMITTEE AMENDMENTS

SEC. 1241. Following general debate committee amendments, if any, are disposed of, then the bill is read by sections for amendment. The House at present has no rule requiring the reading by sections but the practice was formed under an old rule dating back to 1798, but in a revision of the rules this particular rule by mistake was omitted, but the House continues strictly to follow the practice as provided in the old rule. (This is not only true in this particular case but in many others the present practice is founded upon an old rule that has disappeared.)

CONSIDERATION IN HOUSE

SEC. 1242. When the committee of the whole has gone through the bill it is then in order to move, that **the committee rise and the chairman report the bill as**

amended to the House. It is the custom for the House to proceed to the immediate consideration of the bill and amendments. First, the question is taken on agreeing to the amendments **en bloc,** but a division may be demanded and a separate vote had on each amendment. If the amendments are agreed to, other amendments may be offered but this is unusual. After agreeing to the committee amendments the Speaker puts the question on engrossment and third reading, if this is affirmed and the previous question is not ordered there may be debate. If no debate ensues the question is put at once "Shall the bill pass?"

VOTING

(A) After general debate is completed and all amendments are in the Speaker puts the question without motion from the floor. "Shall the bill pass?" The vote is then taken to secure the answer of the House. The vote in Congress is always taken on passage of bills by voice vote unless one-fifth of a quorum demands a yea and nay vote.

SEC. 1243. The reader of these pages has no doubt observed that the stages of bills follow one after another without loss of time and long unnecessary delays between the various stages of a bill.

Bills sent to the senate go through the same stages in that body but the method of reaching the several stages is entirely different. Business on Wednesday proceeds under the rule known as the calendar Wednesday rule and if a bill is called up that is on the union calendar, the House is automatically thrown into the committee of the whole for its consideration.

AMENDMENTS OF OTHER HOUSE

SEC. 1244. If a House bill is amended in the Senate it is returned to the originating House for concurrence in such amendments. If they refuse, it is the custom for the Senate to insist on such amendments, and request a

committee of conference, but the better practice seems to be to merely insist, and permit the other House to further insist on its disagreement and request a committee of conference. Occasionally the amending House recedes from its amendments and the bill by that act is passed for the reason the two Houses are then agreed on the text of the bill which they must do before the bill is passed. If neither House recedes and the committees of conference are appointed, these committees, or managers as they are called, must confine themselves in their consideration to the matter of difference between the two Houses and may not consider or change the text of the bill that has been agreed to by both Houses. When they have reached an agreement they vote as separate and distinct committees, and then each committee reports the conclusions to their respective Houses, and this report is not subject to amendment, in either House, because of necessity there must be an end to all things. If both Houses agree to the report, the bill is ready for enrollment and is sent to the committee in charge of this work.

ENROLLED BILL DEFINED

SEC. 1245. "An enrolled bill is not the bill considered and adopted by the concurring action of the two Houses of Congress, but it is a substituted (printed duplicate) copy, to take the place of the original and **becomes the final expression of the legislative will.** Its accuracy is secured by examination, comparison and report of a committee in each House and each House ratifies that it accepts and adopts the enrolled bill as the embodiment of its own action and the correct expression of its will. Ratification is the act of the House and presiding officers in attesting such acts on behalf of its authority." (Kentucky Supreme Court.)

FINAL ACTION

SEC. 1246. After enrollment the bill is reported first to the House for authentication by the Speaker, when he

signs it, it is then transmitted by message to the Senate and when signed by the President of that body it is returned to the enrollment committee, which delivers it to the President for his approval or disapproval. If he approves he notifies Congress of such approval and files it with the Secretary of State, and thus we have completed the process of Lawmaking, except, if the President disapproves it is then necessary for each House to reconsider the bill and by a two-thirds vote pass the bill notwithstanding the objections of the President, or it will not become a law.

RULES GOVERNING ENROLLMENT[1]

SEC. 1247. If a bill is passed before the appointment of the committee on enrollment it is enrolled by the clerk and presented directly by him to the Speaker for his signature.

(A) When a bill passes, the last House acting upon it should notify the other House of its action by message and send the bill to its branch of the joint committee on enrollment.

(B) The Speaker of the House always signs enrolled bills first, therefore, the Senate enrollment committee should send its enrolled bills to the committee on enrolled bills in the House to be presented to the Speaker for signature, after which the clerk returns them with the House bills and a message to the Senate for the signature of the president of the Senate.

(C) It is the custom for the committee on enrolled bills to present to their respective Houses for entry in the journal the date bills are presented to the President for his consideration.

(D) Bills of Congress are enrolled by printing on parchment. Bills originating in the House are enrolled by the House enrolling clerk those originating in the Senate

[1] For a full explanation of the term Enrollment refer to Part III of this volume.

by the enrolling clerk of that body. The method of enrollment is described elsewhere in this volume.

(E) The committee on enrollment is authorized to correct any errors they may find in the enrollment of a bill.

RULE FOR WEDNESDAY'S CALL OF COMMITTEES

SEC. 1248. Rule XXIV, Sec. 7. On Wednesday of each week no business shall be made in order, except as provided by par. 4 of this rule, unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine. On such a motion there may be debate not to exceed five minutes for and against. On a call of committees under this rule bills may be called up from either House on the union calendar, excepting bills which are privileged under the rules, but bills called up from the union calendar shall be considered in the committee of the whole House on the state of the Union. This rule shall not apply during the last two weeks of the session. It shall not be in order for the Speaker to entertain a motion for a recess on any Wednesday except during the last two weeks of the session.

PRACTICE UNDER RULE

(A) When a bill on the union calendar is called up on the calendar, Wednesday, the House automatically resolves itself into the committee of the whole. When there is unfinished business on the union calendar the Speaker declares the House in committee of the whole without motion. Question of consideration may be raised in the committee of the whole, after the House has automatically resolved itself into the committee of the whole to consider a bill. In a ruling Speaker Reed said: "The House has the right to do as it pleases about any bill, and should have a chance to express its opinion. If it does not want to consider it, it has a perfect right to say it will not consider it. That is no abridgment of anybody's privilege. It is to maintain the integrity of the House."

(B) On another occasion Mr. Reed said: **"The purpose of all rules is to expedite business, not retard it. That is the correct light in which to examine them all."**

(C) The question of consideration is always in order against any bill called up.

RULE FOR READING, ENGROSSMENT AND PASSAGE OF BILLS

SEC. 1249. Rule XXI, Sec. 1. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be: "Shall the bill be engrossed and read a third time?" and if decided in the affirmative it shall be read the third time by title, unless the reading in full is demanded by a member, and the question shall then be put on its passage.

RULE FOR REGULAR ORDER ON FRIDAYS

SEC. 1250. Rule XXIV, Sec. 6. On Friday of each week, after the disposal of such business on the Speaker's table as requires reference only, it shall be in order to entertain a motion for the House to resolve itself into the committee of the whole to consider business on the private calendar in the following order: On the second and fourth Fridays of each month, preference shall be given to the consideration of private pension claims and bills removing political disabilities and bills removing the charge of desertion. On every Friday except the second and fourth the House shall give preference to the consideration of bills reported from the committee on war claims and the committee on claims alternating between the two committees.

PRACTICE UNDER RULE

(A) Under this rule the unfinished private business must be considered before the motion to go into the com-

mittee of the whole is in order. This rule does not interfere with highly privileged motions to go into the committee of the whole to consider appropriation or revenue bills which may be made immediately after the reading of the Journal on Fridays as on other days and at any time of the day has precedence of the motion to go into the committee of the whole to consider the private calendar.

SEC. 1251. It is the practice and right of the Speaker to decline to recognize a member for a motion to suspend the rules, **but they do not have such right as to privileged motions** that are in order under the rule.

SUSPENSION OF RULES—FIRST AND THIRD MONDAY BUSINESS

(Rule of House)

SEC. 1252. No rule shall be suspended except by a vote of two-thirds of the members voting, a quorum being present; **nor shall the Speaker entertain a motion to suspend the rules except** on the first and third Mondays of each month, preference being given on the first Monday to individuals and on the third Monday to committees and during the last six days of the session.

A motion to suspend the rules, shall before being submitted to the House, be seconded by a majority by tellers, if demanded. When a motion to suspend the rules has been seconded it shall be in order before the final vote is taken thereon to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to such proposition and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate. (Rule XXVII.)

(A) Under the foregoing rule recognition for motions to suspend the rules is discretionary with the Speaker on the two days mentioned. On all other days the motion

to suspend the rules can be admitted only by unanimous consent and one objection prevents it being entertained by the Speaker. (Cannon, Feb. 23, 1906.)

COMMITTEE ON DISTRICT OF COLUMBIA

SEC. 1253. The second and fourth Monday in each month is set aside to dispose of business of the committee on the District of Columbia.

SEC. 1254. The foregoing suspension rule should be considered in the light of the fact that it does not provide for suspension of rules to arrange business for a future time, but to dispose of business at once. That is, this rule does not specifically deal with the simple motion but the qualified motion, coupled with other matter, in particular to suspend and pass or adopt. It is simply a method to reach and dispose of business on the calendar, instead of permitting it to take the regular course. This qualified motion is not in order except as specified in the rule or by unanimous consent.

DEMAND FOR FULL READING OF BILL

SEC. 1256. The right to demand the full reading of the engrossed bill, exists only immediately after it has passed to be engrossed and before it has been read a third time by title, or the yeas and nays ordered on its passage. The demand for the reading of an engrossed bill, lays the bill aside until it can be engrossed. A special order does not deprive a member of his right to demand the reading of an engrossed bill, and a privileged motion may not intervene before the third reading. (Clark, Sec. 812.)

CHAPTER XXVIII

OF COMMITTEE OF WHOLE

(Origin of)

SEC. 1257. The committee of the whole had its birth in the time of the Stuarts and was the result of the effort of the House of Commons to suppress the interference of the King in the transaction of its business, especially in money matters.

(A) In the early history of Parliament the King selected and appointed the speaker of the House of Commons, but now the House elects and the King confirms or rejects such appointment. When it was the unquestioned right of the King to appoint the speaker, of course his selection was usually a man who would favor the King as against the House and such appointees were under constant suspicion of being talebearers to the King. To rid themselves of the King's agent they created the **committee of the whole** in which to transact business. In this committee they selected their own **presiding officer and dismissed the King's agent.**

(B) The **committee of the whole is merely the entire membership of the House acting as a committee, with a chairman presiding, instead of the speaker.**

FORMING COMMITTEE OF WHOLE[1]

SEC. 1258. The procedure of passing from a House into a committee of the whole is simple and accomplished by an act of the body itself. By the simple mo-

[1] This is the method employed by Congress to transact the larger part of its business.

tion that the House do now or at other specified time "resolve itself into the committee of the whole for the purpose of" (here state purpose) or to consider business generally. This motion **is neither debatable nor amendable.**

(A) If this motion prevails the speaker at once leaves the chair and indicates the chairman of the committee by giving to him the gavel. The chairman takes the speaker's chair and the committee is then in session.

CLERK OF COMMITTEE

SEC. 1259. The **assistant clerk** of Parliament acts as clerk of the Committee of Whole, but in this country the **clerk** continues and serves the committee, also the sergeant-at-arms serves in the committee, both under the direction of the chairman.

PLACE OF SPEAKER IN COMMITTEE OF WHOLE

SEC. 1260. When the committee is formed the Speaker takes a seat with the members and remains in committee, so that, if for any reason his presence is desired in the chair, **he may without delay resume it,** which he usually does **in cases of extreme disorder,** or **lack of control by the chairman.** When the Speaker takes the chair, the committee is **dissolved** and the **House resumed.**

CLOSING AND LIMITING GENERAL DEBATE

SEC. 1261. **The previous question is not in order in committee of the whole** and it has no authority within itself to **close or limit general debate.** When the House places a limitation on general debate in committee, **the committee may not extend the time even by unanimous consent.**

(A) When a motion is made to resolve into the committee of the whole, it is in order and customary

pending such motion to move that general debate in the committee **be limited** to one minute, or one-half hour, or other time as may be desired.

MOTION TO LIMIT GENERAL DEBATE HAS PRECEDENCE

(B) The motion to limit general debate always takes precedence of the motion to resolve into the committee of the whole and is to be first decided. The motion to limit debate **is not debatable** but is **amendable** and the previous question is sometimes moved on this motion to prevent amendment.

ACTION WHEN HOUSE FAILS TO LIMIT DEBATE

(C) Frequently when the House neglects to limit debate before going into the committee, they move to **rise and request the House to fix limitation on debate, and then return into committee.** It is also in order for one member to make both motions at the same time, thus, **I move that the House resolve itself into the committee of the whole to consider the bill of the Senate No. ..... and pending that motion I move that general debate shall be limited to one hour"** (or other time).[1]

(D) The committee of the whole may by unanimous consent determine the time of general debate therein, when the House has not fixed it, but it may not be extended if fixed by the House, even by unanimous consent. General debate must be closed before amendments are offered **and it is closed by the fact that no member offers to participate** further.

(E) The term **"general debate"** means time that may be used to discuss the main question, the time is usually divided one-half to the proponents and one-half to the opponents. General debate may not be confined to a particular section or paragraph but must embrace the entire bill.

[1] In this instance the question would be put first on limiting debate in committee and then resolving into committee of the whole.

(F) After general debate is completed or the time limit has expired the clerk reads the bill by sections for amendment and debate on the pending section. Debate on amendment is controlled by what is known as the five minute rule.

RULE FOR FIVE MINUTE DEBATE

SEC. 1262. In the committee of the whole, a **member** offering an amendment or an amendment to an amendment **is allowed five minutes** to discuss such amendment and then the **chair must recognize a member opposed** to the amendment, who may speak **five minutes** and **thereafter no further debate is allowed on such amendment.** If no further amendment is offered the chair directs the reading of the next section.

(A) An amendment once presented in committee of the whole may not be **withdrawn except by unanimous consent.** The purpose of this restriction is to prevent members from speaking five minutes, then withdrawing the amendment to introduce another and continue speaking on the last amendment offered.

CLOSING FIVE MINUTE DEBATE

SEC. 1263. A rule of the House provided the committee with authority to **close five minute debate** by permitting the use of the simple motion "to close debate," which motion is not in order until one section of the bill is disposed of. The motion is not **debatable.**

When the motion to close five minute debate prevails, its effect is only to prevent **further debate on amendments** that may be offered, but it does not preclude further amendments being offered, which must then be **decided without debate.**

(A) It is not in order to move to close debate in committee of whole, on a section, before such section is reached, nor is it in order until debate has actually begun on the section.

(B) It is not in order for the House to limit general debate in committee of the whole by confining debate to certain sections, but the motion to limit debate must extend to the entire subject.

COMMITTAL PRO FORMA

SEC. 1264. Committal **Pro Forma** is the English device employed for reshaping a bill that has been introduced and is unsatisfactory.

The bill is referred to the committee of the whole House. The bill is open generally for amendments, which are accepted without discussion or vote. When all amendments are in, the chairman puts the question that he report the bill and amendments. The House then orders the bill printed as amended. When the bill is printed it is again committed and considered in the usual way in committee of the whole.

AMENDMENTS FROM COMMITTEE OF WHOLE

SEC. 1265. If the committee shall amend a clause and subsequently strike out the clause as amended the first amendment thereby falls and cannot be reported to the House and voted upon.

(A) If the committee of the whole amend a paragraph and subsequently strikes out the paragraph as amended, the perfecting amendments fall, and are not reported to the House or voted on in the House, even though the House rejects the motion to strike out the paragraph. (Gillette, July 27, 1921.)

(C) A negative vote to lay aside with favorable recommendation in the committee of the whole does not amount to an affirmative vote to report the bill adversely.

HOUSE RULES TO GOVERN IN

SEC. 1266. A rule of the National House provides that the rules of the House shall govern in the commit-

tee of the whole so far as they may be applicable, but speakers without exception have held, that the following are not applicable in committee of the whole, roll calls[1] or record votes, or the intervention of the motions to adjourn, refer or commit, lay on the table or postpone, but the committee may recommend that such action be taken by the House. The previous question is not admitted under any circumstance. Because of these uniform rulings it was found necessary to provide a means to close debate in the committee **without the use of the previous question.** Ruling on the use of the previous question in the committee, Speaker Blaine, said: "Among the principal reasons for considering bills in committee of the whole is to get rid of the previous question.[1]

SEC. 1267. The consideration of a bill in committee of whole in Parliament is a very thorough and complete process, bills have frequently been considered in as many as forty sittings of the committee before report was made.

RISING OF COMMITTEE OF WHOLE

SEC. 1268. When the committee of the whole completes its consideration of any pending matter and has further business to engage its attention, they then decide upon the nature of the **recommendation or report to be made to the House and then move to lay aside** the pending matter and recommendation and proceed to the other business. The motion to lay aside a bill with favorable recommendation is in order at any time after the five minute debate has begun.

(A) If its business is complete they move to **rise and the chairman** report to the House any recommendation agreed upon.

SEC. 1269. Whenever a bill is reported from the committee of the whole House with an adverse recommenda-

[1] The motion "To Close Debate" is permitted in the Committee of Whole, but not in the House. The effect of this motion is not so far reaching as the Previous Question.

tion, and such recommendation is disagreed to by the House, the bill shall stand recommitted to said committee without further action by the House. Before the question of agreeing is put to the House it shall be in order to entertain a motion to refer the bill to any committee, with or without instructions, and when again reported to the House it shall be referred to the committee of the whole without debate.

MOTION TO RISE

SEC. 1270. A quorum of a committee is not necessary to move that the committee rise, but when the committee rises without a quorum, it may not report to the House the bills it has acted upon and such bills as have been considered and laid aside remain in the committee until the next occasion when the committee rises without question of a quorum. The fact that the vote whereby the committee rises does not show a quorum, or that a point of no quorum had been raised without an ascertainment thereof, does not prevent a report of the bills already acted upon.

MESSAGES RECEIVED BY COMMITTEE OF WHOLE

SEC. 1271. If a message is announced from the President while the House is in committee of the whole, **the Speaker takes the chair and receives it.** In these cases as soon as the Speaker leaves the chair and the chairman takes it, the committee is resumed.

REPORT BY CHAIRMAN

SEC. 1272. If the motion to **rise and report prevails,** the chairman returns the gavel to the Speaker who immediately takes the chair and the session of the **House is thereby resumed.**

(A) The committee chairman with the report—which should be prepared by the clerk—takes his place in front

[1] Now permitted by rule.

of the clerk's desk and on being recognized makes his report. The House usually considers such report at once, but it may be deferred.

(B) If the report embodies amendments, the question is again taken on the amendments **en bloc.**

FORM OF REPORT

(C) The committee of the whole House to which was referred the bill of the House No..... has directed me to report that they have come to the following **resolution** (agreement) amend the bill as follows (here follows amendment) and then pass the bill.

(Signed) John A. Hadden,
Chairman.

REPORT WHEN BUSINESS IS NOT COMPLETED

(D) When the committee rises before completing its consideration of a bill, the form of report would be:

The committee of the whole, to which was referred the bill of the Senate No. ....., having had the same under consideration have directed me to report that the committee has come to **no resolution.**

(Signed) R. R. Cross,
Chairman.

REPORTING PROGRESS

(E) The parliamentary form is to report **"Progress" but in our American practice we report the fact** that we have come to no **resolution** (agreement). Neither do we follow the old parliamentary practice requesting **leave to sit again,** but we wait an opportune time and then move again to resolve into the committee to complete the consideration of the unfinished business.

(F) The committee of the whole **may be discharged** from further consideration of any matter referred to it.

JOURNALIZING ACTION OF COMMITTEE OF WHOLE

SEC. 1273. The only entry in the House journal of a meeting of the committee of the whole is the fact of consideration therein and the amendments thereof, the following will be sufficient journal entry for the entire proceeding:

(A) On motion of Mr. Ball, the House pursuant to its order, resolved itself into the committee of the whole House for the consideration of the bill of the House No. ..... and after some time spent therein the speaker resumed the chair and Mr. Carpenter, chairman of the committee, reported as follows: (Here follows report.)

OTHER RULES GOVERNING

(B) The House having decided to resolve into the committee of the whole, incidental motions and proceedings relative to unfinished business of the House are in order. (Henderson.)

(C) The committee of the whole may not meet as other committees **on their own motion.** It is always created and given life by **an act of the House itself.** Therefore, before there can be any meeting of the committee of the whole, the **House must be sitting** and resolve into such committee.

(D) Nothing done in committee is reported to the House except those matters the committee **specifically direct** to be reported. If the House should adjourn or recess immediately following the rising of the committee of the whole and receiving its report, when it reconvenes it would not be as a committee but as the House, and before the committee of the whole could proceed as such, it would be necessary for the House to **resolve into the committee** of the whole again.

(E) The committee of the whole is not bound to accept as its chairman, the selection of the speaker but may select its own chairman.

(F) A meeting of the committee of the whole is brought to a close by a motion to **"Rise." It may not adjourn or recess.**

PURPOSE OF COMMITTEE OF WHOLE

SEC. 1274. The main purpose of considering bills in committee of the whole is for amendment. The universal practice of parliamentary bodies in England and the United States (Ohio possibly being the only exception) is that a bill, after it has been read a second time shall be taken up by sections for the purpose of amendment, and each section passed upon, and amendments thereto, offered, discussed, considered and voted upon. This action, of course, always terminates, in fact **precludes general debate,** as it is called.

(A) Whenever it is agreed to take up a bill for amendment and consider same by sections, read the sections from first to last consecutively, and call the amendments to each section as it is reached, that will **terminate general debate.** Then if it be desired to put a limitation on the debate on amendments, respectively, as they are presented, the House may do that of course by adopting a three, five or ten-minute rule as may be agreed upon. **In those state legislatures that do not use the committee of the whole, bills are read for amendment on second reading.** Amendments are not permissible in general parliamentary practice, after a bill has been read a third time that is, after it has been engrossed, but, in the Ohio[1] practice bills are amended after third reading.

(B) When a bill has been gone through with by sections, it is then in order to offer amendments to the bill

[1] The Ohio practice in considering and amending bills is on third reading, while not identical it is similar to the practice of our National House, in "quasi committee of the whole." The Ohio House and Senate in an informal manner consider and amend bills in any particular on third reading. After the bill is in satisfactory shape and no further amendment desired the question is put "on passage" and without motion to that effect.

generally, that is, to any part of it under consideration. It is also open again for amendment when reported back to the House until such time as the question on engrossing and third reading and passage is taken or the previous question is ordered.

RISING OF COMMITTEE OF WHOLE AND REPORT

SEC. 1275. When debate is closed and the bill or other matter has been gone through for amendment the committee is ready for a motion to rise and the chairman to report to the House. If no such motion is proposed the committee may automatically arise, returning the gavel to the speaker and the speaker takes the chair and the House is thereby in session as soon as the speaker is in the chair, the committee chairman should take his place in front of the clerk's desk and address the speaker, and when recognized, make his report from the committee.

When the House is resumed the committee chairman is entitled to prior recognition to make a committee report. When the bill is reported with such amendments as have been agreed to in committee unless otherwise ordered by the House, the amendments are considered in gross, the bill is then read the third time, ordered engrossed and the final vote taken on passage.

METHOD OF MAKING REPORT FROM COMMITTEE OF WHOLE

SEC. 1276. As soon as the committee of the whole rises on the question that the committee arise and the chairman report the bill or other paper with the conclusion of the committee of the whole, the chairman should return the gavel to Mr. Speaker wherever he may be sitting in the committee.

The speaker should at once resume the chair and call the House to order. The chairman of the committee of the whole should immediately take a place in front of the desk of the clerk, and on being recognized by the speaker, pre-

sent his report in the usual manner. The chairman of the committee of the whole has prior right of recognition to report to the House the business of the committee of the whole, and the business reported from the committee has precedence for consideration, but the House may otherwise order.

SYLLABUS OF SPEAKERS' DECISION

SEC. 1277. The yeas and nays may be taken in the committee of whole, only to establish a quorum. It is not in order for the committee of the whole to arrange for a yea and nay vote to be taken in the House.

(A) After the House has voted to go into the committee of the whole the chair declines to entertain a motion to adjourn.

(B) When several bills are before the committee it may on motion put and carried determine an order for taking up the business before it.

(C) Except in cases wherein the rules make specific provision therefor, a motion is not in order in the House to fix the order in which business shall be taken up on the calendar of the committee.

(D) When the House agrees to the motion to go into the committee to consider a particular bill, it may not consider a different bill.

(E) A bill unfinished at a session of the committee is again in order when the House again resolves into the committee.

(F) Appropriation bills are considered in a committee of the whole by paragraphs, all other bills by sections.

(G) When, in considering a bill by paragraphs or sections, the committee has passed a particular paragraph or section, it is not in order to return thereto.

(H) In committee a motion to amend a bill has precedence over a motion to rise and report it.

(J) Under a rule limiting debate the right to explain

or oppose an amendment has precedence over a motion to amend it.

(K) A bill may not be laid aside with a favorable recommendation in committee until the reading for amendment is completed.

(L) A motion that the committee report a bill with the recommendation that it be referred may not be made until it has been read for amendments.

(M) The motion to lay a bill aside in committee is not debatable.

(N) A bill which is under consideration in committee, may not be laid aside, except to be reported to the House.

(O) A motion that a bill be reported with a recommendation to postpone is in order in the committee.

(P) A motion to report a bill with the recommendation that it do pass, has precedence of a motion recommending postponement. In committee, the motion to rise and report, has precedence of the motion to take up another bill.

(Q) In committee the motion to rise and report is not debatable.

(R) The simple motion that the committee rise has precedence of the motion to amend.

(S) Bills in committee may be reported with the recommendation that they be postponed or referred, and the latter recommendation has precedence over the recommendation that the bill do pass.

(T) The motion in committee, to lay aside a bill with a favorable recommendation is not amendable but may be displaced by a preferential motion.

(U) In committee the motion to report with a favorable recommendation, takes precedence of the motion to report with unfavorable recommendation.

(V) In committee, a negative decision on a motion to report is not equivalent to a decision to report unfavorably.

(W) In a committee a motion to report a bill with the recommendation that it lie on the table has precedence of motions recommending postponement or recommitment.

(X) Before general debate has been closed in the committee it is not in order to move to report a bill with the recommendation that it be laid on the table.

(Y) The motion to report a bill with a favorable recommendation being decided in the negative in the committee, the bill remains in its place on the calendar.

(Z) A message being announced while the committee of the whole is in session, the committee rises informally, and the Speaker takes the chair to receive it.

SEC. 1278. A quorum is not required on a motion that the committee arise.

(B) The time occupied by reading a bill in committee does not come out of the time allowed for general debate.

(C) Amendments are not offered in committee until general debate is closed. (In the National House the closing of general debate in committee does not prevent debate on amendments, it is provided for in what is known as the five-minute rule.)

(D) In debate in committee members must confine themselves to the pending subject.

(E) Unless otherwise provided by rule the quorum of the committee is the same as in the House.

(F) When a bill is reported from the committee with amendments, it is in order to submit additional amendments, but the question must first be put on the amendments reported from committee.

(G) Amendments introduced and rejected in the committee are not reported to the House.

(H) The fact that a proposition has been rejected by the committee does not prevent it from being offered as an amendment, when the subject comes up in the House.

(I) Amendments reported from the committee of the whole should be voted on in the order in which they are reported although they may be inconsistent one with another.

(J) It is the practice of the House, by unanimous consent, to act on all the amendments to a bill reported from the committee of the whole, but it is the right of any member to demand a separate vote on any amendment.

(K) The right to debate and amend a bill reported from the committee depends upon the will of the House. The recommendation of the committee of the whole being before the House, the motion to agree is considered as pending without being offered from the floor.

(L) The committee, like any other committee, may adopt and report an amendment in the nature of a substitute.

(M) Paragraphs ruled out of order in the committee on points of order are not reported to the House.

(N) When the committee makes a recommendation in excess of its powers and it is ruled out, the report and bill stand recommitted to the committee.

(O) If the committee rises because a quorum has failed the bills that have been laid aside remain in the committee until the next meeting.

(P) The fact that the vote whereby the committee rises without a quorum is not sufficient to prevent the reception of the report of the committee by the House.

(Q) The Speaker can not review any matter that occurred in the committee, not even the failure of a quorum, unless it be mentioned in the report to the House.

(R) A quorum is not required on a motion that the committee rise, but if the point of order of no quorum is raised, it should immediately rise. But in the House the

report of the committee could not be made until a quorum was present in the House.

(S) It is not in order in the House to move to postpone or otherwise consider a bill which is still in committee.

(T) A bill presumed to have been read in the committee and reported favorably therefrom is not read in full again when acted on in the House.

(U) When a bill is reported from the committee the Speaker must assume that it has passed through all the stages necessary for the report.

(V) A motion to discharge the committee of the whole from consideration of a bill is not privileged against a demand for the regular order of business.

(W) When the committee is discharged from consideration of a bill, the House, in lieu of a report from the chairman accepts the minutes of the clerk as evidence of amendments agreed to.

(X) A matter alleged to have arisen therein but not reported may not be brought to the attention of the House, even on the claim that a question of privilege is involved.

(Y) The committee of the whole, like any other committee may amend a proposition, either by an ordinary amendment, or by a substitute but such amendments must be reported to the House for its action.

QUORUM OF COMMITTEE OF WHOLE

SEC. 1279. **Rule of National House.**—Whenever a committee of the whole finds itself without a quorum which consists of **one hundred,** the chairman shall cause the roll to be called, and thereupon the committee shall rise, and the chairman shall report the names of the absentees to the House, which shall be entered upon the journal; but if on such call a quorum shall appear, the committee shall thereupon resume its sitting without further order from the House. (Rule 22, Par. 2.) The committee of the whole having risen because a quorum had failed, the

bills that had been laid aside to be reported remained in the committee until the next occasion when the committee arose without question as to a quorum. The fact that the vote whereby the committee rose did not show a quorum, is held not sufficient to prevent the reception of the report of the committee of the whole.

PROCEEDINGS IN UNITED STATES SENATE

SEC. 1280. The proceedings in the United States Senate are much different from those of the House of Representatives in fact from those of any other parliamentary body. The proceedings in the Senate are AS IF IN COMMITTEE OF THE WHOLE, or what Mr. Jefferson calls "QUASI-COMMITTEE."

AS IF IN COMMITTEE OF WHOLE IN HOUSE

SEC. 1281. In the National House bills are sometimes considered in what they term "as if in committee of the whole," which is Jefferson's "Quasi-Committee." In this practice the house continues to be a house, but transacts its business, as if they had resolved into the committee of the whole, so that whatever would be in order in the house is in order "as if in committee of the whole." The Speaker always occupies the chair. When through with the consideration of a bill, if it has been amended in this Quasi-Committee, they do not report such amendment to the house for its consideration again as does the senate. When they are through the speaker without motion or order to that effect considers the House as resumed, and immediately puts the question on passage of the bill. This practice is akin to the practice in the Ohio House and Senate on third reading of bills, **except they do not observe the formality of resolving into the "Quasi-Committee of the whole."**

(A) This procedure which had its origin in the United States Senate is occasionally employed in the House of Representatives, but only by unanimous consent. In this

procedure the speaker remains in the chair and the House continues to be a House and it is also considered a committee. All motions including the previous question are in order.

(B) When considering a question as if in committee of the whole, all motions are in order in the rule of precedence, including the previous question. (Carlisle.)

QUASI COMMITTEE OF THE WHOLE IN SENATE

SEC. 1282. In the practice of the Senate in Quasi-committee of the whole, it is the custom for the presiding officer to ask if any senator desires a separate vote taken upon any amendment. If not, the vote is taken upon the amendments together. If there are reservations, the vote is first taken on all others, and then separate votes are taken on all the amendments reserved. After progress in amending a measure in quasi-committee a motion may be made to refer it to a special committee, and, if such motion prevails, it is equivalent in effect to a motion that the committee rise, that the Senate resume itself, discharge the committee of the whole, and refer the bill to a special committee.

(A) In that case the amendments already made, fall. But if the motion falls the quasi-committee stands in **status quo.** In resolving into the quasi-committee the President does not leave the chair and the motions to adjourn, postpone and commit are in order. In fact, it is in order to do anything that the Senate may wish to do.

PARLIAMENT ABANDONS IN PART COMMITTEE OF WHOLE

SEC. 1283. The English Parliament seems to have recently conceived the same idea that has prevailed in Ohio Assemblies, almost since the foundation of the state, That, "bills **considered in standing committees need not be considered in committee of the whole."** In Parliament after second reading bills are referred to stand-

ing committees, but on motion may go to the committee of the whole. When reported by standing committee they are not then considered in committee of the whole. If bills are recommitted they go to the chairman's panel, and by that committee are referred to the proper standing committee for consideration. Motions to instruct committees may be added to the motion to commit, or the motion to instruct may be offered independently. In both Houses of Parliament the number of standing committees is small and the membership of such committees very large and a quorum is not a majority, but the number to constitute a quorum is fixed by the House, usually a very small number of the membership.

SEC. 1284. The motion to adjourn, recess, commit, postpone, (either of them) previous question, reconsideration and lay on the table are not in order nor applicable in committee of the whole.

SEC. 1285. Considering business "as if in committee of the whole" in the National House means merely that the bill will be read for amendment and debate under the five-minute rule without general debate. No report is made by the speaker but when through with reading the bill for amendment the speaker puts the question on engrossment and third reading. While acting under this procedure the house may deal with disorder, take the yeas and nays, adjourn, refer to a committee, even though the reading by sections may not have begun. It is not in order to move the previous question on a single section, but the motion to close debate on a pending section is in order. An amendment may be withdrawn at any time before action has been had on it. An amendment in the nature of a substitute for a bill is not in order until after consideration by sections has been completed. The title also is amended after the bill has been considered.

DISPENSING WITH GENERAL DEBATE IN COMMITTEE OF WHOLE

SEC. 1286. In congress before going into the committee of the whole they frequently, by unanimous consent, dispense with general debate and proceed to consider the bill for amendment under the five minute rule.

CHAPTER XXIX

DISPOSING OF AMENDMENTS OF OTHER HOUSE

PURPOSE OF CHAPTER

SEC. 1287. This chapter shows the practice of congress in disposing of amendments of the receiving house to a bill originating in the other house and the procedure in these cases is different from the ordinary practice and brings into use several motions not employed in ordinary procedure. The whole purpose of the practice herein described is to bring the two houses together upon a matter upon which they have disagreed and to finally pass a bill or other legislative proposition.

GENERAL PARLIAMENTARY LAW RESPECTING AMENDMENTS BETWEEN THE HOUSES

SEC. 1288. The practice of the American Congress in disposing of amendments of the other house is based on the practice of English Parliament as given in the rule of Mr. Jefferson as follows:

JEFFERSON RULE

SEC. 1289. "When the house (the house of commons) sends a bill to the other (the lords) the lords may pass it with amendments (and return it to the commons). The regular progress in this case is the commons disagree to the amendment (and return it to the lords, the lords then insist on their amendments and return it to the commons). The commons may then insist on their disagreement and return to the lords. The lords then adhere to their amendment and return it. Then the com-

mons insist on their disagreement. The term of insisting may be repeated as often as desired. But the first adherence by either house renders it necessary for the other to recede or adhere. When both houses adhere and neither will recede the matter is suffered to fall, but there are instances where the two houses have come to a second adherence. There must be an absolute conclusion of the subject somewhere or otherwise the transaction between the two houses would be endless. Either house is free to pass over the term of insisting and adhere in the first instance but this is not fair or respectful to the other house."

MODERN PRACTICE

SEC. 1290. The two houses of congress follow this rule as modified by the decisions of its presiding officers and sometimes dispose of differences without resorting to a conference, but the modern practice is to force the dispute into a conference at the earliest moment, therefore the practice now when a bill is returned to either house with amendments is for someone to move that the house disagree and request a committee of conference. The other house then usually insists on its amendments and agrees to the committee of conference.

DIGEST OF SPEAKER'S DECISIONS UNDER RULE

SEC. 1291. When both houses insist and neither asks for a conference or recedes, the bill is lost, also when both houses adhere the bill is lost, even though the difference be over a very slight amendment. It is in order to adhere on the first disagreement, but this action is very rare for the reason stated by Jefferson. The fact that one house has adhered does not preclude the granting of a request by the other house for a conference. It is in order for one house to recede as to its disagreement at once as to certain amendments and adhere as to others. One house having adhered at the next stage may vote to further adhere. Either house may recede from or reconsider its vote of adherence and

then agree to the amendment either with or without an amendment.

EQUIVALENT QUESTIONS ON AMENDMENTS BETWEEN THE TWO HOUSES

SEC. 1292. A bill originating and passed by one house is passed by the other with an amendment, a motion in the originating house to agree to the amendment is negatived. Is the result of this vote a disagreement? (Yes) Or must the question on disagreeing be expressly put? (No).

TWO HOUSE MOTIONS

SEC. 1293. The motions respecting amendments between the houses are designated by Mr. Scanlon as 'two-house motions; they are first, to agree; second, to disagree; third, to recede; fourth, to insist; fifth, adhere.

DIGEST OF SPEAKER'S DECISIONS IN USE OF TWO HOUSE MOTIONS

SEC. 1294. When one house refuses by vote to agree to amendments of the other it is equivalent to disagreeing, the question on disagreeing is unnecessary and is never put.

The order of precedence of these motions as given by Mr. Jefferson is recognized in congress and no matter how moved they are put to the question in the order herein set down, but a motion to amend an amendment of the other house has precedence of the motions to agree or disagree. The previous question may be moved on either of these motions and thus prevent amendment. The motion to refer or commit is not precluded by ordering the previous question.

MOTIONS TO AGREE AND DISAGREE PERFECTLY EQUIVALENT

SEC. 1295. First, to agree; second, to disagree — either of these concludes the other necessarily for the reason the positive of either is exactly equivalent to the nega-

tive of the other and no other alternative (choice) remains. When you refuse to agree the result is disagreement. The question is never put in the national house on the negative motion to disagree.

WHEN MOTION TO AGREE IS IN ORDER

Either house may move to agree (concur) or disagree (non-concur) as soon as the amendments of the other house are presented for its consideration, but such motions do not preclude the right to offer amendments. If it is desired that the house disagree to the amendments it is the practice to acquaint the house of that fact by moving to disagree and either of these motions may be accompanied with amendments. However, the question is never put in the negative in modern practice for the reason the negative of the motion to agree is exactly equivalent to the affirmative of the motion to disagree and no other alternative remains. For this reason no matter whether it be moved to agree or disagree the question put to the house is always the same, e. g. "Will the house agree to the amendments?" The motion to agree has precedence of the motion to further insist on disagreement.

In the early practice of congress it was customory to put the question on the motion to disagree and when so put and decided negatively the chair would declare the amendment agreed to. In 1868, Speaker Colfax, on a question of order ruled that no matter whether the motion was to agree or disagree it should be put to the question in the affirmative. The motion to agree has precedence of the motion to disagree and a motion to agree with an amendment has precedence of the simple motion to agree. But after the stage of disagreement has been reached the motion to agree has precedence.

QUESTIONS NOT EQUIVALENT

SEC. 1296. After amendments have been made by either house to a bill originating in the other, or a disagree-

ment exists between the houses the following motions that have no equivalent come into use. If either house has amended the amendment of the other and it has been disagreed to; at the next stage it would be in order to recede from the amendment in the amending house and the disagreeing house at the next stage could recede from its disagreement; if negatived, they then could move to insist or adhere to their amendment or disagreement. If it is moved to insist and it is negatived you may then either recede or adhere. If it is moved to adhere and it is negatived, you may then either recede or insist. Thus it will be seen that in relation to the motions to recede, insist and adhere there are no equivalents, for the reason that in each case two alternatives remain either of which may be moved.

But it has been held that a negative vote on the motion to recede is tantamount to insistence, but not equivalent to adherence.

USE OF MOTION TO RECEDE

SEC. 1297. It is the practice of congress to recede from an amendment without at the same time voting to agree to pass the bill because the bill was passed with the amendment and receding from the amendment leaves the bill passed.

The house may not recede from or insist on its own amendment with an amendment for the same reason that it cannot send to the other house an amendment of its own act. One house has been permitted to recede from its amendment after the other house had concurred with an amendment, but Speakers Clark and Reed held that this action was not sufficient. Speaker Reed ruling that it was necessary first for the senate to recede from its agreement and amendment and the house could then recede. It was held in order for one house to recede from its amendment although it had previously insisted and requested conference which had been granted by the other house.

When one house had disagreed to an amendment of the

other, receding from the disagreement does not amount to agreeing to the amendment, but a vote to agree to the amendment is necessary. After receding from the disagreement to the senate or house amendment as the case may be, it is then open to amendment precisely as before the original vote was taken on disagreement.

The stage of disagreement having been reached the motion to recede and concur takes precedence of the motion to recede and concur with an amendment. But a motion to recede and concur is divisible and being divided the vote is taken first on the motion to recede and being decided affirmatively, a motion to amend then has precedence of the motion to concur.

The previous question may be ordered on the motion to recede. It is debatable and requires a majority vote. It appears the motion to recede is one of very high privilege. Speaker Reed admitted it after the previous question had been ordered on the motion to adhere, and when the previous question has been moved on the motion to insist and pending that motion, a motion to recede and concur was admitted. The motion to recede may be repeated at each new stage of the proceedings.

THE MOTION TO RECEDE AND CONCUR (AGREE) RULING AND PRECEDENT

SEC. 1298. In February, 1907, a bill of the house was returned from the senate with sundry amendments thereto. The house disagreed to the amendments en bloc and requested a conference on the disagreeing votes. The conference was held; the manager made a partial report, which was agreed to, later they reported that they could not come to an agreement on amendment numbered 20. The house at once proceeded to the consideration of the amendment when Mr. Price moved to concur with an amendment. (This motion was in fact out of order but the chair entertained it and in putting the question corrected it thus: "Will the house recede from its disagreement and concur in

the senate amendment with an amendment?") It was then moved that the house recede and concur in the senate amendment and urged that the latter motion had precedence of the former. Mr. Speaker Cannon ruled:

RULING

SEC. 1299. "Before the stage of disagreement is reached the motion to recede and concur with an amendment takes precedence of the motion to concur. It is divisible, i. e. first a vote could be taken on the amendment and then on the motion to concur or agree. The gentleman from Illinois moves to recede and concur with an amendment. That involves three propositions, a treble motion, to recede, to concur, to amend and the motion to concur may be separated from the motion to amend. The gentleman from Virginia moves to recede and concur, a motion containing two propositions, a double motion. Now there being two propositions, one to recede and one to concur, these if agreed to as one proposition would bring the house in accord with the senate. Hence while the motion of the gentleman from Virginia would take precedence, yet on a demand from a single member it is divisible and being divided, the first question to be put would be the motion to recede and if the house votes to recede, then on the motion to concur unless a preferential motion to amend is offered."

(A) Following the foregoing decision a division of the question was demanded and the speaker put the question on the motion to recede from its disagreement, which was decided affirmatively. The speaker then declared the house by that vote had receded from its position of disagreement with the senate and that leaves the situation as if there had been no disagreement. At this stage a motion to amend is in order and takes precedence. Thereupon an amendment was offered and not agreed to.

COMMENT ON DECISION

SEC. 1300. It is worthy of note that in this decision double and combination motions were recognized as parliamentary and that it was permissible to put them as one question which he would have done had a division not been demanded, because this is the constant practice of congress. If this is not true then certainly this carefully considered opinion of Speaker Cannon would have called attention to this practice as being out of order or irregular.

THE MOTION TO INSIST

SEC. 1301. When the originating house disagrees to an amendment made to its bill by the other house, the latter may recede from or **insist** on its amendment, but may not couple an amendment with this action.

If both houses should vote to insist and neither asks for a conference, the bill is lost. Before granting a request for a conference it is the constant practice to vote to insist upon its amendment and this is usually accomplished with one double motion. I move that the house insist on its amendments and agree to the conference asked by the house or senate, as the case may be.

A motion to insist on amendments and request a conference is divisible. It is in order to recede from a vote insisting after the previous question has been moved.

THEORY OF PRECEDENCE OF TWO HOUSE MOTIONS

SEC. 1302. The general rule governing the precedence of the motions used to dispose of amendments of the other house is "That the motion best calculated to bring the two houses to an agreement is the motion to be given precedence" hence, after disagreement has been reached, a motion to recede from the disagreement and agree to the amendment would have precedence over a motion to recede and agree with an amendment because the former motion would bring the two houses together in an immediate agreement and pass

the bill while the latter motion would still leave an amendment to be disposed of. Speaker Carlisle ruled "That when two motions are pending either of which would have the effect to bring the two houses together, the motion first moved would have precedence."

MEANING OF TERM WHEN DISAGREEMENT HAS BEEN REACHED

SEC. 1303. A very common phrase in parliamentary bodies is "When the stage of disagreement has been reached" therefore it seems necessary to inquire exactly when is the state of disagreement reached between the two houses?

The stage of disagreement is reached whenever the two houses disagree as to amendments.

PRECEDENCE OF MOTIONS BEFORE DISAGREEMENT

SEC. 1304. Before the stage of disagreement is reached the two house motions have precedence exactly in the order set down in Section 1293 but the motion to amend has precedence of the motions to agree or disagree. The reason is that the house may not be deprived of making the amendments as perfect as they can before voting to agree to the amendment of the other house. If the motion to agree were given precedence, and it was voted to agree, the amendment of the other house could not be amended or perfected without reconsidering the vote on agreeing. Therefore it has been uniformly held by all speakers that the motion to amend must be given precedence of the motion to agree or disagree.

PRECEDENCE AFTER STAGE OF DISAGREEMENT HAS BEEN REACHED

SEC. 1305. The stage of disagreement being reached a motion to recede from its disagreement and concur has precedence of a motion to recede from disagreement and concur with an amendment but the motion to recede and con-

cur is divisible and being divided and having voted to recede, the motion to amend has precedence of the motion to concur even after the previous question has been ordered on the motion to agree or disagree.

The motion to recede and concur in an amendment of the other house with another amendment is given precedence of a motion to further insist on the house's disagreement. The stage of disagreement being reached the motion to insist has precedence of the motion to commit and the motion has precedence of the motion to insist.

(A) "The stage of disagreement having been reached the motion to insist has precedence of the motion to refer or commit. The previous question may be moved on the motion to insist. It is in order for one house to amend a bill of the other and at the same time ask a conference, it may or may not vote to insist on its amendments before asking a conference." (Reed.) Either house may vote to insist on its amendments, its disagreements or its adherence. Neither house may insist on its own amendment with an amendment.

(B) When either house has voted to insist it may at another stage vote to further insist. The motion to insist is debatable. It requires a majority vote. The motion to recede and concur has precedence of the motion to further insist on its disagreement. The motion to insist does not have precedence of the motion to recede.

THE MOTION TO ADHERE

SEC. 1306. When both houses have insisted and neither are willing to recede it is then in order to adhere. In parliament adherence is not usually voted until after two conferences. In congress it is in order to vote adherence in the first instance. In one instance in congress the house disagreed to a senate amendment and the senate immediately adhered and refused a conference asked by the house. One house may not adhere and at the very same

time request a conference, but it may after adherence agree to a conference requested by the other house or it may recede from its adherence and then request a conference. When one house votes to adhere it may at another stage vote to further adhere. The motion to recede is not in order after the previous question is ordered on the motion to adhere. The motion to adhere is debatable, it requires a majority vote to be effective.

REQUESTING CONFERENCE AFTER VOTE OF ADHERENCE

When one house asks a conference after the other has adhered, the adhering house may agree to the conference without receding from or reconsidering its vote of adherence. After one house has adhered it may reconsider such action, recede from its disagreement and agree to the amendment with or without an amendment. If either house disregards the request for a conference and then recedes from its vote of disagreement and agrees, such action renders a conference unnecessary. Either house is free to pass over the term of insistence and adhere in the first instance.

USE OF TWO-HOUSE MOTIONS IN PRACTICE

SEC. 1307. The use of the motion discussed in the previous sections of this chapter is clearly described in a ruling by Speaker Carlisle, as follows:

"The house sends over a bill which the senate amends and returns to the house. The house concurs in the amendment with an amendment. The question then arises: 'May the senate recede from its amendment and concur with the original bill?' In such case the senate has the following course open: (a) It may concur in the house amendment to the senate amendment.

(b) It may insist on its amendments and request a conference.

(c) It may adhere to its amendment.

(d) May it also recede from its amendment and concur in the original house bill? Undoubtedly such would be the proper course if the house had disagreed to the senate amendment instead of agreeing to it in a modified form. Does this partial agreement of the house which may be in reality no agreement at all, since it may make the senate amendment more distasteful to the senate than was the original bill, bind the senate either to accept this distasteful legislation, or to enter upon a course of disagreement against it, when there lies the shorter and more simple form of receding from the original amendment and agreeing to the bill?" This decision of Speaker Carlisle is construed as supporting the right of one house to recede from its amendment after the other house has concurred with an amendment, but later Speaker Reed and Speaker Clark modified this ruling as follows: "After the senate has amended a house amendment it is not proper for the house to recede from its amendment directly, but the senate may recede from its amendment and then the house may recede from its amendment"

DEGREE OF AMENDMENTS BETWEEN HOUSES

SEC. 1308. A bill originating in one house is passed in the other with an amendment. The originating house agrees to their amendment with an amendment, that being only in the second and not the third degree; for, as to the amending house, the first amendment with which they passed the bill is a part of the text. It is the only text they have agreed to. An amendment to that text by the originating house therefore, is only in the first degree and the amendment to that again by the amending house is only in the second degree, to wit: an amendment to an amendment and so is admissible.

DIGEST OF SPEAKER'S DECISIONS RELATIVE TO AMENDMENTS BETWEEN HOUSES

SEC. 1309. It is in order to strike out the entire amendment of the other house and insert an entirely new germane amendment.

One house may not send to the other an amendment of its own bill.

One house may disagree to certain amendments of the other house, agree to others, and agree to others with amendments and request a conference only on the disagreeing votes.

When the house disagrees to a senate amendment after amending it, the adopted amendment is of no effect.

It has been held that when a motion is made to amend before it is moved to agree, that after the amendment, and all other amendments have been passed upon the motion to agree would then be in order; and it is not in order then to move to agree until the amendment is perfected as much as is desired by the house.

PRECEDENCE OF MOTION TO AMEND

A motion to agree is always in order but a motion to amend the amendment of the other house has precedence. An amendment of one house being amended by the other the first house may amend the last amendment but further amendment is not permissible because it would be in the third degree.

The senate having amended a house bill by striking out a section it was held in order to agree with an amendment inserting a new text in lieu of that stricken out.

GERMANE AMENDMENTS

SEC. 1310. An amendment to an amendment of the other house must be germane to that amendment. It is not sufficient that it is germane to the subject matter of the bill.

It is not in order by amendment to change existing law.

PROCESS OF CONSIDERING AMENDMENTS BETWEEN HOUSES IN COMMITTEE OF WHOLE

SEC. 1311. "In committee of the whole a senate amendment, even though it be very long is considered as an entirety and not by paragraphs or sections.

The amendment is first read through and then amendments may be offered to any clause, paragraph or line, precisely as if the amendment covered but one page or line. This is probably the longest senate amendment that has ever come to the house. It covers many clauses and paragraphs yet it is only one amendment." (decided Mr. Hepburn.)

The foregoing describes the method of considering amendments of the other house in committee of the whole, but when considered in the house itself the practice is entirely different.

CONSIDERING SENATE AMENDMENTS IN HOUSE

SEC. 1312. In considering senate amendments in the house, or house amendments in the senate, it is in order for any member to demand a separate vote on any section, clause, paragraph or amendment he may specify. Then the vote is taken on all the other amendments en bloc. When it has amended a house amendment it is not proper for the house to recede from its amendments directly but the senate may recede from its amendment and then the house may recede from its amendment.

DIGEST OF PARLIAMENTARY LAW

SEC. 1313. Either house may amend a bill of the other before passing it.

A bill of one house being passed in the other with amendments, the originating house may concur with an amendment, whereupon the other house may concur with still another amendment, but here the process stops as further amendment would be in the third degree.

SEC. 1314. One house may agree outright in the amendments of the other house or may agree outright with an amendment, or may disagree outright.

Either house may modify the amendment of the other house by engrafting an amendment on it because they have not assented to it.

ILLUSTRATION OF AMENDMENTS CARRIED TO THE UTMOST LIMIT

SEC. 1315. In the session of 1900, the conferees on the disagreeing votes between the two houses, reported they had been unable to agree on certain amendments. Thereupon the house concurred in the partial report and then proceeded to dispose of the amendments still in dispute and agreed to the amendment with an amendment. The senate upon its return agreed to the house amendment with an amendment. The house agreed to the last senate amendment and the disagreement was closed. (See Cong. Record, pp. 6840-41, 1st Sess. 56th Cong.)

EXTENT OF OFFERING AMENDMENTS TO AMENDMENTS OF OTHER HOUSE

SEC. 1316. "A motion being made to agree to an amendment of the other house with an amendment, it is in order to perfect that amendment by another amendment and then a substitute may be offered for both." (Hepburn.) Mr. Hinds, commenting on the foregoing decision, says: "Where extensive amendment is proposed it is better by a division of the question to separate the motion to agree from the motion to amend, and after amendments are disposed of the question may be taken on the motion to agree."

ILLUSTRATION OF SUBSTITUTE AMENDMENTS BEING CARRIED TO THE FURTHEST DEGREE

SEC. 1317. In March, 1867, the house adopted a sine die adjournment resolution and sent it to the senate for concurrence. The senate amended it by striking out all

after the resolving clause and inserting a new text providing a simple, ordinary adjournment. The house agreed to the substitute with an amendment striking out all after the first word "That" and inserting a new text providing a modification of the original resolution. The senate then agreed to the house amendment to the senate amendment with an amendment striking out all after the first word "That" and inserted a new text providing a modified proposition. The house then disagreed to the senate amendment and requested a conference, which was agreed to by the senate, appointed, and while the conference was sitting the two houses adopted another resolution on the same subject and the committee of conference did not report. (H. J., 1st Sess. 40th Cong., p. 110.)

AMENDING TEXT OF BILL AGREED TO BY BOTH HOUSES

SEC. 1318. In considering in either house amendments made to its bill by the other house it is not in order to amend the text of the bill to which both houses have agreed.

DISPOSING OF AMENDMENTS OF OTHER HOUSE

SEC. 1319. The senate returned a house bill to which they had made several amendments. A motion was made that the house agree to senate amendments 3 and 4 and disagree to 1 and 2. Which was agreed to and the clerk very properly returned a message to the senate notifying that body of the action of the house as follows: The house has agreed to senate amendments 3 and 4 and disagreed to senate amendments 1 and 2.

TAKING UP DISPUTED AMENDMENTS AFTER AGREEING TO CONFERENCE REPORT

SEC. 1320. A committee of conference reported to the national house recommending agreement and disagreement on certain senate amendments and closed the report with the statement that the committee was unable to agree upon

amendments numbered 1, 5, 10, 11, 14. The conference report was agreed to. Then they at once took up senate amendment No. 1, which had previously been disagreed to. It was amended and agreed to. No. 5 was treated likewise. It was then moved that the house recede from its disagreement to the remaining amendments except 14 on which they insisted on their disagreement. The clerk was then ordered to notify the senate of the action of the house. Which he did as follows: The house agrees to senate amendments numbered 1 and 5 with an amendment and recedes from its disagreement to senate amendment numbered 10 and insists on its disagreement to senate amendment numbered 14. (H. J., 1st Sess., 69th Cong., p. 509.)

AMENDMENTS TAKEN UP IN ORDER

SEC. 1321. Method of considering amendments of the other house. When such amendments to a house bill are considered in the house they are taken up in their order.

The pending amendments of the senate should severally be considered in their respective order; pending such consideration, amendments to the amendments of the senate under consideration would be in order until the previous question is ordered thereon, and each amendment of the senate should be so considered or otherwise disposed of before passing to the next amendment.

PRECEDENCE OF MOTION TO AMEND

SEC. 1322. **The motion to amend an amendment from the other House takes precedence of the motion to agree or disagree,** and before the stage of disagreement has been reached the motion to **refer amendments,** returned from the other House with a bill has **precedence of a motion to agree;** an amendment of one House being amended by the other, the first House may amend the last amendment, but **further** amendment is not permissible.

TEXT OF BILL MAY NOT BE CHANGED

SEC. **1323.** Speaker Henderson ruled: **"That even the proceeding by unanimous consent could not be used to change the text of a bill upon which the two Houses have agreed."**

(A) Chairman Olmstead ruled: **"The text to which both Houses have agreed may not be changed in the slightest degree."**

(B) The text to which both Houses have agreed may not be **amended even by adding a new section to the bill.**

GERMANE AMENDMENTS

SEC. 1324. (A) In the consideration of Senate amendments in the House, an amendment must be germane to the **particular** Senate amendment to which it is offered, it not being sufficient that it would be germane to the **provisions of the bill.**

EFFECT OF RECEDING

SEC. 1325. When the house recedes from its disagreement to amendments of the other house they are then open to amendment precisely as before the original disagreement.

ILLUSTRATION OF PRECEDENCE OF MOTION TO INSIST

SEC. 1326. On July 31, 1886, the Speaker laid before the House a bill with a Senate amendment, also a request for a conference. Mr. Holman moved to refer the bill and amendment and thereupon Mr. James moved that the House insist upon its amendment and agree to the conference asked by the Senate. Speaker Carlisle held the latter motion had precedence for the reason "That the bill had now reached the actual stage of disagreement between the two Houses, and the appointment of conferees on the part of the House would be in order as soon as the House had insisted on its amendments and agreed to the request of the Senate."

(A) The motion to recede and concur in a Senate amendment with an amendment takes precedence of a motion to further insist on the House's disagreement to Senate amendments. (Speaker Cannon.)

RELATION OF MOTION TO INSIST TO MOTION TO ASK A CONFERENCE

SEC. 1327. "If one House amends a bill of the other House and **at the same time asks a conference,** it may, or it may not vote to **insist on its amendments** before asking for the conference." (Speaker Reed.)

ILLUSTRATION OF COMMUNICATION BETWEEN HOUSES

SEC. 1328. On May 17, 1884, a house bill was returned by the Senate to the House with amendments, and the following message:

(A) The form of message used in cases of amendment in Congress is as follows:

"Mr. President: I am directed to inform the Senate that the House disagrees to all the amendments of the Senate, except No. 222, making appropriations for legislative, judicial and executive expenses and agrees to amendment 222 with the following amendment: Omit the matter stricken out by said amendment and insert the following: That on and after March 4, 1907, the compensation of the Speaker of the House of Representatives and the Vice President of the United States shall be at the rate of $12,000 per annum each, in which concurrence is requested."

.....

Clerk.

PRECEDENCE OF MOTION TO COMMIT

SEC. 1329. When the foregoing message was read Mr. Keifer moved that the bill with amendments be referred to the committee on military affairs. Mr. Randall raised the

point of order that the motion to concur or non-concur had precedence of the motion to commit. The Speaker, Mr. Carlisle, sustained the point of order, but on the following day reversed his ruling, saying: "The effect of my former ruling would, of course be to prevent under any circumstances the reference of a Senate amendment to a committee of the House, because it is well established that a refusal to concur is equivalent to nonconcurrence, while a refusal to nonconcur is equivalent to concurrence, therefore, in either event the matter would be finally concluded, and there could be no reference to a committee. The chair thinks that inasmuch as a refusal to refer to a committee does not prevent a vote afterward on the other motions, the chair was wrong in his ruling yesterday and now holds that the vote should be first taken on the motion to commit. It is unquestionably true that the first question is upon concurrence, that is, as between the motion to concur and the motion to nonconcur, but so far as I have been able to ascertain it has never been decided that either of these motions have precedence of the motion to commit or postpone the consideration of the amendment. In view of the fact that if the motion to commit is not put to the House before the motion to concur or nonconcur, it cannot be voted on at all, the chair thinks his former ruling should not be adhered to." The stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment.

(A) The previous question having been ordered on motion to agree, the motion to commit[1] is in order. (Speaker Reed.)

[1] This ruling is not based upon English parliamentary law, but on a special rule of Congress which permits the motion to commit after the previous question is ordered.

RECEDING FROM VOTE ON AMENDMENT NOT EQUIVALENT TO AGREEMENT

SEC. 1330. A committee having recommended disagreement to a Senate amendment and the House refusing to agree to a report of committee, it was held by Mr. Speaker Barbour, that the House thereby agreed to the Senate amendment. By receding from its disagreement to an amendment of the other house the receding House does not by this act agree to the amendment. In this particular case referred to, Mr. Speaker Stevenson ruled that "The question on agreeing must be put and decided because the fact of receding was not equivalent to an agreement."

(A) **The motion to ask a conference is distinct from the motion to agree or disagree to amendments of the other House.**[1]

ILLUSTRATION OF PROCEDURE IN CONGRESS IN DISPOSING OF AMENDMENTS OF THE OTHER HOUSE

SEC. 1331. On August 11, 1856, the House took up for consideration the bill of the House 153 with Senate amendment which struck out a section of the bill. The House then concurred in the Senate amendment with an amendment. On the following day a message from the Senate announced that the Senate disagreed to the House amendment to the Senate amendment. The House thereupon insisted upon its amendment and requested a conference. The Senate in turn insisted upon its disagreement but agreed to the conference. A few days later the managers of the House reported that the conference resulted in disagreement. Then Mr. Orr moved that another conference be requested and the conferees be instructed to recede, which was agreed to. The same day a message was received from

[1] The foregoing decision grew out of the following parliamentary situation: A motion was made in the House that the House disagree to Senate amendments and request a committee of conference. Mr. Tawney demanded a division of the question. Mr. Speaker Henderson ruled: *"While it is usual to consider both motions together, they are divisible, if a demand is made that they be put separately."*

the Senate announcing that they further insisted and asked a further conference, then the House voted to further insist and agreed to the conference. This conference also resulted in disagreement and the Senate sent a message that they further insisted on their disagreement and that they had discharged their conference committee. Thereupon the House ordered that its conferees be discharged from further consideration of the subject. Then Joshua Giddings moved that the House adhere to its amendment to the amendment of the Senate. After debate, Mr. Faulkner moved that the House recede and agree to the Senate amendment. Mr. Campbell moved that the House further insist upon their amendment to the Senate amendment and request a further conference.

(A) The motion of Mr. Faulkner to recede, having precedence, was put first and decided in the negative. The question was then put on the motion of Mr. Campbell to insist, which was decided in the affirmative. Both Houses finally adhered to their disagreement and the bill was lost. (Hinds, Vol. 5, pp. 675-76.)

(B) **The stage of disagreement having been reached the motion to insist has precedence of the motion to refer.**

(C) The motion to recede takes precedence of the motion to insist, or the motion to request a conference. (Speaker Cannon.)

(D) When the previous question is ordered on the motion to insist, the motion to recede and concur may be admitted and given precedence.

(E) The motion to recede and concur in an amendment of the House with an amendment takes precedence of the motion to insist further on the House's disagreement to the amendment of the other house.

(F) After the previous question has been demanded on a motion to insist, the motion to recede and concur may be admitted and given precedence. (Speaker Reed.)

(G) As to motions to agree or disagree, the affirmative of one is the equivalent to the negative of the other. The motion to agree or concur, should be put in the affirmative and not in the negative form. (Speaker Stevenson.)

(H) The House having recommended disagreement to a Senate amendment and the House refusing to agree to the report it was held by Speaker Barbour that the House agreed to the amendment.

(I) By receding from its disagreement to the amendment of the other house, the House thus receding does not thereby agree to the same. In this case, Speaker Stevenson decided the question on agreeing must be put, because the fact of receding was not equivalent to an agreement.

RELATION OF MOTION TO AMEND TO THE MOTION TO AGREE OR CONCUR

SEC. 1332. One house may agree outright in an amendment of the other house, or may agree without an amendment or may disagree outright. One house may disagree to certain amendments of the other, and agree to other amendments with amendments, and ask a conference on the disagreement leaving it to the other house to agree or disagree to the amendments made to the amendments. (Speaker Henderson.)

MOTION TO RECEDE

SEC. 1333. When the originating house disagrees to the amendments of the other, the latter may recede from or insist on its own amendment, but may not couple an amendment with this action. (Jefferson.)

(A) Amendments being in issue between the two houses, the motion to recede may be repeated at a new stage of the proceedings. (Speaker Henderson.)

(B) The motion to recede and concur is divisible and one house having receded, a motion to amend has precedence of the motion to concur. (Speaker Henderson.)

(C) A motion to recede from a vote of adherence is in order.

RECEDING PASSING BILL

SEC. 1334. If the Senate amends a House bill, or the House amends a Senate bill, and the other house refuses to concur, and later the amending house recedes from its amendments, the bill is thereby passed and no further action is necessary to pass such bill.

RULING OF SPEAKER PRO TEM. BAILEY ON TWO-HOUSE MOTIONS

SEC. 1335. Ruling at a later date on this same question, Speaker Pro Tem. Joseph Bailey, covered this entire question in a very clear explanation of the principle involved. He said: "The motion to recede takes precedence of the motion to insist, **upon the theory that it removes all differences.** Reasoning from this analogy, the motion to recede absolutely should take precedence of the motion to recede with an amendment, because the former motion would terminate the controversy between the two Houses, while the latter motion would still leave an amendment between them to settle. If it is not the will of the House to recede and agree to the Senate amendments, it can vote down the pending motion, and then the motion of the gentleman from Maine (Mr. Dingly), would be in order. The chair overrules the point of order, because it is his opinion **that the motion best calculated to dispose of the matters of difference between the two Houses ought always to have precedence."**

(A) The motion to recede and concur in a Senate amendment with an amendment, takes precedence of the motion to insist further on the House's disagreement to the amendment of the other house.

PRECEDENCE OF—AS AFFECTED BY PREVIOUS QUESTION

SEC. 1336. Although the previous question has been demanded on the motion to insist, the motion to recede and

concur may be admitted. (Speaker Reed.) After the previous question has been moved on the motion to adhere, the motion to recede is not in order. (Webster.)

(A) If the previous question is ordered on the motion to agree (or concur) the motion to commit is in order. (Speaker Cannon.) Even after the previous question has been ordered on the motion to insist, the motion to recede and concur may be admitted and given precedence. (Speaker Reed.) The motions to agree or disagree, the affirmative of one is the equivalent to the negative of the other. (Speaker Cannon.) The motion to agree or concur should always be put in the affirmative and not the negative form. (Speaker Clark.)

EFFECT OF MOTION TO RECEDE ON PENDING BUSINESS

SEC. 1337. When one house recedes from its amendment to a bill of the other, the bill is thereby passed, if there be no other points of difference as to the bill. A motion to recede being decided in the negative, it is not equivalent to the affirmative of the motion to insist. (Speaker Henderson.)

(A) By one house receding from its disagreement to the amendment to the other, it does not by such action agree to such amendment. (Speakers Stevenson and Henderson.)

(B) One house having receded from its disagreement to the amendments of the other, they are open to amendment precisely as before the original disagreement.

(C) On March 3, 1849, Mr. Vinton from the committee of conference on the disagreeing votes on a House bill, reported that the committee had been unable to come to any agreement and asked that they might be discharged. Mr. Ashan, rising to a parliamentary inquiry, asked as to the position of the bill; Speaker Winthrop said: "If the House refuses to insist on its disagreement to the Senate amendments, it could recede. If it recedes, the amendments would then be open to amendment precisely as they were

before the original disagreement. The question would then be restored to the precise condition in which it was before the House disagreed to the Senate's amendments." (A decision substantially the same was made by Speaker Cannon.)

MOTION TO RECEDE IN RELATION TO ADHERENCE

SEC. 1338. One house may recede from its disagreement to certain amendments and adhere as to others. (Decision of House.)

(A) After one house has adhered, it may reconsider such action, recede from its disagreement, and agree to the amendments of the other house with an amendment. (Speaker Stevenson.)

(B) If one house adheres, it may recede from its adherence and agree to a conference requested by the other house. (Muhlenburg.)

(C) If either house disregard the request for a conference and then recede from the vote of disagreement, such action renders a conference unnecessary. (Action of House.)

(D) Either house may recede from its adherence. (Speaker Cannon.)

(E) The question on the adoption of a final conference report has precedence of a motion to recede and concur in amendments of the other house. (Speaker Reed.)

MOTIONS TO AGREE OR DISAGREE

SEC. 1339. One house may agree outright in an amendment of the other or may disagree outright. (5, 6163.) The inability of the two houses to agree on even the slightest amendment causes a disagreement and the loss of the bill. (5, 6240.)

(A) When either house disagrees to the amendment of the other after amending it, the adopted amendment is of no effect. (5, 6109.) The adherence of both houses to disagreement over amendments causes the loss of the bill.

PUTTING QUESTION ON MOTION TO AGREE OR DISAGREE

SEC. 1340. A motion to disagree to the amendments of the other house is in order but the question of disagreeing is never put in the negative but is always put in the affirmative, thus: "Will the House agree to the Senate amendments?" If decided negatively it would be equivalent to disagreeing. If the question were put negatively, "Will the House disagree to the Senate amendments?"—if decided negatively it would be equivalent to agreeing and the Speaker should so declare. Therefore, no matter which of these motions is moved the question is the same, "Will the House agree?"

ADHERE—IN RELATION TO CONFERENCES

SEC 1341. A motion to adhere may not be accompanied by a request for a conference. After both houses adhere a conference is not asked unless one of the houses recedes from its adherence. We find one instance where a House bill was returned with a Senate amendment adhered to and the House ignored the Senate action by indefinitely postponing the bill and amendment.

(A) **When one House asks a conference after the other House has adhered, the adhering House may agree to the conference without reconsidering, or receding from its vote to adhere.**

AMENDING TEXT OF BILL AGREED TO BY BOTH HOUSES

SEC. 1342. In considering in either house amendments made to its bill by the other house, it is never in order to amend the text of the bill to which both houses have agreed.

(A) On April 23, 1902, the House was considering the Senate amendments to the bill relating to dairy products, when the following Senate amendment was read: "In line

25, page 2, and line 1, page 3, strike out the words 'ingredient or' and insert the word 'artificial.' "

(B) The original text of the House bill contained the words "ingredient or coloration" the Senate striking out "ingredient or" but leaving the last word "coloration" in the bill and agreeing to it. Mr. James W. Wadsworth, of New York, moved to insert after the word "coloration" in the bill the words "except colored butter."

(C) A question of order was raised that this amendment was directed to the bill and not the Senate amendments. After debate Mr. Speaker Carlisle ruled as follows: "If the chair may be permitted to state the parliamentary situation, it is this: The gentleman from Connecticut made a motion to concur in Senate amendment No. 4, which simply strike out the words 'ingredient or' and inserts in place thereof 'artificial'. Then the gentleman from New York rose to offer an amendment which the chair understood to be an amendment to the Senate amendment and therefore ruled that it had precedence of the motion of the gentleman from Connecticut, and when the amendment of the gentleman from New York came to be read it was found to be a proposition to amend the bill as agreed to by both Houses, after the word "coloration" line 1, page 3, being part of the bill not amended by the Senate amendment but is a part of the bill. It would be in order to offer an amendment to the word 'artificial' adding other words, possibly thereto. But the chair is of the opinion that the amendment coming as it does to the bill after the word 'coloration' although it is only one word beyond the Senate amendment, the effect is just the same as if it were ten words or ten lines, **the chair therefore adheres to the former rulings, that the text of a bill which has been agreed to by both Houses is sacred and cannot be amended.** It is not within the province of the chair to construe the meaning of words which have been agreed to by both branches of Congress."

(D) Later on in the same day, another Senate amendment was considered as follows: "In line 1, page 4, strike out before the word 'that', 'or ingredient'." Mr. Wadsworth proposed to amend the Senate amendment as follows: Amend Senate amendment No. 8 by inserting after the word "ingredient" in line 1, page 4, the words "but colored butter shall not be construed as artificial coloration." Mr. Tawney made the point of order that the amendment was directed to the bill and changed the text as agreed to by both houses.

(E) The Speaker said: "If the chair understands the motion of the gentleman from New York it is to insert at the place where the Senate strikes out the words 'or ingredient' which the clerk just read. The motion is in order and the chair overrules the point of order." (5-6181.)

ACTION PERMITTED IN DISPOSING OF AMENDMENTS OF OTHER HOUSE

SEC. 1343. In disposing of amendments of the Senate to a House bill, or vice versa, the House may agree to some amendments and disagree to others and may at the same time agree to some with amendments.

INSTRUCTING CONFERENCE COMMITTEE

SEC. 1344. Sometimes before the Speaker appoints the conference committee (not afterward) the House will instruct the committee to agree or disagree to certain amendments of the other House.

STRIKING OUT AND INSERTING AS APPLIED TO AMENDMENTS OF OTHER HOUSE

SEC. 1345. In the consideration of amendments made by the other House it is permissible to strike out the entire amendment and insert any germane matter therefor.

TEXT OF BILL MAY NOT BE AMENDED

SEC. 1346. On May 15, 1828, the House was considering the Senate amendments to the tariff bill, the particular amendment under consideration being that which fixed the time the iron schedules should take effect as the first day of September. Mr. Cambreling, of New York, asked if it would be in order to amend the Senate amendment by a proviso that none of the duties of the bill should be collected until Sept. 1. The Speaker, Andrew Stevenson, of Virginia, ruled that it would not by saying: "The House having passed the bill, is **functus officio** in regard to it, except so far as it acts upon the amendments of the Senate. The House may either concur with or disagree to those amendments simply, or it may amend them and then, as amended, concur with or disagree to them, but the amendment proposed though it is offered as amendment to that of the Senate, is in effect an amendment to our own bill, in a part to which the amendment of the Senate does not apply, and is, therefore, out of order." (5-6184.)

AMENDING AMENDMENTS OF OTHER HOUSE BY INSERTING NEW TEXT

SEC. 1347. In another instance the Senate amended a House bill by striking out an entire section. When this amendment was considered in the House Mr. Speaker Nathaniel Banks, of Massachusetts, ruled that it was in order in the House to concur with an amendment inserting a new text in lieu of that stricken out. (5-6186.)

The motion to recede and concur in a Senate amendment with an amendment takes precedence of a motion to further insist on the disagreement of the House to Senate amendments. (Speaker Cannon.)

ONE HOUSE MAY CONCUR WITH AMENDMENT

SEC. 1348. A bill of one House being passed in the other with amendments, the originating House may concur

with an amendment, whereupon the other house may concur in the amendment with still another amendment. But here the process stops. (Thomas Jefferson.)

PERFECTING AMENDMENT OR SUBSTITUTE

SEC. 1349. A motion being made to agree to an amendment of the other house with an amendment, Mr. Speaker Hepburn ruled it was in order to perfect that amendment by another amendment and also a substitute.

RECEDING FROM AMENDMENT

SEC. 1350. An instance is recorded in the Congressional Record and Journal where the House receded from its amendment after the Senate had concurred in it with an amendment. In another recorded instance, after the House had adhered it reconsidered that action then receded from its disagreement and agreed to the Senate amendments with amendments.

THE MOTION TO AMEND BEFORE DISAGREEMENT

SEC. 1351. The motion to amend the amendments of the other house has precedence of the motion to agree or disagree, is the parliamentary rule as given by Mr. Jefferson and nearly all Speakers of our National House of Representatives have ruled on this point and sustained the rule of Jefferson. The previous question being ordered on a motion to concur in a Senate amendment, a motion to amend is not in order. (Speaker Cannon.)

CONSIDERATION OF AMENDMENTS OF OTHER HOUSE

SEC. 1352. In considering amendments of the other House to a bill the first question that arises is: "Shall the amendment be concurred in?" As soon as this question is put by the chair, the amendments are before the House to be disposed of **the same as if they had been offered from the floor of the House,** and in disposing of

same, **all the subsidiary motions** named in the rule of precedence of motions when a **question is under consideration are applicable in disposing of Senate amendments** because the Senate amendments are under consideration, to wit: Amend, lay on the table, postpone, commit, previous question, etc.

RELATION OF MOTION TO AMEND BEFORE DISAGREEMENT

SEC. 1353. The motion to amend the amendment of the other house has precedence of the motion to agree or disagree. (Jefferson, Chairman Olmstead and Speaker Carlisle.)

SEC. 1354. When a House bill with Senate amendments or a Senate bill with House amendments is referred in either house to a committee, it is usual and customary to refer the bill and amendment to the committee that originally considered the bill. In these instances the committee can only consider the amendments.

EFFECT OF AMENDMENTS OF OTHER HOUSE

SEC. 1355. The effect of amendments of the Senate to a bill of the House and vice versa. The bill when returned to the House usually has the same title, but its provisions are so far altered as to conform to the amendments of the Senate. With this alteration it is returned to the House, received and the amendments agreed to, as if it were in fact the original bill. Such bill is not identically the same as that which preceded it, but it is impossible to deny that it is of the same argument and matter.

ACTION OF HOUSE ON SENATE AMENDMENTS

SEC. 1356. A conference committee reported that they were unable to agree on Senate amendments to a House bill and the House instead of appointing a second or new committee took up the Senate amendments in disagreement,

when Mr. Burton offered this resolution, that the House recede from its disagreement to the amendments of the Senate (giving the number of a half dozen amendments) and agree to same. That the House insist on its disagreement to (giving several amendments). That the House recede from its disagreement to the Senate amendment No. 12 and agree to same with the following amendment (here follows the amendment).

After the adoption of the foregoing resolution the clerk was ordered to send the following message to the Senate: "That the House recedes from its disagreement to the amendments of the Senate numbered (here follows numbers) and agrees to same. That the House recedes from its disagreement to certain amendments and agrees to same with certain amendments, and the House further insists on its disagreements to certain amendments (named). (H. J. 2d Sess. 69th Cong., pp. 165-66.)

CHAPTER XXX

OF CONFERENCES

SEC. 1357. The procedure in this chapter comes into use when the procedure in the foregoing chapter fails to bring an agreement between the houses, and in fact presents the last opportunity for bringing the houses to an agreement.

SEC. 1358. The parliamentary law upon the subject of conferences as laid down by Mr. Jefferson is as follows: (It shows that the earlier practice was somewhat different from present practice.)

JEFFERSON RULE

SEC. 1359. "It is on occasion of amendments between the Houses that conferences are usually asked; but they may be asked in all cases of difference of opinion between the two Houses on matters depending between them. The request for a conference, however, **must always be by the House which is possessed of the papers.**"

CONFERENCES DEFINED

SEC. 1360. "Conferences may be either free or simple. At a simple conference written reasons are prepared by the House asking it, and they are read and delivered, without debate to the managers of the other House at the conference, but are not then to be answered. The other House then, if satisfied, note the reasons satisfactory, or say nothing, if not satisfied they resolve them not satisfactory, and ask a conference on the subject of the last conference, where they read and deliver in like manner written

answers to those reasons. They are meant chiefly to record the justification of each House to the nation at large and to posterity, and in proof that the miscarriage of a necessary measure is not imputable to them.

(A) At free conferences the managers discuss viva voce and freely interchange propositions for such modifications as may be made in a parliamentary way, and may bring the sense of the two Houses together. And each party reports in writing to their respective Houses the substance of what is said on both sides and it is entered in their Journals. **This report can not be amended or altered** as that of a committee may.

WHEN TO ASK A CONFERENCE

SEC. 1361. A conference may be asked before the House asking it has come to a resolution of disagreement, insisting or adhering, in which case the papers are not left with the other managers, but are brought back to the foundation of the vote to be given. And this is the most reasonable and respectful proceeding, for, as was urged by the Lords, on a particular occasion, it is held vain, and below the wisdom of parliament to reason or argue against fixed resolutions and upon terms of impossibility to persuade. So the Commons say an adherence is never delivered at a free conference, which implies debate, and on another occasion the Lords made it an objection that the Commons had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of Commons, that nothing was more parliamentary than to proceed with free conferences after adhering and we do in fact see instances of conferences or of free conferences asked after the resolution of disagreeing; of insisting; of adhering; and even of a second or final adherence; and in all cases of conference asked after a vote of disagreement, etc., the managers of the House asking it are to leave the papers with the managers of the other."

FREE AND SIMPLE CONFERENCE DEFINED

SEC. 1362. In discussing the nature of conferences, but in reverse order from that of Jefferson, Vice-President Hamlin, in ruling upon a point of order in the Senate in the 38th Congress, stated the rule and the distinction between free and simple conferences as follows:

(A) "Conferences are of two characters, free and simple, a free conference is that which leaves the committee of conference entirely free to pass upon any subject when the two branches have disagreed in their vote, **not, however, including any action upon any subject where there has been a concurrent vote of both Houses.** A **simple conference**—perhaps it should more properly be termed a strict or a **pacific conference** though the parliamentary term is **simple**—is that which confines the committee of conference to the specific instructions of the body appointing it." (Gilfrey, Precedents of the Senate, p. 210.)

REED DEFINITION OF CONFERENCES

SEC. 1363. (In the present practice all conferences are free as conducted by legislative bodies in this country.) What is known as a full and free conference is defined by former Speaker Reed in his parliamentary rules, and is a clear and comprehensive definition as follows: "A free conference is one where the conferees meet and present not only the reasons of each House, but such arguments and reasons and persuasions as seem suitable to each member of the committee. Instead of being confined to reasons adopted by the House, each member may present his own. A conference may, therefore, be a free conference though each House may have instructed its members and limited them to the terms of agreement. **This method of conference is the only one known to our parliamentary practice,** at least it is the only one now in practice in this country."

MANAGERS OR CONFEREES

SEC. 1364. The persons appointed on conference committees are known as managers or conferees of their respective Houses; conference committees are usually three in number on the part of each House, but upon important matters, the Houses may increase this number; **in a conference the managers of each House vote separately.** And no report is to be made except on the recommendation of a majority of each set of managers voting separately.

SELECTION OF MANAGERS OR CONFEREES

SEC. 1365. In the selection of managers the two large political parties are recognized, of course, the majority party, and the prevailing opinion have the majority of the managers. The constant practice in Congress is, to select managers from the members of the committee which considered the bill. It is more often the case, however, in the practice of Congress that managers are selected to represent the majority view of the House. (Hinds, Vol. V, chap. CXXXIII.)

SEC. 1366. The managers of a conference are usually according to the rules, three in number, **but it is permissible for the House asking the conference to regulate the number as it may choose.** (Precedents U. S. Senate.) Whenever any change is made in the personnel of a conference committee, the House making such change should notify the other of the change.

INSTRUCTIONS TO MANAGERS OF CONFERENCE

SEC. 1367. (The practice of instructing managers of a conference has never been followed in the Ohio Assembly, but has always left them entirely free, but considering the present rules of the assembly, the writer believes this practice could be made a parliamentary instrument of great good.) It cannot be said that it is the constant prac-

tice of Congress but its use is so frequent that it has come to be recognized by that body as a very important legislative device.

EXTENT OF INSTRUCTION TO MANAGERS

(A) Either House may instruct its managers of a conference and the motion to instruct must be offered after the vote to ask for or agree to a conference and before the managers are appointed. It is not in order to give such instructions to managers of a conference as would require them to make changes in the text of the bill to which both Houses have agreed. Instructions to managers may not relate to a part of the bill not in disagreement between the two Houses, or to any subject not committed to the conferees. (Hinds, Vol. V, Secs. 6388, 6389, 6390, 6391.)

(B) Speaker Carlisle in a very important ruling laid down the following parliamentary principles: "The proceedings when there has been a disagreement between the two branches of a legislative body are different in many respects from the proceedings in other cases. The paramount object of such proceedings is to bring the two branches to an agreement.

WHEN RECONSIDERATION UNNECESSARY

(C) **Therefore either may, without reconsidering previous votes, take action in a directly opposite direction. For instance, the House may refuse to concur in an amendment and may afterwards insist again and again upon its disagreement to the amendment, and yet it may ultimately, without reconsidering any of these votes, recede absolutely from its disagreement or recede from it with an amendment, as its judgment may dictate.** * * *"

EFFECT OF CONFERENCE REPORT

(D) The whole effect of a conference report is to bring the matter again directly before the body for its

consideration and action. It does not bind the House at all. The House may refuse to agree to it, in which case the whole subject is again open and the House may absolutely recede from its disagreement to the Senate amendment or recede with an amendment.

CHANGE IN CONFEREES OR MANAGERS

SEC. 1368. It occasionally occurs after a member has been appointed a manager on a conference committee that for some reason he is compelled to be absent and cannot attend conference meetings. In these cases the speaker usually appoints another to serve in the absence of the conference member.

WHAT CONFERENCE REPORT MAY INCLUDE

SEC. 1369. A conference committee may report agreement on certain amendments and disagreement as to others. In this case the question would be put first on agreeing to the conference report and then they would immediately proceed to the consideration of the amendments still in disagreement.

EARLY PRACTICE OF HOUSE RELATING TO INSTRUCTIONS

SEC. 1370. The early practice of Congress was, when one House instructed its managers to notify the other House of such instructions. The practice is not now strictly observed. In one instance in Congress the House instructed its managers and did not notify the Senate of such action. The Senate having learned indirectly of the action of the House, declared the conference should be full and free and instructed its own managers to withdraw from the conference if they should find its freedom impaired. The minority portion of a conference committee have no authority to make either a written or verbal report concerning a conference.

DISPOSITION OF PAPERS

SEC. 1371. At the conclusion of a conference, when the managers have come to an agreement, the managers of the House asking the conference leave the papers (and this means all papers including bill, etc.) with the managers of the other House. It is not necessary for the House disagreeing to amendments to ask for a committee of conference.

The amending House should be given opportunity to recede from its amendments if it so desire, if not disposed to take such action, they should then insist on their amendments and request a committee of conference, either House may ask for a conference after the vote of disagreement.

ACTION WHEN COMMITTEES CANNOT AGREE

SEC. 1372. When managers of a conference are for any reason unable to come to an agreement they should report to their respective Houses. When managers are unable to agree or where a report is disagreed to, another conference should be asked.

(A) Either House may pass a bill of the other with amendments and immediately without waiting for a vote of disagreement in the other ask for a conference.

MANAGERS MAY CONSIDER ONLY MATTERS IN DISAGREEMENT

SEC. 1373. (The parliamentary law and principle set forth in this chapter is the law and practice of every legislative body in the world.)

(A) Mr. Jefferson says: "It is unparliamentary to strike out at a conference anything in a bill, which hath been agreed to and passed by both Houses."

(B) The managers of a conference may not in their report include subjects not within the disagreements submitted to them by the two houses. As early as 1812,

Speaker Henry Clay declared a conference committee report out of order inasmuch as the managers had discussed and proposed amendments which had not been committed to them by either House.

(C) While the managers may perfect by germane amendments propositions committed to them, they may not go beyond the differences of the two Houses in so doing.

ACTION WHEN CONFERENCE FAILS

SEC. 1374. If a conference fail the amending House may reconsider its action in passing the bill and then reconsider the vote on the amendments and take them out and pass the bill without amendment, or it could add entirely new amendments and ask for another committee of conference on the new amendment.

(A) This procedure of asking a conference on the last amendment before the other House disagrees is very unusual and of not frequent occurrence, yet it is permissible in our National Congress. Mr. Blaine defended this procedure on the ground it would save time.

RIGHT OF EITHER HOUSE IN AMENDING AMENDMENTS OF THE OTHER

(B) Either House may disagree to the amendments of the other, or disagree to some, agree to some, and agree to others with amendments and ask a conference only on the disagreement leaving it to the House to agree or disagree with their action before asking the conference.

(C) If one House adheres the other may recede and request a conference which may be agreed to by the adhering House.

(D) When one House votes to adhere to its disagreement the other may vote to insist and ask a conference. The House that votes to adhere does not ask for a conference, but the other House may; after an adherence by both Houses a conference is not asked.

(E) A motion to recede has precedence of the motion to insist.

(F) If the previous question is moved on a motion to adhere, a motion to recede is not in order.

(G) If one House asks a conference after the other House has adhered, the adhering House may agree to the conference without reconsidering or receding from its vote to adhere.

(H) When both Houses adhere and neither will recede from its disagreement the bill is lost.

INSTRUCTIONS TO CONFERENCE COMMITTEES

SEC. 1375. A conference committee may be instructed like other committees, but the instructions can only be moved by the House which possesses the papers. A conference report may be laid on the table.

WHEN IN ORDER TO COMMIT CONFERENCE REPORT

SEC. 1376. It is not in order to commit a conference report to a committee of conference if the report has been acted upon by the other House. (H. J. 2d Sess. 58th Cong., p. 739.) Notwithstanding the foregoing decision, it was later decided that a conference committee report may be committed if neither House has taken action. (H. J. 2d Sess. Cong., p. 583.)

CONFERENCE REPORT MAY BE RECOMMITTED WITH INSTRUCTIONS

SEC. 1377. A conference report was pending, a motion to recommit with instructions was made, to which objection was made. The Speaker overruled the objection and said: "The conferees still have control of the bill. They are not discharged until the conference report is agreed to or something else happens. They still have control of the measure. The chair holds that the measure is

still in a situation that if the House sees fit to recommit it with instructions, the conferees would be bound by such instruction." (Nov. 21, 1921.)

INSTRUCTIONS TO MANAGERS OF CONFERENCE

SEC. 1378. Managers of a conference may not be instructed to do that which the House itself can not do directly, such as agree to a portion of a Senate bill which has previously passed the House with an amendment.

SEC. 1379. A motion to instruct conferees is not debatable. (Clark.)

(A) A motion to instruct conferees being negatived, no other instructions are in order.

(B) A conference committee report is of higher privilege than a special order.

(C) A bill being considered by the House under a previous special order of the House, Speaker Reed admitted a conference committee report, saying in answer to a question of order, "The chair thinks a conference committee report has given to it a very high position of privilege, not merely by the rules of the two Houses but upon the principles of parliamentary law. Bills upon which the two Houses have reached an agreement, are of course much farther advanced than a bill just being considered by either House. Hence in the opinion of the chair a conference committee report being now presented, it is his duty to receive it."

WHEN APPOINTMENT OF CONFERENCE COMMITTEE IS IN ORDER

SEC. 1380. The House was considering a Senate bill when a substitute was offered and agreed to. It was then moved that the House ask for a committee of conference, and that the Speaker appoint such committee. It was objected that such motion was not in order, the Speaker (Mr. Clark) sustained the question of order and said: "The

proper function of a conference committee is to settle differences between the two Houses, and there are no differences between the two Houses, as far as has been developed. For all the House knows, or all the chair knows the Senate will accept this amendment and therefore the point of order is sustained. The chair will not say that in an emergency as to time, or any other thing of the sort, he would hold the pending motion out of order, but no emergency exists, and this bill should take its regular course." (Clark 3d Session 63d Cong., p. 388.)

CONFERENCE COMMITTEE CONDEMNED

SEC. 1381. (It is the part of wisdom for the two bodies to settle all disagreements between themselves (if possible) without the intervention of conference committees.) On May 8, 1884, the Senate of our National Congress added a large number of amendments to a House bill and Senator Frye, of Maine, moved that the Senate ask a conference on the amendments. This motion was vigorously opposed. In his argument against the motion, Senator Bayard, of Delaware, said: "The two Houses are deliberative assemblies and the wisdom of their action depends upon the character of the deliberation preceding the adoption of measures. **Any system which tends to substitute discussion in committees of conference, which are limited bodies, for the deliberations of the two Houses is not in my judgment a thing to be desired."** Speaking the same day on the same subject Senator John Sherman, of Ohio, said: **"We have by our practice gradually extended the powers of committees of conference, until now a proposition to send a bill to a committee of conference sometimes startles me. * * * I feel that both Houses ought to take a stand on the attempt to transfer the entire legislative power of Congress to a competent committee of three members of each body, selected not according to any fixed rule, but probably according to the favor of the**

presiding officers, or the chairman of the committee that framed the bill; so that in fact, a committee selected by two men, one in each House may frame and pass the most important legislation of congress."

SEC. 1382. Either House may adhere to their disagreement and refuse a committee of conference.

(A) The failure of conferences does not prevent either House taking such independent action as may be necessary to pass a bill.

(B) It is in order and sometimes occurs that one House will adhere and decline to appoint a conference committee. Either House may disregard the request for a conference and recede from its amendments thereby rendering a conference unnecessary.

(C) A motion to request a conference on the disagreeing votes of the two Houses having been rejected, may not be repeated at the same stage of the bill.

(D) The foregoing relative to conferences shows the practice and rulings in the National Congress.

(E) In ruling upon the question of powers of conference committees, **Speaker Crisp said:** "The question to determine is whether the amendment which has been agreed to and reported by the conference committee is germane to the amendment of the Senate or to the original bill.

(F) The amendment may not be germane to the original bill, yet if it is germane to the Senate amendment the conference committee might report it.

(G) **The chair thinks the practice of enlarging the powers of conference committees beyond the strict letter of the rule is wrong, that conferees ought to be held to the rule."**

(H) When a report is ruled out of order it amounts to a vote of rejection and the other House should be so notified. Ruling upon this same question, **Mr. Reed**

said: "The chair dislikes to pass upon such matters as this, but it is a well-established fact that no conference committee can introduce a new subject, one that was not in dispute between the two Houses."

(I) A conference committee may not include in its report new items, constituting in fact a new and distinct subject not in difference, even though germane to questions in issue.

RULING BY SPEAKER CHAMP CLARK

SEC. 1383. One of the very important recent rulings on this subject was by Speaker Champ Clark: "Where one House strikes out all of the bill of the other House after the enacting clause and inserts a new text and the differences over this substitute are referred to a conference, the managers have a wide discretion in incorporating germane matter, and may even report a new bill on the subject."

(A) A point of order against a conference report should be made or reserved after the report is read. The processes of the National Senate and House are entirely different. The Speaker of the House on points of order that managers have exceeded their authority rules conference reports out of order, if found to contain subject matter not in disagreement. In the Senate in case such matter is included the custom is to submit the question to the Senate.

(B) A conference committee report may be withdrawn and modified by unanimous consent. (Cleve's Manual of Conferences.)

(C) Conference committee reports may not be amended or altered on motion made in either House. In June, 1906, the House of Representatives of Congress was considering a conference report, when Mr. Williams, of Mississippi, proposed to amend it, closing the discussion. Speaker Cannon said, answering parliamentary inquiry:

(D) "If the conference is voted down, then the Senate amendments to the House bill are undisposed of as fully as they were when they were first disagreed to. * * * Oh, but the gentleman sees at once that this is a conference report which stands as a unit. The effect of the report is to dispose of all matters in disagreement between the House and Senate, and there is but one possible disposition to be made of it, and that is **to reject or agree to it.** If the gentleman will indulge the chair, a proposition like unto that which he makes for unanimous consent would, if agreed to, **be barren, or if it had any effect at all it would be equivalent to a rejection of the report;** but if it served no other useful purpose, it might give somebody the opportunity to claim that if he were the Lord he would do this, that or the other thing. * * * This is a proposition that the Senate is interested in as well as the House, a proposition to close the matters of difference, and the only way to close them is by adopting the conference report, or by rejecting the conference report, and put all the Senate amendments in difference again * * * The chair will state the gentleman asks something the House has not the power to do in the present stage of this measure. If it has any effect at all it would be equivalent to rejecting this measure."

WHEN CONFEREES MAY REPORT SUBSTITUTE

SEC. 1384. A conference committee reported and a question of order was raised that the committee had exceeded its authority by eliminating language that had passed both houses and which was not in disagreement.

Speaker Longworth overruled the question of order and said: "The chair thinks he can simplify this situation by ruling that inasmuch as the senate struck out the entire House bill and inserted a new bill of its own, any amendment which is germane, is in order."

The Senate adopted a substitute for the House bill. If the two Houses had agreed upon any particular lan-

guage, or any part of a section, the committee of conference could not change that, but the Senate having stricken out the bill of the House and inserted another one the committee of conference has a right to strike out that and report a substitute instead. Two separate bills have been referred to the committee (the original bill and the Senate substitute); they can take either one of them, or a new bill entirely, or a bill embracing parts of either one of them. They have a right to report any bill that is germane to the bills referred to them. The chair thinks that is the better practice and it has been universally followed in the House that when the Senate strikes out the entire House bill and substitutes one of its own, it is in order for the conferees to recommend the adoption of any provision that is germane. That ruling will cover all amendments? Yes, the chair thinks so. This is not a question involving a change in the text to which both Houses have agreed."

CONFEREES RESTRICTED TO CONSIDERATION OF MATTER COMMITTED BY BOTH HOUSES

SEC. 1385. A conference report being submitted in the House, Mr. Underwood raised a point of order that the conferees had proposed an amendment that had not been committed to them by either House and which was not a subject matter of difference between the two Houses. Speaker Henderson sustained the point of order giving the following reason:

(A) "There are but few countries that have perfected conferences in their National legislative bodies, certainly none have perfected them as we have in the United States. It is one of the vital instrumentalities in bringing the two Houses together and securing joint legislation. There must be no abuse of this power. It will not do to allow matters not in contemplation by the two Houses that are foreign to the question being considered to be inserted by a conference committee. * * * The chair would be

very loath to open the door to allow any conference committee to usurp the prerogatives of either House."

(B) "The chair is strongly of the opinion that to secure wise legislation the rule should be observed not allowing abuse of the powers of conference committees and this view invites sustaining the point of order. The functions of a conference committee are to consider the matters laid before them by Congress. The door should not be opened beyond the scope and purpose of a conference committee, that is clear and the chair sustains the point of order." (H. J. First Session 57th Congress, p. 917.)

EFFECT OF RULING OUT CONFERENCE COMMITTEE REPORT

SEC. 1386. In sustaining a point of order that the conference committee have exceeded their authority, Speaker Henderson defined the effect of his decision as follows:

(A) "Where does this decision leave the conference report? The report must be treated as a whole. Sustaining the point of order defeats the conference report just exactly as if it were rejected by vote of the House." Speaker Reed, ruling on a similar point of order said, "A point of order sustained against a conference report is equivalent to a rejection of the report by the House on a vote."

(B) Notwithstanding the very clear and important ruling of Speaker Cannon, Congress has found a way to amend a conference report by joint resolution. In the 33rd Congress the following resolution was adopted and carried into effect.

AMENDING CONFERENCE REPORT—FORM

SEC. 1387. Resolved, That the report of the conference committee on the disagreeing votes of the two Houses on the bill of the Senate No. 96 (here follows title) here-

tofore agreed to by both Houses, be amended by striking out the words "six hundred and fifty in the third line of the second page of said report, and inserting in lieu thereof the words five hundred and fifty." This resolution was adopted by both Houses and the amendment was made after the conference report had been adopted by both Houses.

It sometimes happens in Congress that a part of a conference report is adopted and a portion of it rejected. (Gilfrey's Precedents of U. S. Senate, pp. 254-255.)

(A) If a conference fails to reach an agreement the two Houses may successively, as they come into possession of the papers act on the amendment in disagreement, as amending, further insisting or receding and concurring.

(B) **A conference constitutes practically two select committees, each of which acts separately and by a majority vote of each.** Mr. Hinds says:

(C) **"The managers of the two Houses while in conference vote separately, the majority of each board of managers determining the attitude to be taken towards the proposition.** When the report is made, the signatures of a majority of each board of managers are sufficient. The minority managers frequently refrain from signing the report, and it is not unprecedented for a minority manager to indorse his protest on the report." (Hinds, Vol. V, p. 285.)

(D) Managers of conference committees must represent the majority views of the House appointing them, in other words, the chair should only appoint such members of a conference committee as will stand by the action of the House and not by their own personal views.

(E) **A conference committee report may not be considered when the original bill and amendments are not before the House.**

(F) A conference committee report being called up in the House, Speaker Cannon said: "The clerk informs me

there has been no message from the Senate on this subject and we do not have the original papers."

POSSESSION OF PAPERS NECESSARY TO CONSIDERATION

(G) **It is impossible to consider this report unless the papers are before the House,** and they do not seem to be in possession of the House. The report and statement of the conferees are in our possession but not the bill, and it has been repeatedly held, and long ago threshed out, **that business cannot be done, unless the papers are in possession of the House.** Mr. Sulzer, then as a parliamentary inquiry asked, "What papers are necessary?" The Speaker replied, "The bill itself and the substitute and all of the original papers in this case. **The chair will state that nothing can be done until these original papers are found."**

(H) A conference committee report was submitted in the Senate without the bill and other papers and Senator Edmunds, of Vermont, called for the bill. It was explained that the bill was then in the hands of the engrossing clerk. Senator Edmunds demanded it as a right, claiming the bill should be before the Senate when the conference report was acted upon. Vice President Wheeler ruled that the point of order was well taken, and the consideration of the report was deferred until the bill was procured.

PREPARATION OF CONFERENCE COMMITTEE REPORT

SEC. 1388. (When a committee of conference has met and come to an agreement the managers who take possession of the papers should at once take the papers and bill to the office of the clerk of their body and deliver all such papers to the clerk for engrossment in the form agreed upon. No report should be offered in either House before such engrossment has taken place. The committee should also go over the engrossed bill carefully that they may know that it is in the proper form for presentation for adoption.)

(A) The foregoing procedure will very much facilitate business by eliminating the cause of unnecessary delays by provoking debate. Managers may report an agreement as to a portion of the amendments in disagreement, leaving the remainder to be disposed of by subsequent action. On August 10, 1846, the following conference report was received in the National House:

PARTIAL REPORT OF CONFERENCE COMMITTEE

SEC. 1389. "The conferees on the part of the House have met the conferees on the part of the Senate upon the disagreeing votes of the two Houses upon the amendments to the bill making appropriations for the naval service, etc., and, after free and full conference on the subject of said disagreeing votes, the conferees have agreed to recommend, and do recommend to their respective Houses, that the House recede from their disagreement to the first amendment of the Senate, and agree to the same amended by striking out all thereof after the word "employed" in line 6; that the House recede from its amendment to the third amendment of the Senate and agree to the same, that the House recede from the amendment to the tenth amendment of the Senate and agree thereto; and the conferees have not been able to agree upon the eighth and ninth amendments of the Senate to said bill disagreed to by the House." The House proceeded at once to consider the report and the amendments still at issue between the Houses. Later the House and Senate agreed to the report, but the House further insisted on its disagreement to the eighth and ninth amendments. Another committee was appointed. Later in the same session a similar report to the foregoing was received by the Senate, when the President Pro Tem. raised the question that the adoption of the report would be to adopt the conference report piecemeal, and said he was not aware that such procedure had ever taken place.

(A) Senator James G. Blaine said: "The only usage I have known that justifies a partial report of this kind, is when it gives to the one body or the other a ground for receding if it chooses. If their judgment is that the only point of disagreement left is not worth insisting upon it recedes; but if it is worth insisting upon it simply asks another conference. That is all there is of it; and these partial reports are often made merely to let the body to which they are communicated judge whether on the whole it will further insist." The question on agreeing to the report was not put in the Senate.

(B) On the following day the same question arose in the House and Speaker Joseph Blackburn said: "The chair thinks there are many precedents where the House has accepted reports of conference committees agreeing in part and disagreeing as to the remaining matters in dispute. The chair knows of no rule which would deny the House the power to accept such a report. He thinks this report of the committee of conference is in order, but should it be adopted the two Houses will only stand agreed upon such matters as the committees of conference of the two Houses have united upon. The other matters will be left pending between the two Houses." It appears from the journals that both Houses acted upon the partial report, leaving the amendments still in disagreement for a future conference. (Vol. V, pp. 761-2.)

FORMS FOR CONFERENCE REPORTS

SEC. 1390. A good general form of a report of a committee of conference is as follows: The committee of conference on the disagreeing votes of the two Houses on amendments of the Senate to (insert title) having met, after full and free conference, having agreed to and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered .....that the House recede from its disagreement to the

amendments of the Senate numbered.....and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered.....and agree to the same with an amendment as follows..... and the Senate agree to the same.

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Managers on the part of the House.

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Managers on the part of the Senate.

(A) On the duplicate copy which is presented in the Senate, the Senate managers should sign first.

(B) The written statement accompanying a conference report need not preserve regularity as to form so long as it embodies a fairly comprehensive statement of the effect of the settlement of the conference.

Another form is: The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to S. B. No. .....submit the following written statement explaining the effect of the action agreed upon.

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Managers on the part of the House.

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.....

.....

Managers on the part of the Senate.

(C) The engrossed bill that accompanies the report of the Committee must in all respects agree with the committee recommendations.

(D) When either House disagrees to a conference report the matter is left in the position it was in before the conference was asked and the amendments in disagreement come up for further action.

(E) When a conference breaks up without reaching an agreement the managers for the House which asked the conference, who have a right to the papers are justified in retaining them and carrying them back to the House.

DISSENT FROM COMMITTEE REPORT

SEC. 1391. Sometimes a manager indorses the conference report with a conditional approval or dissent. On August 1, 1861, the conference report on the bill for the better organization of the army was signed by all the managers, but before the name of Senator John Sherman, of Ohio, the following indorsement appeared: "I agree to this report except to the proposed increase of the staff of the army." On March 2, 1861, the report of the managers of the Indian appropriation bill was presented to the House. It was signed by all the conferees, but before the name of John S. Phelps are the words, "I dissent."

(A) The Journal of the House shows many instances where members have signed various committee reports with similar notation before or following their name, such as "I dissent"; "I dissent from this report"; "I dissent from the above report"; "I do not concur in the above recommendation and report"; "the undersigned, a manager on the part of the House, does not agree to the recommendations in this report," etc.

WHEN CONFERENCE REPORTS MAY BE RECEIVED

SEC. 1392. Conference reports are privileged, and may be received at any time, except when the journal is being

read, while the roll is being called or the house is dividing. In one instance, Speaker Reed stopped a division to receive a conference report. A manager who was absent when a report was signed may be instructed by the two houses to sign such report after the house has received it.

(A) In the case of conference reports the signature of a majority of the managers of each House is required. A majority may sign the report with a conditional assent. A minority report or views is never received from the manager of a conference.

AMENDING CONFERENCE COMMITTEE REPORTS

SEC. 1393. A report of a conference committee may not be amended by individual members from the floor, but it may be amended by joint action of the two Houses. Conference committees may not change the text of a bill, yet congress has permitted them to add a new section at the end of its report, which is voted upon separately and before the main report, if adopted by both Houses it becomes a part of the main report.

A STRICT RULE OF PARLIAMENT

SEC. 1394. No one is permitted to speak at committees of conference except those of the committee; when a conference committee report is read in the House members of the committee stand up. No persons are permitted to attend a meeting of a committee of conference except such as are commanded to attend. (May, p. 328.)

(A) Another practice of Parliament to bring about agreements between the two Houses is joint committee meetings, which is effected by putting committees of both Houses in communication with each other, e. g., the House having a difficult problem to solve would refer the matter to a committee, say taxation, and instruct that committee to meet and confer with the committee on taxation of the Senate. Then a message should be sent to the Senate no-

tifying that body of the action of the House and requesting that instructions be given to its committee to comply with the request of the House. (May, p. 329.)

DISCHARGING CONFERENCE COMMITTEE

SEC. 1395. It has been decided in both bodies of Congress that it is competent while a conference is in progress for the House which asked the conference to alone discharge its managers from consideration of the bill and papers and when such bill or papers come into the possession of the House that they may act on the amendments in disagreement. A good form to follow in discharging a conference committee is that followed in Congress as follows:

FORM OF RESOLUTION FOR DISCHARGING CONFERENCE COMMITTEES

(A) "Resolved, That following the adoption of this resolution it shall be in order in the House to move that the vote heretofore taken requesting a conference with the Senate or House (as the case may be) on the disagreeing votes of the two Houses on..... be rescinded; and the conferees heretofore appointed on the part of the House be discharged from further duty in that behalf, and that the House upon the return of the papers proceeds to the consideration of the amendments."

INSTRUCTIONS TO MANAGERS OF CONFERENCE COMMITTEE

SEC. 1396. Either House may instruct its managers of a conference and the motion to instruct is in order and should be offered before the vote to agree to, or request a conference, and before the appointment of the managers. (Speaker Carlisle.)

ILLUSTRATION OF PRACTICE OF CONGRESS

SEC. 1397. On July 23, 1886, Mr. Willis of Kentucky, from the managers on the part of the House, of the conference on the river and harbor bill, in the disagreeing votes of the two Houses on Senate amendments reported after a full and free conference that they had been unable to agree. Thereupon, Mr. Willis offered the following resolution:

(A) Resolved, That it is the opinion of the House that its managers on the river and harbor bill should insist on striking out of the Senate amendments the following item, "For the National Harbor of Refuge—$75.00." Mr. Stone raised the point of order "That the proposition in the resolution was in effect an instruction to the committee of conference and that it could not be adopted by the House without disregarding the freedom of the conference."

(B) Mr. Speaker Carlisle said: "The conference is ended and the amendments of the Senate are not now in possession of the committee but are before the House for some action."

(C) "The chair is aware that the original parliamentary practice of the House was not to instruct committees of conference, but to leave them entirely free but the practice of instructing committees has prevailed in the House for many years."

(D) Following the decision of the Speaker, Mr. Long moved that the House insist on its disagreement. Following the motion of Mr. Long, Speaker Carlisle said: "There are two motions that have precedence of the resolution of the gentleman from Kentucky, Mr. Willis, one of these which has precedence over all other motions is that the House recede from its disagreement to the Senate amendments and agree to same, the other is, that the House insist on its disagreement and ask a further conference."

(E) The last mentioned motion is the one made by Mr. Long which the Speaker then put to the question and

the motion was agreed to and the Speaker then appointed the managers of the new conference and then Mr. Willis renewed his resolution to instruct; then Mr. Moffat raised a question of order, saying, "The resolution is too late." The Speaker, Mr. Carlisle, ruled: "A resolution to instruct conferees is not in order after the chair has actually appointed the conferees." (5, 6097-98.)

(F) At a new conference the instructions to a former conference are not in force. (Speaker Carlisle.) Instructions to managers of a conference may not direct them to do that which they may not otherwise do. (Speaker Cannon.) It is not in order to give such instructions to managers of a conference as would require a change in the text of a bill to which both Houses have agreed. (Speaker Cannon.)

ACTION WHEN COMMITTEE DISREGARDS INSTRUCTIONS

SEC. 1398. In a case when the House instructs one of its ordinary standing or select committees to report back a proposition with amendments, such committee must report with that amendment and no other. If a committee should disregard its instructions its report should not be received by the House. In cases where managers have disregarded instructions, the House disagreed to the report, and the Speaker immediately named new managers.

SENATE RESENTS INSTRUCTIONS TO CONFERENCE COMMITTEE

(A) On one occasion the House instructed its managers, and the Senate ignored the request of House for a conference, and insisted on its amendments and asked for a full and free conference, which was granted. The Senate having learned indirectly that the House had instructed its managers, declared that the conference should be full and free and instructed its managers to withdraw, if it should find the freedom of the conference impaired.

OTHER HOUSE NOT INFORMED WHEN INSTRUCTIONS ARE GIVEN COMMITTEE

(B) In the latest practice when managers are instructed the other House is not informed of such instructions. Although the committee may disregard instructions, the report may not be ruled out by the Speaker on a point of order. The proper course seems to be to disagree to the report and then dispose of the matter with the ordinary parliamentary motions to insist, disagree, recede or adhere.

REQUESTING CONFERENCE COMMITTEE

SEC. 1399. It is now the firmly established practice of the House to move to disagree to the amendment of the other House (if unsatisfactory) and at once request a conference committee. This procedure varies from that under the old parliamentary law, but its advantage justifies this departure because it eliminates red tape and expedites business and is to be preferred to the ordinary practice of disagreeing and then waiting for the amending House to insist, and then request a conference. The usual form of the motion in the new practice is: I move that the House disagree to the amendments of the Senate on.....and request a committee of conference on the disagreeing votes of the two Houses.

(A) Managers of a conference may be authorized to agree to an appropriation by a resolution reported by the rules committee.

CHAPTER XXXI

METHOD OF CORRECTING BILL AFTER ENROLLMENT AND PASSAGE

SEC. 1400. Even when the greatest care is exercised by members and officers during the passage of a bill it will sometimes occur that error will creep into the bill that needs to be corrected, or it may be found that a change in wording certain sections is necessary to produce the exact result contemplated by the house. When these conditions arise the house is not helpless nor need it permit an unsatisfactory bill to become a law. Congress has provided a simple way out of these embarrassing situations. Under the old parliamentary procedure it was indeed difficult to correct these errors and about the only means parliament employed was the passage of a new bill correcting the former act. This of course placed in the statutes two bills practically on the same subject. However, later, says Scobell, they would take up the former act and amend and repass it. The method of our American congress here described is simple, effective and parliamentary. Of course in American practice the first thing to be done is to secure possession of the bill for likely it has passed into other hands (the President). Then the authentications of the presiding officers must be rescinded or vacated.

CORRECTING ERROR IN ENROLLMENT OF CONCURRENT RESOLUTION

SEC. 1401. Resolved, by the Senate the House concurring, That in the enrollment of S. J. R. No. — the clerk of the Senate is authorized and directed to strike out the words "New York" in line 5 and insert therefor the words "New Jersey."

RESOLUTION RECALLING BILL FROM PRESIDENT

SEC. 1402. **The following illustration is a splendid one** of the action taken by Congress in recalling a bill from the **President and amending same.** On Feb. 13, 1906, the Senate adopted and sent to the House the following resolution:

CONCURRENT RESOLUTION REQUESTING RETURN OF BILL

SEC. 1403. "The President is requested to return to the House of Representatives the bill (No. and title) for the purpose of amendment."

(A) The purpose of the resolution was explained by the author as follows. "The bill passed both Houses and went to the President. There is a difficulty in the draft of the bill, which has challenged the attention of the President and raises in his mind an objection to the bill, which difficulty can be removed by amendment exactly in accordance with the purpose for which the bill was offered." This resolution was agreed to by the House and Senate and the bill returned by the President, then the following resolution was presented and adopted.

RESOLUTION TO AMEND BILL AND RESCIND SIGNATURE

SEC. 1404. That the action of the President of the Senate and Speaker of the House of Representatives in signing the enrolled bill (insert number and title) be rescinded and in the re-enrollment of the bill the following amendment be made: Amend section 1 of the enrolled bill by striking out after the word "elect" at the end of line 5, section 1, page 1, the following: "between the mouth of Malletts Creek on the east" and in line 6 of said section insert in lieu thereof "and the secretary of war may approve between a point on the southern side of the river opposite to or below the head or opening of canal con-

[1] On the question Shall the bill pass as amended?

structed by the United States on the north side of the river, on the east" and insert after the word "river" in line 10 of said section 1, page 1, the following: "between the two points above mentioned."

Amend by adding after the word "war" in line 13 of said section 1, page 1, of said enrolled bill the following: "For the protection of navigation and the property and other interests of the United States," so that said section of the enrolled bill when amended will read as follows: (Here follows the section in full as amended.)

Amend section 2, page 1, of the enrolled bill by strik- out after the word "canal" in line 25, all down to and including the word "river" in line 25 of section 2 and insert in lieu thereof the following "or the Tennessee River" so that section 2 of said enrolled bill as amended will read as follows: (Here follows section as amended.) (Vol. IV, 3510.)

Several other amendments to the bill are carried in the resolution but the foregoing will suffice for our purpose, which is to give conclusive evidence that Congress does amend bills after passage by both Houses.

(A) The foregoing resolution was adopted, the bill so amended, enrolled and again signed and returned to the President. Another procedure of Congress for recalling and amending bills is shown in the following illustration:

ANOTHER METHOD TO CORRECT BILL

SEC. 1405. On March 15, 1902, the House received the following message from the President: To the House of Representatives: In compliance with the resolution of the House of Representatives of the 14th inst. (The Senate concurring), I return herewith bill 5224, entitled "An act for the relief of Edward Kershner." Signed, Theodore Roosevelt. After the reading of the President's message Mr. Dayton offered the following resolution: "Resolved, That the message of the President and the bill of the House 5224 be transmitted to the Senate with the request that

the Senate reconsider its action in passing said bill in order that an amendment may be made to the same by striking out the word 'director' and inserting in lieu thereof the word 'inspector.'" The resolution was agreed to and sent to the Senate. On the same day, in the Senate the bill was considered by unanimous consent. The vote whereby the Senate had passed the bill was reconsidered, and the amendment suggested by the House, was agreed to. The bill was then passed as amended. It was then returned to the House as amended and the bill with Senate amendment was concurred in by the House, re-enrolled, signed and returned to the President..

(A) In this latter method of Congress it does not appear that any action was taken to rescind the signatures of the presiding officers. It was evidently thought that the act of the reconsideration and amendment and repassage of the bill would nullify the former passage. This latter method of Congress seems to be more regular and more in accordance with general parliamentary law. The former method is more used than the latter.

SEC. 1406. The foregoing resolutions show the general practice of Congress in correcting errors and making amendments in bills that have passed both bodies. Do not permit anyone to deceive you with the idea that Congress has special rules governing such procedure. **It has not. Their right so to do is taken from and based upon general parliamentary law, in other words the right of Congress to work upon and perfect a bill exists so long as the bill is in its possession or subject to its recall and that it may continue its consideration of a bill and to perfect same without violating the law, constitution, its rules or parliamentary law, so long as such action taken is joint and agreed to by a majority of both Houses.**

RECONSIDERATION AND AMENDMENT OF BILL WHICH HAD PASSED BOTH HOUSES

SEC. 1407. In 1904, the following resolution was received from the Senate and laid before the House: "Resolved, That the secretary be directed to request the House of Representatives to return to the Senate the bill 5611." The resolution was received in the Senate and Senator Spooner announced that the beneficiary of the bill was dead, and also said: "The bill has passed both Houses, the gentlemen in the House who had charge of the bill desires us to bring about its recall in order that it might be disposed of in the Senate. I therefore ask unanimous consent that the vote by which it was passed here be reconsidered and that the bill be indefinitely postponed." No objection being made, the vote on the passage of the bill was reconsidered and the bill was postponed indefinitely.

(A) In 1902, the House sent a message to the Senate requesting that it reconsider the vote whereby it had passed a bill. **The message was received in the Senate and laid on the table;** the opinion being expressed that the House might dispose of its own bill.

(B) In 1853, Mr. Henn from the committee on enrolled bills reported a bill for the relief of Barbara Riley, and reported that the bill could be of no effect since the beneficiary had died. Various propositions were made as to the disposition of the bill, but were all objected to; an objection was made that the committee on **enrolled bills might only report as to the enrollment of the bill. Speaker Boyd said: "The chair decides that it is not competent for the committee on enrolled bills to report this bill back in this form, except by suspension of rules of the House; but, by suspending the rules, it would be competent for the House to reconsider the vote by which the bill passed and to regularly notify the Senate of that fact."** Later this bill was reported as truly enrolled and was signed by the Speaker and President of the Senate, also approved by the President.

METHOD OF CORRECTING BILL RECALLED FROM PRESIDENT

SEC. 1408. Congress recalled a bill from the president, with which request he complied; when the bill was returned and handed down by the speaker, the house proceeded as follows: By unanimous consent (the two days having expired) the vote by which the bill was passed was reconsidered. Sundry amendments were then offered and agreed to. The bill was then ordered engrossed and read a third time by title, and again passed as amended, it was then sent to the Senate for concurrence signed by presiding officers and then returned to president.

(A) The foregoing seems to present the latest method of congress in correcting error in a bill that has passed both houses. This is substantially the practice of parliament except the reconsideration which they do not use or deem necessary. If a bill of this nature were on the speaker's table, it would be in order to move to take it up for consideration. (See Secs. 1159, 1170.)

RECALLING BILL AFTER APPROVAL BY EXECUTIVE[1]

SEC. 1409. On March 12, 1804, during the presidency of Thomas Jefferson, America's greatest Parliamentarian, a variance was discovered between the engrossed and enrolled bill of Congress which had been signed by the President. When this matter was brought to the attention of the House a concurrent[2] resolution was introduced and adopted by both bodies instructing the committee on enrollment to wait upon the President, Mr. Jefferson, and lay before him the engrossed bill and the enrollment thereof with the several amendments as the same was finally passed by Congress, and call his attention to the variance in the enrollment as approved by the President and to request that he return said

[1] Thomas Jefferson.

[2] A concurrent resolution in Congress is substantially the same as Ohio joint resolution.

enrolled bill to the House in which it originated for the purpose of rendering said bill conformable with the engrossed bill. The President returned the bill with the statement: "That he had approved the bill and had notified Congress of that fact by message on February 24." The bill was referred to committee on enrollment who later reported that the committee had corrected the bill and the bill as corrected was signed by the presiding officers of both Houses, transmitted to the President and by him approved. (It is to be presumed that President Jefferson as a parliamentary student and writer of parliamentary law and a great lawyer, would not permit and approve this procedure, if it were not regularly within the rights of Congress and himself to so proceed.)

METHOD OF AMENDING BILL BY MOTION AFTER PASSAGE BY BOTH HOUSES

SEC. 1410. When a member discovers errors in his bill after it has passed both Houses and it is still in the enrollment committee, a very expeditious and effective means to correct same is to move instructions to the **enrollment committee** to make the desired correction or amendment, before the bill is enrolled and reported.

(A) The following form will explain the procedure: "I move that the committee on enrollment be directed and instructed to make the following correction or amendment (as the case may be) to H. B. No. ——— before enrollment and final report on same." (Here follows desired amendment or correction.) To be effective the motion should be introduced in each House and decided affirmatively by a majority. When introduced in one House and agreed to that House could instruct its clerk to message same for the consideration of the other House, where it should be given highest privilege. In this way the necessary joint action would be secured expressing the will of the assembly as to the amendment of the bill. The joint action thus secured

would be as effective as though secured by a new bill or joint resolution.

AMENDING BILLS AFTER PASSAGE IN PARLIAMENT

SEC. 1411. Mr. Hakewill, one of the early parliamentary writers, says that while it is not a common practice, yet the Houses of Parliament do sometimes amend bills after passage. He says: "When a bill is thrice read and passed in the House, there ought to be no further alteration (amendment) thereof in any point. **Nevertheless, if it do appear that there be some apparent mistakes therein, the House hath caused the same to be amended thereafter, by presenting, reading and adopting amendment and passing the bill again on the question, "Shall the bill pass as amended?"**

CONGRESSIONAL METHODS OF CORRECTING ERRORS

INSTRUCTING CLERK TO AMEND BILL AND CONFERENCE REPORT

SEC. 1412. Resolution, adopted by the Sixty-fifth Congress, 1920. That in the enrollment of the bill (number and title) the clerk be, and he is hereby directed to strike out the word "twenty" where it appears in the last line of section eleven of the bill as agreed upon in conference and insert in lieu thereof the word "nineteen" (S. J., p. 207). It should be noted this resolution amends the bill, and conference report.

(A) The following illustration will show another operation of Congress in correcting and perfecting bills after they had been passed by both Houses.

SPEAKER AUTHORIZED TO SIGN BILL NOT REPORTED BY ENROLLMENT COMMITTEE

SEC. 1413. The House may, by unanimous consent, authorize the Speaker to sign an enrolled bill that is not

certified by the report of the committee. In 1852, the Speaker informed the House that no member of the committee on enrolled bills was present and that it was highly important that the enrolled bill of the Senate No. 451 should be signed immediately. It was then unanimously ordered that if the Speaker is satisfied that said bill is truly enrolled he be authorized to sign the same.

SPEAKER ON REQUEST OF THE SENATE WAS AUTHORIZED TO CANCEL HIS SIGNATURE TO AN ENROLLED BILL

SEC. 1414. The House authorized the Speaker to erase his signature and then correct an error. The Senate had asked for the return of a certain bill to that body, before the request had been received by the House, the Speaker had signed the bill which had been reported to the House. The Speaker, Mr. Reed, suggested that if there be no objection he would erase his signature and return the bill to the Senate. Mr. Carlisle said he understood the error in the bill occurred in the printing at the government printing house. He thought therefore, that the Speaker should be authorized to erase his name and return the bill. This authorization was given without objection, and the Speaker erased his signature and returned the bill.

(A) There being an error in an engrossed House bill sent to the Senate a request was made that the clerk be permitted to make a correction.

(B) In 1843, the House ordered the following message sent to the Senate: An error has been made in the engrossment of the bill No. 602 as sent from this House to the Senate. The error consists in incorporating in said engrossed bill a section as the third section thereof, that section having been stricken from the original bill by this House previous to the passage of the bill; and that the Senate be requested to permit the clerk of this House to correct said error. The request was granted.

THE CLERK IS SOMETIMES AUTHORIZED TO MAKE A FORMAL AMENDMENT TO A BILL THAT HAS PASSED THE HOUSE

SEC. 1415. In 1851, the Speaker read a letter to the House from its clerk stating that in the deficiency appropriation bill passed on the preceding day, the total on a certain page required to be changed to conform to the changes made by striking out several paragraphs by the House. Thereupon, it was ordered, that the clerk be authorized to make the suggested correction in said bill.

THE COMMITTEE ON ENROLLED BILLS SOMETIMES REPORTS AN AMENDMENT TO CORRECT A CLERICAL ERROR

SEC. 1416. In 1848, Mr. Hampton from the committee on enrolled bills moved that the bill of the House 340 be amended by changing the name of N. P. Callan to M. P. Callen, which motion was unanimously agreed to by the House and the bill was amended accordingly.

Thereupon, Mr. Hampton reported that the committee had examined the bill and found it correctly enrolled.

CLERICAL ERROR IN A BILL HAS BEEN CORRECTED BY JOINT ACTION OF THE COMMITTEE ON ENROLLED BILLS

SEC. 1417. In 1857, Mr. Davidson from the committee on enrolled bills reported that the committee had examined an enrolled bill of the following title: H. B. No. 400 (title) and having caused a clerical omission in the fourth line of same to be corrected by the insertion of the word "counties" had found the same correctly enrolled.

(A) Mr. Davidson explained that this action had been taken after consultation with the committee on enrolled bills, on the part of the Senate. Thereupon, it was ordered that the approval of the House be given to said correction. The Speaker thereupon signed said bill and later it was signed by the vice-president.

THE CORRECTION OF AN ENROLLED BILL IS ORDERED BY CONCURRENT RESOLUTION OF BOTH HOUSES

SEC. 1418. In 1901, Mr. Baker, chairman of the committee on enrolled bills, introduced the following resolution, which was agreed to by the House: Resolved by the House of Representatives (the Senate concurring), That the enrolling clerk of the House be, and he is hereby, authorized and directed to correct the enrolled bill 9928, by inserting in the enacting clause the word "States" after the word "United".

In 1906, Charles Curtis introduced the following resolution:

(A) Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill 5876 (title) the clerk be directed to restore to the bill the part proposed to be stricken out in the amendment of the Senate numbered 26 and insert the following: "Tribal educational officers, subject to dismissal by the secretary of the interior," and restore to the bill the part proposed to be stricken out in the amendment numbered 27.

Objection was made to this resolution by General Keifer. Thereupon the rules were suspended and the resolution was adopted.

It will be noted that General Keifer objected to unanimous consent and the House immediately suspended the rule to admit of this action.

CHAPTER XXXII

COMMITTEE ON RULES

SEC. 1419. The most important and powerful committee of the American House of Representatives is its committee on rules. It may exercise almost unlimited power over procedure and legislation if supported by a majority of the house and it is rare indeed a proposal of this committee is negatived.

PURPOSE OF COMMITTEE ON RULES

(A) A **well-established** practice of both Parliament and Congress is the **changing or making of new rules** as the **condition of its business may require.** The National House never permits its business to be **hampered** by the **restrictions** of the **standing rules,** and perhaps **the chief function and purpose of the creation of the committee on rules is to prevent the House from becoming entangled in its own forms of procedure and give the House opportunity to decide on occasion, by a majority, to assume control.** Therefore when it is desired **to expedite business of any kind,** which the rules operate against, the rules committee report a special and specific rule of procedure to take care of the situation. All standing rules in conflict with propositions coming from the rules committee, are considered as suspended.

(B) If the committee report or its resolution is agreed to by **a majority vote of the House,** the recommendation is **effective as a rule of the House** for the time specified.

(C) The foregoing action of the House has been upheld by the Federal Supreme Court as competent and

within the rights of the House as guaranteed under the constitution.

(D) The court said: "It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which once exercised is exhausted. It is a **continuous power** subject to be **exercised** by the House at any time, absolute and **beyond challenge of any other body or tribunal,** subject however, to the following limitation only: "It may not by its rules ignore constitutional restraints or violate fundamental rights and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result sought to be attained, but within these limitations, **all manner of methods are open to the determination of the House and it is no impeachment of a rule to say there is some other way more accurate or even more just."** (See Ballin, U. S. C. Reports 144, p. 5.)

REPORT OF COMMITTEE ON RULES

SEC. 1420. **It is always in order for the committee on rules to report and pending the consideration of the report, the Speaker may entertain one motion to adjourn; but after the result is announced on such motion, he shall not thereafter entertain any dilatory motion until the report shall have been disposed of.** (Rule of National House.)

(A) The privilege given in the rule above only extends to such propositions as relate to rules and procedure and the clause relating to dilatory motions is strictly construed to mean what it says. Motions of a dilatory nature are not in order against the report of the committee on rules.

(B) **All proposed business touching the order of business, rules and joint rules, shall be referred to the committee on rules.** (Rule of National House.)

This rule simply puts in writing, the established practice of the House for many years previous to the adoption of this rule.

(C) The powers of **recommendation** of the committee on rules **is unlimited,** but all its **resolutions of recommendation** must be agreed to by a **majority vote** of the House to be effective.

(D) **The committee on rules may sit** (meet) **during the sitting of the House and without special leave of the House.** (Rule of National House.)

INSTRUCTION TO COMMITTEES ON RULES

SEC. 1421. The committee on rules may be instructed to do anything the house may wish to have done. (Reed, H. J., 51st Cong. 2 Sess., p. 393.

WHAT RULES COMMITTEE MAY REPORT

SEC. 1422. The committee on rules reports **resolutions relating to new standing or temporary rules, special orders, hours for daily meetings, recesses** and **adjournments.** Provides times and method for the **consideration of bills** and resolutions, or classes of bills, thereby enabling the House by a **majority vote** to forward important legislation whenever it may desire, without being forced to **move a suspension of the rules** from the floor, which **requires a two-thirds vote.**

(A) The privilege of this committee, McCall says, is elastic enough to admit its report and take a **filibustering member off the floor.** Special rules of the most revolutionary character may be **recommended** by the committee on rules, **even to the elimination of the right to offer amendments from the floor to a pending bill.** When John Sharp Williams started a filibuster in the National House to force the majority to pass a certain legislative measure he strongly favored, the committee on rules promptly met his filibustering tactics with new rules to meet the situation.

(B) Sometimes the foregoing rule and practice is bitterly assailed on the ground that such action destroys the protection and hope of the minority. Speaker Reed answers this complaint as follows: **"Protection of the minority does not mean the destruction of the majority, nor the hope of the minority the despair of the majority.** The first consideration of the House is to **perform the duty** for which it **exists. The minority must always suffer defeat in one form or another"** (and no good reason exists for delaying that certain end).

(C) In the present practice of the House a motion to make a bill a special order is not entertained, the Speaker, promptly, under the rules directs its **reference to the committee on rules.**

COMMITTEE ON RULES SPECIAL ORDER

SEC. 1423. Resolved, That upon the adoption of this resolution the committee on judiciary shall have two legislative days for the consideration of bills on the calendar (bills named) and favorably reported by such committee. This rule not to interfere with privileged business.

NEED OF COMMITTEE ON RULES

SEC. 1424. Samuel McCall, a former member of Congress, observes that some members entertain the thought that they should be permitted, at their own pleasure, to call up bills which they or their constituents wish passed, forgetting that it does not follow because we live in a free country, that everybody is permitted to do as he chooses. The individual rights and interests of members should always be **subordinated** to the rights of the **whole.**

(A) **There should be no aristocracy of members, but there must of necessity be an aristocracy of measures. Those bills most vital should have priority,** or what is called privilege. Because of the large number

of bills introduced in a session, the process of sifting important bills from the great mass has become a real necessity if the work of the House is to be terminated in a reasonable time. Accordingly, the practice of delegating to some responsible agency—backed up with the approval of the House—the power to sift and advance the important business, and throw in the discard all worthless, or unnecessary proposed legislation, is of real merit. In the interest of the whole, individual rights and hobbies should be forgotten. After the House takes possession of a proposition, the rights of the introducer relative to such matter is merely that of a **guardian.**

(B) In a ruling given by Speaker Champ Clark, in 1912, he sets forth the authority of the committee on Rules as follows:

(C) "The committee on Rules is privileged to report rules, joint rules and order of business, and that is the committee on rules is **privileged to report at any time.**[1]

The committee on Rules may report a bill for the consideration of the House, even though the effect be to discharge a committee and bring before the House a bill not yet reported."

(E) On Feb. 4, 1895, the committee on rules reported for consideration the bill of the House 8445, Mr. Mahon raised the point of order, saying, "The bill had not been reported by the committee." Mr. Speaker Crisp said, **"The chair overrules the point of order, the committee has jurisdiction to report a resolution fixing the order of business and the manner of considering a measure, even though the effect of its adoption would be to discharge a committee from a matter pending before it, thereby changing the existing rule."** On appeal, the decision of the chair was sustained by the House.

[1] The Speaker means to say the committee on Rules may not report matter not enumerated under its privilege to report at any time. If it report other matter it must be in regular order, or by consent of the House.

(F) The Assembly of New York, to curtail somewhat this practice, inserted in its rule that the committee could not report a bill for consideration, that the House had by vote refused to take from a committee.

(G) Ruling on another but similar proposition, Mr. Speaker Carlisle said: **"To hold that the House may make rules to govern its proceedings in ordinary matters of legislation, but cannot make rules prescribing the methods by which it shall change its rules, would certainly result in a very great material abridgment of the power conferred by the constitution."**

(H) **Hence, it is fair to conclude, that a committee delegated with authority, to arrange the business to be considered is a committee with practically unlimited powers of recommendation, and when such report is accepted, whether by unanimous consent or direct vote it becomes the act of the House, even though its effect is to suspend the rules of the House by suspending previous orders of the House in conflict therewith; that even bills still in committee may be placed on the calendar, thus affecting the discharge of such committee from consideration of such bill.**

(I) In the Ohio House in the 84th General Assembly, acting Speaker Robert Dunn, of Wood county, ruled that the adoption of the report of the calendar committee had the effect of removing a bill from the table. This decision is in harmony with the rulings of Speakers of the National House.

(J) Propositions are frequently offered in the form of motions to amend the standing rules, from the floor of the House. Of course all such are immediately referred to the Rules Committee, unless considered under suspension of rules.

The foregoing and even greater powers are given the Standing Orders Committee in Parliament.

SIFTING COMMITTEE OF PARLIAMENT

SEC. 1425. The members of the Assembly and very frequently the Press, complain of and condemn the practice of the assembly, in the closing days of the session, for appointing a **calendar committee** or authorizing the **rules committee** to select and **prefer important bills for the consideration of the Assembly.** This practice has been condemned as unparliamentary and inexcusably discriminating, a usurpation of member's rights, etc.

(A) Nearly all our American legislative bodies follow this practice, which had its foundation in our prototype, the English House of Commons. Beginning in the 16th Century, Parliament discovered the necessity of giving preference to important pending bills. Scobell says: **"Toward the end of Parliament when there remaineth many bills in the House undispatched, a special committee is appointed to take a survey of the bills and to marshal them by their titles in such order as they think fit; they should be preferred to their passage having respect to the importance of the matter which they concern."** [1]

[1] Several State Legislative bodies appoint Sifting Committees.

CHAPTER XXXIII

RULES AND PRINCIPLES GOVERNING DIVISIONS IN LEGISLATIVE BODIES — VOTING

HOW DECISIONS OF THE HOUSE ARE OBTAINED

SEC. 1426. The decisions of the House are obtained by various methods called in parliamentary language **"Divisions",** that is the House divides, the members vote or take part in the division. The methods employed are (1) unanimous consent (no objection being offered). (2) General consent (same as unanimous consent but differently taken). (3) Sound of voices. (4) By show of hands. (5) By regular division (separating members in different rooms or lobbies or as originally in the same room). This is declared by parliamentary writers to be the ideal division except the voice vote which is the foundation of all votes. (6) By yeas and nays. In America taken by roll call. In England as elsewhere described in this volume. In France each member is furnished with printed slips with his name and yes and no thereon; baskets are passed and these slips are collected from the members. The Canadian Parliament has a novel plan distinctively its own. The members are required to stand first in the affirmative and then in the negative. A clerk announces the names of the members standing and another clerk makes the record of the votes. Several of our state legislative bodies now have electrical machines that accurately, quickly and satisfactorily record the vote.

UNANIMOUS CONSENT VOTING

SEC. 1427. In the case of unanimous or general consent, **the member does not make a motion but merely makes a request of the House to do some specific thing**

mentioned in his request. In this instance no question is put nor vote taken, such action being wholly unnecessary. Because if there **is no objection there is no negative voice and all have silently declared themselves in the affirmative and the matter is thus settled.** To illustrate: A member arises and requests unanimous consent to make H. B. No. 48 a special order for 2:30 p. m. Wednesday. The Speaker inquires "Is there objection?" In case no one objects he continues "The chair hears none, it is so ordered." Thus H. B. No. 48 will be considered as a special order as indicated.

UNANIMOUS CONSENT SILENT VOTING

SEC. 1428. It might be argued by some that in unanimous consent a silent vote is a negative vote, but not so in our practice. A close examination of the form of taking a unanimous consent vote will reveal that the putting of the question in this case is reversed and that the negative voice is taken first and not the affirmative, that is, the speaker inquires "Is there objection?" Inasmuch as the consent of all is required, one objection or vote defeats. Accordingly, when the negative vote is called for by the question, "Is there objection?" if no one objects it is fair to assume there are no negative votes and that all by their silence, vote in the affirmative. The United States Supreme court has decided that those who sit silent are regarded as consenting to the results.

GENERAL CONSENT

SEC. 1429. The general consent method of securing a decision of the House is akin to unanimous consent, the latter being used by the members and the former is employed by the chair.

OF TAKING THE SENSE OF THE HOUSE BY GENERAL CONSENT

SEC. 1430. Where the sense of the House is taken by general consent the chair does not put the question

for a vote of those who are on the one side or the other to declare themselves but the chair merely inquires **"Is it the pleasure of the House to order such a thing (naming it) to be done?" If no one objects the thing is ordered to be done without putting the question in any other form,** but if there be one objection, then it is necessary for a motion to be made and question put.

(A) A very ancient rule of Parliament, still observed in its practice is: **"When a general vote of the House concurred in the question proposed by the speaker, without contradiction (objection) there needeth no question."** Thus it will be observed that the foregoing described method of securing the sense of the House presents good and long established parliamentary practice. **It is defeated by one objection or one negative voice audibly expressed from the floor instead of a majority when the question is otherwise put.**

WHEN CHAIR PUTS QUESTION WITHOUT MOTION

(B) There are motions that come up regularly in the transaction of business and it sometimes occurs that the chair waits for someone to make the necessary motion to advance the business. When members are thus negligent, the chair need not wait for a motion but he may ascertain the will of the House thus: **"Is it the pleasure of the House that the rules be suspended and bills on the calendar be read a second time by title only?"** (Here the chair should pause to give opportunity for objection.) "There being no objection," he should continue, **"it is so ordered.** The clerk will report (read) the bills by title." **It should be noted in the Journal that the rules were suspended.**

DIVISION BY VOICE VOTE

SEC. 1431. The division (vote) by voices is taken by the chair, putting the question first in the affirmative and requesting those who favor the question to respond by

saying "Aye", then those opposed to respond by saying "No". The Speaker then decides by the greater number of the two voices. In this case as in all other methods of division when the numbers (result) on the one side and on the other of the question are ascertained and the Speaker's casting vote given (if necessary), the decision of the assembly is thereupon announced by the chair either in the affirmative or negative, as the case may be. The decision of the House as thus announced, **if correct, is the judgment of the House, not only upon the proposition itself but upon its equivalent.**

METHOD OF COLLECTING VOICE VOTE

SEC. 1432. In collecting a voice vote the chair should be alert and not be deceived by the greater volume of voices. The writer in his experience has known a half dozen to get more volume into an affirmative vote, than a hundred and fifty would get into a negative vote.

When the chair has collected the voices on the question, he declares whether **in his opinion** the ayes or nays have it. This he does **tentatively, not conclusively,** thus, "I **think** the ayes have it." This latter expression is an invitation to any member who thinks the chair is in error to challenge his decision which he does by declaring in a loud voice that the nays have it, that is, declaring the opposite of the chair's decision to be the result. After the chair has announced his opinion of the result of a vote he should always pause to give opportunity for his decision to be challenged.

(A) If his decision goes unchallenged he should continue and clinch his decision by announcing emphatically and conclusively the ayes have it, etc. **The question by this final declaration of the chair is resolved in the affirmative or negative and thereby becomes the act or resolution of the House, if correct.**

(B) If the chair should not heed the challenge of his decision, **any member may appeal from the decision.**

(C) If the declaration of the result of a voice vote is challenged, the chair should at once divide the House by a rising vote or by show of hands.

EFFECT OF VOICE VOTE

SEC. 1433. The rule of parliament is that opinions are collected from the voices of the House and not merely by division, so if the voices and vote on division be at variance, do not agree, the voice vote will bind, but attention must be directed to the variance immediately following the division and before the result is announced. When the chair's attention is called to the variance, he usually inquires of the member on which side he gave his voice, and if different from the division in which he participated his voice in divison **is disallowed.** The member who votes yes in the voice vote is bound to vote yes on division. He may not change his vote except by consent of the House.

VOICE VOTE TO PRECEDE ALL OTHER VOTES

SEC. 1434. Elsewhere we have stated that the division or voice vote is considered to be the foundation of all votes. Therefore in the English Parliament it matters not how a vote is taken, it is always preceded by the Speaker putting the question and taking the vote first by voice, after which the vote is taken in the manner requested by the House. But in all instances the question is always twice put and a vote taken first by voice, but he does not declare the result of the voice vote but declares the result after the regular division.

VOTE BY DIVISION

SEC. 1435. A vote by division, may always be had by the House, by any one member challenging the opinion of the Chair on the result. When the opinion of the Chair is challenged by any one member, it is the Speaker's duty to divide the House by a rising vote, and count.

VERIFICATION OF DIVISION VOTE

SEC. 1436. The decision of the chair on a division vote may be challenged and taken by tellers upon the demand of one-fifth of a quorum. The division by tellers is taken thus: The chair appoints two tellers who take a position in front of the clerk's desk and the members in the affirmative pass between the tellers and are counted, then the negative side pass between them and when completed the tellers announce the result of the vote to the chair who announces the result to the House.

If the tellers cannot agree on a result a second division is ordered by the chair, or the yeas and nays may be demanded.

ORIGINAL METHOD OF TAKING DIVISION VOTE

SEC. 1437. The original method of taking a division of the House other than by voice, in parliament, was for the ayes or nays to remain in the House and the opposing side to retire to the lobby or other room. Those who remained in the House were **counted in their places** and those who retired are counted **as they return into the House.**

RULE FOR WHO GOES FORTH IN DIVISION

SEC. 1438. In the early history of parliament there was much contention on a division vote as to which side would remain in the House, from which resulted the following rule.

Those that give their vote for the preservation of the orders and rules of the House shall stay in; and those that give their voices otherwise, to the introducing of any new matter or alteration should go out. (Hatsell.)

COMPELLING MEMBER TO VOTE

SEC. 1439. On Feb. 24, 1875, James G. Blaine declared that he knew of no means by which a member could

be forced to vote. The House may not be counted to ascertain the presence of members except to establish a quorum. When members refuse or neglect to vote the decision of the House or the result of such vote is announced regardless of the presence of those who refuse to vote, any other course would terminate in turmoil and confusion.

CORRECTING VOTE

SEC. 1440. In case of objection to the correction of errors in voting, the motions that "the vote be allowed or disallowed" are in order and the speaker orders the correction and announces the result. The constitution or parliamentary law give control of the procedure and journal to the House. In one instance, Mr. Speaker Cannon, had announced an erroneous result of a vote, a resolution was introduced to correct the result.

ORDERING TELLERS

SEC. 1441. Tellers may be ordered by the speaker if he is in doubt or by one-fifth of a quorum. A demand for tellers is not precluded or set aside by the fact that the yeas and nays are ordered.

It is unfortunate that this form of voting has never been practiced by the Ohio general assembly. It is more satisfactory and accurate than rising vote and count by the clerk. It of course takes more time but would give the members a chance to stretch after a five or six hour sitting. and in many instances might dispense with long monotonous roll calls. It would not produce a record vote, but it does secure a correct expression of the will of the House in those cases where the vote is not required to be entered in the journal.

THE RULE FOR VOTING BY TELLERS

SEC. 1442. Section 5 of rule 5 provides: "After a division vote, if he (the speaker) still doubts or a count is required by at least one-fifth of a quorum, he shall name

one from each side of the question to tell the numbers in the affirmative and the negative after being reported he shall rise and state the decision. The method employed is elsewhere fully described. If for any reason the count by tellers is interrupted, the vote is again taken anew. It is the duty of members when appointed to serve as tellers.

The yeas and nays may be demanded while a vote by tellers is being taken or while the speaker is announcing the result of a division vote. On February 4, 1850, Joshua Giddings offered a resolution. The vote was taken and the speaker declared the resolution rejected.

Thereupon, Joseph Root of Ohio demanded the yeas and nays. The gist of all decisions is that the demand for the yeas and nays is in order up to the time the House passes or takes up some other business.

ACTION WHEN VOTE IS RECORDED ERRONEOUSLY BY CLERK

SEC. 1443. When a member is recorded as voting by the clerk, and in fact he did not vote, the speaker is justified and does order the name stricken from the roll upon his attention being called to the error except when such member states in open House that he is satisfied to permit his name and vote to stand as recorded, in which case the speaker should announce the result including the vote of member erroneously recorded as voting. When approved by the member it stands as if correctly recorded.

CASTING VOTE

SEC. 1444. In parliament the chairman of a committee can only vote where there is an equality of voices.

RECAPITULATION

SEC. 1445. When a vote is verified members should note carefully to ascertain whether their vote was properly recorded, if not, this is the time to demand the correction

on recapitulation of the vote. A correction of the vote is subject to the will of the House.

RECAPITULATION OF YEA AND NAY VOTE

SEC. 1446. A member may not of his own right demand a recapitulation of a yea and nay vote, but if the vote is close the speaker may and usually does order a recapitulation. However, after the final result has been declared a recapitulation may be had only by unanimous consent and if correcting errors produces a new or different result the former announced result is nullified and the chair must declare the changed or new result obtained.

PURPOSE OF RECAPITULATION

SEC. 1447. Speaker Joseph Cannon in deciding a question of order held, the very object of a recapitulation of a vote is to find whether the vote as announced by the speaker is correct or **whether there has been a mistake at the clerk's desk.** It does not appear definitely that in the practice of the House under recapitulation that a member who voted and is correctly recorded may change his vote on a recapitulation. Yet it has been many times decided and is the constant practice of the House to permit members to change their votes as often as they may desire before the result has been finally and conclusively declared. This being true, it would appear that if a member chose he could change his vote during a recapitulation for the reason the final and conclusive declaration of the result would follow the recapitulation. **The right of a member to have his vote correctly recorded cannot be denied.**

VOTE BY DIVISION SET ASIDE

SEC. 1448. **It is in order to demand and have a yea and nay vote even after the result has been announced on a vote taken by a division of the House.** In the ses-

sion of 1901, a division vote was taken and the Speaker announced the result as **yeas 113 and nays 15, the motion is lost.** Thereupon a member was recognized and proceeded in debate when another member arose and demanded a yea and nay vote on the question just decided by division and tellers.

(A) The Speaker, Mr. Crisp, said: "The recognition of a member in debate would probably cut off the right to demand the yeas and nays as coming too late. But the demand for the yeas and nays involves a great constitutional right, I will take the sense of the House on ordering the yeas and nays." The yeas and nays were ordered. (H. J. 2 Sess. 56th Cong., p. 7301.)

A DIVISION OF THE HOUSE INTERRUPTED

SEC. 1449. A question was under consideration upon which the yeas and nays had been ordered, then a member offered a conference committee report, upon which a point of order was raised that the House was dividing (voting) and the report was out of order. Speaker Reed ruled, **"A conference committee report is in order at any time, and will be received now, and the yeas and nays on the pending question will be disposed of after the conference committee report."**

(A) **A conference committee report may be presented for consideration while a member is occupying the floor in debate and takes him off the floor, and has precedence of the motion to adjourn.**

SYLLABUS OF SPEAKERS' DECISIONS AND PRACTICE

(Voting By Division)

SEC. 1450. After tellers have been ordered and appointed the motion to adjourn is not in order until after the count and the announcement of the vote.

(A) It is the duty of members when appointed as tellers, to serve. If tellers appointed for one side refuse to

serve, the Speaker is at liberty to appoint all the tellers from the opposing side.

(B) If a division of the House should be properly demanded; and this should be followed by a question of no quorum, the chair should first decide the point of order. If a quorum is not present it should be established before proceeding with the division.

(C) It is in order to raise a question of no quorum and when such quorum is established, to demand the yeas and nays.

(D) After the division of the House has begun, there can be no debate.

(E) A vote having been given it cannot be withdrawn, without leave of the House.

(F) A member is permitted to change his vote before the result has been finally and conclusively announced.

(G) When a question affects the rights of several members, each may vote in the case of his associates, but not in his own case.

(H) If the Speaker himself is in doubt as to the result of a vote by division, he may order tellers without a request from the House.

(I) If the count by tellers becomes uncertain because of confusion, or other cause, the chair directs the count to be taken again.

(J) After the result of a vote has been finally announced, a recount can be made only by unanimous consent.

(K) In taking a vote by tellers the chair may be counted.

(L) When the chair is satisfied the demand for tellers is for dilatory purposes he may rule the demand out of order.

(M) Speaker Jones ruled: "It is in order to demand a yea and nay vote when a vote is being taken by division, or by tellers, or even whlie the result of a division

is being announced by the Speaker, or even after the announcement of the result of a division, if the House has not passed to other business.

(N) A demand for a division vote comes too late if there has been intervening business.

(O) Any method employed to ascertain the sense of the House may be properly called a division.

(P) A demand for tellers is not precluded by a refusal for a yea and nay vote.

DIVISION BY SHOW OF HANDS

SEC. 1451. A division by show of hands is rarely or never taken in legislative bodies, except perhaps in a few of the eastern states it is sometimes employed. This vote is taken in a manner similar to a rising vote, except in this instance the members hold up their hands instead of rising and the chair decides by the greater number of hands uplifted.[1]

DIVISION OF HOUSE BY CHAIR

SEC. 1452. If the chair is in doubt as to the result of a vote taken by voice, he may take a division of the House by any of the methods set forth in this chapter without request from the House.

VOTE OF 700 MEMBERS IN PARLIAMENT

SEC. 1453. When a division vote is demanded in Commons the Speaker if debate is closed puts the question and takes the voices thereon, this is the signal for all strangers on the floor to at once withdraw. The clerk starts a two-minute sandglass, and at once sets in motion the **division bells** in every part of the building, **giving notice** that the House is about to **divide.** It is the duty of the sergeant-at-arms to clear the House of

[1] It is the opinion of the writer that this method is never employed in either house of Congress.

strangers and lock all doors leading to the House and adjoining lobbies as nearly simultaneously as possible.

(A) When the doors are locked the Speaker again puts the question and takes the voices. Under the rules the Speaker must twice put the question before the division is taken. No member may speak between the first and second putting of the question.

YEA AND NAY RECORD DIVISION VOTE IN PARLIAMENT

SEC. 1454. About 1830 Parliament thought it advisable to secure a record yea and nay vote. The rule provides the House must be entirely cleared, the yeas going to one lobby and the nays to another, a clerk and two tellers are placed at the door of each lobby. The clerk is seated at a desk with the roll of members; as the members return to the House the teller counts them and the clerk records the vote according to the lobby they entered. There can be no division without two tellers for each lobby and these tellers must agree as to the number voting. The tellers have full charge of the lobbies while the division is in progress and any irregularity is reported to the tellers, such as a member entering the wrong lobby. **The result of the vote is reported by the teller to the Speaker with the division list (roll call)** who announces the result. Members, of course, do not announce their vote as they enter the House from the lobby. The clerk records all members coming from the yea lobby as voting yea, and likewise, those coming from the nay lobby as voting nay.

(A) A member may not refuse to vote by remaining in the lobby, it is the duty of tellers to enter the lobby and record all members remaining therein before reporting the result to the Speaker. A member having heard the question put, and who enters the wrong lobby, is bound by that vote unless the error is discovered before the doors are unlocked and the actual count of members begins by the tell-

ers, the tellers may permit a member to go to the division lobby he desires to be in. If tellers do not agree in the count, the division is taken again. Aged and infirm are usually permitted to remain in their seats and are counted there. A clerical error in making a division vote may be corrected upon application made at the table of the clerk, a memorandum of which is inserted and printed in the journal.

YEAS AND NAYS—ROLL CALL

SEC. 1455. The roll call is the method most frequently employed by American legislative bodies in securing a division and important decision of the House. In this instance the question is put in the affirmative and the negative at the same time, e. g., the question is "Shall the bill pass? Those in favor will vote aye and those opposed no, as your names are called."

MODE OF TAKING YEA AND NAY VOTE

SEC. 1456. The decision of the House by yeas and nays is taken by the tally clerk calling the roll of members in alphabetical order as fully illustrated elsewhere in this chapter.

AMERICAN RULE GOVERNING ROLL CALL DIVISION

SEC. 1457. The rule governing a yea and nay vote is:

"After the roll has been once called through the clerk shall call in alphabetical order, the names of those not voting, (if any) and thereafter the Speaker shall not entertain a request to record a vote."

(A) It is not mentioned in the rule, but since 1864 it has been the constant practice of the national House to record in the Journal the names of all members present and not voting. The rule providing this action disappeared many years ago **but the practice continues.**

ROLL CALL RULE DEFINED

SEC. 1458. In deciding a question of order Speaker Reed said of this roll call rule: "According to the letter of the rule **no member can vote nor can the Speaker entertain a request for unanimous consent that a member be allowed to vote after the completion of the second roll call;** but inasmuch as there is at all times, more or less noise on the floor and **it frequently happens that a member will fail to hear his name called by the clerk, or the clerk will fail to hear his response it was thought to be manifestly unfair and unjust that a member should be deprived of his right to vote under such circumstances. Therefore, if a member can qualify by declaring that he was present and listening and did not hear his name called, his vote will be recorded (and counted). If he cannot qualify he cannot vote."**

(A) Thus it will be seen from the foregoing explanation of the rule that the House recognizes that it may not by rule deprive a member of his right to have his vote recorded, but it does recognize that just as important matter **that a member may by his own negligence deprive himself of his right to have his vote recorded.**

RECONSIDERING DEMAND FOR YEAS AND NAYS

SEC. 1459. The constitution of the United States provides that one-fifth of the members may demand a yea and nay vote. The House seems to have a method to set aside this requirement when demanded, or if it appears to be dilatory or useless. They move to reconsider the demand for the yeas and nays, if decided in the affirmative, it seems to be an invitation to the member making the demand to withdraw same which is considered as done.

SEC. 1460. A call for the yeas and nays may be suspended to receive a message from the President.

ANALYSIS OF CONSTITUTIONAL RIGHT TO VOTE

SEC. 1461. The following precedent and decision of Speaker James Blaine indicates the **extent of a member's constitutional right to vote.**

After the second roll call on a question was completed and before the final declaration of the result, a member requested to be recorded and stated he had been **called out of the House and upon his return the roll had been completed.** The Speaker said, **"The rule prohibits the member from voting."** James Garfield objected saying, "Before the final announcement of the vote and while that measure is still pending, a member has a constitutional right to vote and any rule that deprives him of that right is unconstitutional." Speaker Blaine held: "The chair does not think this rule violates the constitutional right of any member, the rule operates equally and impartially upon every member. There is no selection of one member and placing a disability on him. **The roll call must cease some time and the House has determined it must cease at this particular point.** The constitution provides for the calling of the yeas and nays and the same constitution gives to the House the authority to determine the rule under which the yeas and nays shall be called. If the House provided that the roll shall be called once and the result announced and the absentees should not be permitted to vote, the chair thinks that would be an entire compliance with the constitution."

QUALIFYING MEMBER TO VOTE AFTER ROLL CALL

SEC. 1462. There is no written rule governing the qualifying of a member to vote after the second roll call, but the practice since the adoption of the rule many years ago is as follows: If a member after the second roll call requests to have his vote recorded the Speaker puts the question, **"Was the member present when the roll was called?"** If he answers affirmatively, he continues **"Did you hear your name called?"** If answered

negatively, **"Was the gentleman listening?"** or as Speaker Reed puts it, **"Was the gentleman present and listening and did not hear his name when the roll was called?" If the member can answer affirmatively he establishes his right to have his vote recorded,** otherwise he may not vote. **Objection from the House prevents the recording of the vote** unless the House allow on motion such vote.[1]

EFFECT OF OBJECTION TO RECORDING VOTE. AFTER SECOND ROLL CALL

SEC. 1463. In the session of 1883, a member after the conclusion of the second roll call requested to have his vote recorded. Speaker Carlisle put the usual questions which were answered satisfactorily and said: **"It has been and is now the practice of this House to allow a member to vote after the second roll call if he states he did actually vote or that he was giving attention, but did not hear his name called,** the Speaker directed the clerk to call the member's name for his vote, when objection being made, the member's vote was not recorded. (1st Session 45th Cong. Record, p. 189.) (A motion to allow this vote would have been in order.)

INSTANCE WHERE MEMBER FAILED TO QUALIFY FOR VOTING

SEC. 1464. In the first session of the 54th Congress, a member requested to vote after two roll calls and answered all questions affirmatively except that he was listening. The Speaker ruled: "In matters of this kind the chair simply enforces the rule of the House. The exceptions to the rule under which gentlemen are allowed to have their votes recorded after the roll call, **rests upon the idea that by some mistake his name was**

[1] The foregoing is parliamentary practice, it is not provided by the rules of the House.

not called. The object of the rule is to command attention. The gentleman may not vote."

(A) A similar case to the foregoing was decided by Speaker Gillette in Congress, Dec. 5th, 1923. The member could not qualify as to listening. The Speaker said the gentleman does not qualify. The rule is that when a member does not vote on the first or second roll call he cannot vote, unless he declare that he was present and listening and did not hear his name called, the theory being that probably the clerk did not call his name. **It is meant to correct an error on the part of the clerk not calling the member's name.** So the chair always in accordance with the precedents asks members if they were present and listening when their name was called. **If they answer in the affirmative they can vote, if they cannot answer on their conscience, they cannot vote.**

CHANGING VOTE

SEC. 1465. The rulings of all Speakers of the national House, are to the effect **that it is the right of any member to change his vote at any stage of the proceedings before the decision of the House shall have been finally and conclusively announced from the chair but not thereafter.** (Jones.) A member who gives his vote on the wrong side of the question may change it on the later day by unanimous consent of the House.

WITHDRAWAL OF VOTE

SEC. 1466. A member having given his vote may not withdraw it except by consent of the House. (Crisp 2d Session 53rd Cong. Record, p. 2003.)

DISQUALIFYING PERSONAL INTEREST IN VOTING

SEC. 1467. **The Speaker is without authority to deprive a member of his constitutional right to represent his constituency.**

Under the Speakership of Mr. Randall a question of personal interest was urged against a member who was a bank director, when a banking bill was about to be voted upon.

(A) The speaker ruled: **"The chair must be governed by the rules of the House and by the interpretations which have been placed upon them in the past by the House.** This is not a new question. It was brought to the attention of the country in a remarkable manner in the Seventh Congress when Mr. Macon, Speaker of the House who claimed the right as the representative of a constituency to vote upon a pending bill, notwithstanding there was a rule of the House to the contrary. The chair is not aware that the House of Representatives has ever deprived a member of his right to represent his constituency. A decision of the chair, to that extent, would be an act, the chair thinks, altogether beyond the range of his authority. **The chair doubts whether the House itself should exercise, or has the power to deprive a representative of the people of his right to (vote) represent his constituency.** The history of the country does not show any instance where a member has been deprived of such right." (3d Session, 46th Cong. Journal, p. 204.)

RIGHT TO VOTE WHEN UNDER ARREST

SEC. 1468. In the 30th Congress fifty members were under arrest by the sergeant-at-arms. The Speaker without assigning his reasons, on objection being made, ordered their names stricken from the roll call (disallowed). Speaker Crisp in a later ruling **set aside and nullified the foregoing decision.** He held that members **under arrest could of right vote.** He said the Speaker is without authority to direct that the members' names be stricken from the roll for this reason.

COMPELLING MEMBER TO VOTE

SEC. 1469. **Neither the Speaker nor the House can compel a member to vote.**

Under the rules members are **required to vote** but both parliament and congress have found it impossible to **compel members to vote.** In the early history of parliament **members were compelled to vote** because under its system of taking a division the yeas and nays would remain in the House and the opposing side would go to the lobby, those in the House or lobby were counted. John Quincy Adams and other distinguished members of congress in both Houses fully tested, on different occasions, the power of the House to compel them to respond to a yea and nay vote. In each of these instances the House surrendered. **Of course a member refusing to vote is guilty of a breach of rules and could be punished within constitutional limitations.** Punishment would not produce his vote. It is a well settled practice in congress **for member not desiring to vote to be excused from voting and the House rarely refuses such request.** The utter despair and helplessness of the House in its long, continuous effort to force Mr. Adams to vote is apparent in the following resolution and statement of Mr. Drayton:

RESOLUTION

(A) "Resolved, that John Quincy Adams, a member from Massachusetts in refusing to vote when his name was called by the clerk after the House had rejected his request to be excused from voting for reasons assigned by him, has committed a breach of the rules of the House."

"That a committee be appointed for the purpose of inquiring and reporting to this House the course which it ought to adopt in a case so novel and important."

(B) In support of his resolution Mr. Drayton said: "If this breach of rule should be passed over in silence it might hereafter be in the power of a minority to defeat the legislative functions of the body by combining together in a similar refusal."

(C) The resolution was postponed to the following day. In the discussion of the resolution it was apparent that members doubted the constitutional right of the House to even make a rule to require members to vote. The resolution was tabled. Subsequently numerous efforts were made by the House to force members to vote. All failed. Resulting we believe in the **present practice of permitting members who do not wish to vote to answer present, thus securing a quorum of record.** (1 Session 22nd Cong. Debates, pp. 3905, 3907.)

SEC. 1470. On March 4, 1881, Senator Roscoe Conklin refused to vote and no effort was made to force him to vote, later on the same day on another question several members refused to vote, objection being made, the president of the Senate said: **"In accordance with the precedents it is impossible to compel a senator to vote."**

REFUSAL OF MEMBERS TO VOTE

SEC. 1471. When members refuse, decline or fail to vote on any question, the decision of the House is determined by the number of those participating in the division and is announced and determined without such votes, even though the House by vote refused to excuse the members from voting.

RECAPITULATION OF ROLL CALL VOTE

SEC. 1472. A member may demand, but not as a matter of right, a recapitulation of a yea and nay vote; but if the vote be close the Speaker may and usually does order it.

SYLLABUS OF GENERAL DECISION RELATING TO A YEA AND NAY VOTE

SEC. 1473. When a yea and nay vote on a bill fails for a lack of quorum, the order for the yeas and nays remains effective whenever the bill comes before the House again. (Carlisle 2d Sess. 51st Cong., p. 998.)

(A) The yeas and nays may be demanded even after the announcement of a division vote if the House

has not passed to other business. If there has been **intervening business** the chair will not recognize such demand.

(B) After the Speaker has announced the result of a division on a motion and is in the act of putting the question on another motion it is too late to demand the yeas and nays. (Boyd.)

EFFECT OF ANSWERING PRESENT ON ROLL CALL

SEC. 1474. A member who has **answered "Present" on a roll call may change the answer to yea or nay,** the proceeding being exactly the same as changing vote from nay to yea but a member who has not answered "Present" may not be so recorded at the end of the roll call. If such were permitted he could afterward change to yea or nay and by this circuitous route record his vote. (Reed.)

RIGHT OF MEMBER TO VOTE WHEN SEAT IS CONTESTED

SEC. 1475. The question of the right of a member to vote who has taken the oath of office and has been seated by the body and his seat is contested by another was settled first in the affirmative by the continental congress. (4 Vol. Debates 406.) In 1839 it was presented to the new congress and citing the decision referred to, it was decided that **members whose seats were contested had a right to vote.** However, they could not vote on the question of their own contest but could in the case of their associates. The same question was presented in the U. S. Senate in 1866, and decided substantially as in the House. In both debates it was said that the foregoing is not the practice in the English Parliament.

SEC. 1476. Incidental motions arising during a roll call, such as a member refusing to vote, are considered after the completion of the roll call, and before the announcement of the vote.

WHEN QUESTION FULLY PUT

SEC. 1477. The parliamentary rule is that a question is not fully put until both the affirmative and negative side have been put by the chair. The case of a yea and nay vote, both the affirmative and negative are put at the same time and after being put no debate is in order; after the clerk has proceeded to call the roll, and in consequence of which one member has given his vote, even though a member has risen and addressed the chair, further debate on the question is precluded.

RIGHT TO VOTE

SEC. 1478. A member's right to vote in a division is based upon his presence in the House when the question is put by the Speaker. If he was not present and did not hear the question put he may not of right take part in a division. In the case of a roll call vote his right to vote depends not only on his presence but on the more important fact that he is attentive to the roll call; that he was listening for the clerk to call his name. At the end of the second roll call he may vote only on the presumption that an error has occurred (his name was not called or he did not hear). The House will always correct errors no matter at what distant time they are discovered and regardless of the result. In this way only can the true sense of the House be obtained. When a vote is actually given and fails to be recorded it is the right of a member at any time to have the proper correction made. **He may insist that his vote be recorded even after the chair has announced the result and the chair makes a new declaration of the result. All proceedings of the House subsequent to the erroneous announcement of a vote which would have been irregular if such vote had been correctly announced are to be treated as a nullity and are not to be entered on the Journal.**

RIGHT TO VOTE DESTROYED

SEC. 1479. The fact that a member was absent on the business of the House does not give him the right to vote on questions decided in his absence.

MEMBERS PRESENT AND NOT VOTING DOES NOT PREVENT THE ANNOUNCEMENT OF THE RESULT OF VOTE

SEC. 1480. A resolution was under consideration, the question on it was taken and resulted—yeas 111, nays 15. A question of order was raised that no quorum was present. The Speaker counted the House and announced a quorum is present, 186 members, and then declared the resolution is agreed to. (H. J. 1st Sess., 55th Cong., p. 82.)

VOTE BY YEA AND NAY

SEC. 1481. This method of taking the vote is an American device. It has no connection with the parliamentary law. It is **enjoined upon American legislative bodies by permanent rules** inserted in the Federal and State Constitutions.

CALLING ROLL OF MEMBERS

SEC. 1482. In calling the **roll of members** in the National House previous to 1877, the clerk called the full name of the member, but since the date given he **calls by the surname with the prefix Mr. This is courteous and dignified.**

WHEN MEMBERS MAY ANSWER "PRESENT"

SEC. 1483. In the National House on yea and nay votes members desiring not to be recorded, on either side of the question, are permitted to respond, when their names are called, "Present" or "Here" and they are so recorded by the clerk, and the number of members so answering is announced in giving the result of the vote.

PROXY VOTING

SEC. 1484. There is no procedure in American Parliamentary practice that provides for or recognizes voting by proxy. It is sometimes permitted in small bodies, such as boards of directors, but authority for such action is English and not American. In fact it is a very un-American practice. The right to vote by proxy is not permitted in the House of Commons, but is confined to the House of Lords. In order that a Lord may vote by proxy, he must first be excused from attendance on the sessions of Parliament, by the King. At the present time proxy voting is not permitted in either house of Parliament, it being discontinued in 1868. In some of our states proxy voting has been legalized, in certain corporations and boards.

PAIRING VOTES

SEC. 1485. A system similar to voting by proxy has been recognized in Parliament and Congress for many years. It is not recognized in Congress by rule, but by tolerance, and may be said to be a firmly established practice. The system referred to is known by the name of "Pairing." This procedure, merely, enables a member to be absent from the meeting himself, and to agree with another member that he also will be absent at the same time, or if present refrain from voting. By this mutual agreement a vote is neutralized on each side of the question, and the relative numbers in the division are precisely the same as if both members were present and voting. Members pair on particular questions, or for one sitting of the House, for a day, week or even months. There is not and can be no parliamentary recognition of this practice either in Parliament or Congress. It is merely tolerated in practice. Therefore it must be and is conducted privately by individual members.[1]

[1] In the period between 1850 and 1870 this practice was permitted by the Ohio assembly.

VOTING BY BALLOT

(The Rule)

SEC. 1486. In all cases of voting by ballot, other than for committee, a majority of all votes given shall be necessary to an election, and when there shall not be such majority on the first ballot, the ballots shall be repeated until such majority shall be obtained, and in all balloting blanks shall be rejected and not be taken into consideration in the count in the enumeration of votes, or report by tellers. (Rule of Congress.)

(A) Under the foregoing rule, blanks, indistinct or doubtful ballots are not counted, the majority is figured on the number of acceptable ballots. Example: If in a vote taken, 106 votes were deposited, and six were blank or faulty and rejected, the majority necessary for a choice would be 51, one-half and one more of the accepted 100 ballots.

(B) After the count of ballots has begun, it is too late for a ballot to be offered or received.

BALLOTING FOR COMMITTEE

SEC. 1487. When the National House elected all its committees by ballot, it operated under the following rule:

(A) "If upon any ballot taken, the number required shall not be elected, by a majority of the vote given, the House shall proceed to a second ballot in which a plurality vote shall prevail, and in case a greater number than are required shall have a majority vote, the House shall proceed to further ballot or ballots."

(B) In actual practice this rule proved unsatisfactory and oftentimes presented disturbing difficulties. Mr. Hinds, Parliamentarian of the House, speaking of the rule, says: "This rule presents a wrong principle, a ballot vote hampered by an unqualified majority requirement is wrong." He then cites the rule of the Maine and Massachusetts leg-

islatures, as being correct in principle and more practical in practice as follows:

(C) **The Maine Rule**—"If a number greater than is required to be chosen, receive a majority of said whole number, the number so required of those who have the greatest excess in votes over such majority shall be declared elected."

(D) It will be noted that the latter rule requires a majority for election and disposes of the vote in a manner fair to all participants, therefore, it is to be preferred and its use is recommended.

SPEAKER'S VOTE WHEN TAKEN BY BALLOT

(E) In all cases when the decision of the House is obtained by ballot the chair shall vote.

HOW YEA AND NAY VOTE IS TAKEN
Official Roll Call

	Yeas	Nays
Addison		1
Anderson	1	
Ashcraft		2
King		3
Loe	2	
Ray		X
Total	2	4

The foregoing diagram describes the roll call and the method of taking a yea and nay vote in legislative bodies. The plan, it is said, had its birth in the legislature of Massachusetts.

(A) When the roll is called the clerk, as indicated numbers the **responses** of the members, if the first response is aye he inserts the figure 1 in yea column, if nay in the nay column after the name of the member voting, and

so on until the roll is complete, so that when the last name is called the last figure entered gives the total yea and nay vote. If a member changes his vote a ring is drawn around the first vote and a check is then made in the other column. When a member comes in after his name is called or if for any reason he votes out of regular order it is indicated by an x mark. In some legislative bodies a member absent or refusing to vote is shown by drawing a line through his name.

(B) If two members have the same name, say Williams, they are distinguished on the roll call by attaching their county, thus, Williams of Lake, Williams of Fayette. If both should live in the same county, then the Christian names would be added, thus, Tom Brown, John Brown of Champaign.

(C) **Contest of Seat.** — A member who has produced a certificate of election and takes the oath of office, if his seat is contested, is qualified to exercise all the rights of a member until a decision is rendered in such contest. If removed, his rights, of course, as a member of the House cease at once.[1]

(D) **When Speaker Votes.** — The vote of the Speaker, if he votes, is always recorded at the end of the roll call.

(E) **Explanation of Votes.**—If a member desires to explain his vote he must do so before the roll call has begun on the proposition.

QUESTIONS THAT REQUIRE A MAJORITY VOTE TO DECIDE THEM AFFIRMATIVELY

SEC. 1488. It would be next to impossible to set down as fixed the vote required on all questions. A few of the more important will be found in the following

[1] For Ohio Supreme Court decision on voting in seating or unseating member and vote required see O. S. R. vol. 43, page 653, also vol. 44, page 364, also see vol. 44 O. S. R. for court decisions on rights of "de jure" and "de facto" members, page 348.

lists: **As a general rule, all questions are decided by a majority vote,** unless specifically provided otherwise by rule.

Adjourn
To fix time to which to adjourn (When admitted)
Adopt
Agree
Amend
Agree to committee report
Amend appropriation bill.
To resolve into committee of the whole
Recess
Postpone (either indefinitely or to day certain)
Previous question
Commit (refer)
Lay on table
Sustain decision of chair (See equal vote)
Question of consideration
Informally pass
Lay aside
Adopt resolution

QUESTIONS THAT REQUIRE TWO-THIRDS VOTE TO DECIDE AFFIRMATIVELY

SEC. 1489. Suspension of rules

Rescind
Expunge
Take from table (when admitted)
Discharge (majority of all elected members)

VOTE REQUIRED BY OHIO CONSTITUTION[1]
(Majority of Those Elected)

SEC. 1490. To institute impeachment proceedings.

To pass regular bill
To pass appropriation bill

[1] Most State Constitutions provide for various votes on these same questions.

TWO-THIRDS VOTE

(Ohio Constitutional Requirements)

SEC. 1491. Pass emergency bill or section
Convict under impeachment proceedings
Allow extra compensation
To hold secret session of House
Sundry claims appropriation bill
To increase or decrease number of judges
To create new judicial district or subdivision
To remove judge.

THREE-FOURTHS VOTE

SEC. 1492. Suspension of constitutional rule.

THREE-FIFTHS VOTE

SEC. 1493. Adopt resolution proposing constitutional amendment.

To pass bill over disapproval of governor.

CONFIDENCE IN SPEAKER

SEC. 1494. One of the suppositions on which parliamentary law is founded is that the Speaker will not betray his duty to make an honest count on a division. (Hinds.)

EFFECT OF ABSENCE OF QUORUM DISCLOSED ON ROLL CALL

SEC. 1495. The fact that a roll call vote discloses the absence of a quorum, does not adjourn the House, nor does it have any effect on the matter being considered except to postpone further consideration. Speaker Reed held in the House, "When a quorum fails to vote the matter continues in the exact state it was before the vote was taken, and may be resumed at that point on any future day."

(A) It was decided in the United States Senate that when there had been a roll call vote ordered and on such call no quorum is developed, and the same day a call of the

House is had and a quorum is developed, the first thing immediately to be done, is to proceed with a new roll call. This was also the practice of the National House prior to the adoption of the rule providing for the automatic call of the House which in effect produces the same result.

CALL OF THE HOUSE ON FAILURE OF QUORUM ON VOTE AND VOTE ON PENDING QUESTION

SEC. 1496. Rule: Whenever a quorum fails to vote on any question and a quorum is not present and objection is made for that cause, unless the House adjourns there shall be a call of the House and the sergeant-at-arms shall forthwith proceed to bring in absent members, and the yeas and nays on the pending question shall at the same time be considered as ordered. The clerk shall call the roll and each member as he answers to his name may vote on the pending question and after roll call is completed, each member arrested shall be brought by the sergeant-at-arms before the House, whereupon he shall be noted as present, discharged from arrest and given opportunity to vote and his vote shall be recorded.

(A) If those voting on the question and those present and declining to vote shall together make a majority of the House, the Speaker shall declare a quorum constituted, and the pending question shall be decided as the majority of those voting shall appear. Thereupon further proceedings under the call shall be considered as dispensed with. At any time after the roll call has been completed the Speaker may entertain a motion to adjourn and if seconded by a majority of those present, to be ascertained by actual count by the Speaker and the House adjourns, all proceedings under this rule shall be vacated. (Rule XV, par. 4.)

PRACTICE UNDER RULE 15, PAR. 4

SEC. 1497. The practice under par. 4 of rule XV is to call the roll over once and then call again those not

voting, and **those appearing after their names are called may vote.** The House was proceeding under this rule when inquiry was made of the chair as to whether or not those who had answered on the previous roll call should vote again.

Speaker Reed said: "The chair thinks the only solution as the matter stands is for each member to vote as his name is called. The sergeant-at-arms will close the doors, the clerk will call the roll."

PURPOSE OF RULE 15, PAR. 4

SEC. 1498. Speaker Reed, who introduced and urged the adoption of par. 4 of rule XV, explained it as follows: "The chair will state that under this rule, when members are called **they are required to vote yea or nay on the pending question, unless they desire not to vote, in which case they should respond present. Thus the roll call will answer the double purpose of taking a vote on the bill and showing the number of members present.** The chair also desires to add that we are now under a call of the House, so that it is the duty of members who are present to remain until the call and the vote is completed and **the sergeant-at-arms is required to keep members here who are present and also to bring in absentees."** (2 Session 54 Cong. Record, p. 152.)

PROCEEDING ON ARREST OF MEMBERS AND ARRAIGNMENT AT BAR OF HOUSE UNDER RULE

SEC. 1499. If a member is brought in under the call he is taken to the bar of the House by the sergeant-at-arms or his assistant, who proceeds as follows: "Mr. Speaker: In accordance with the rules of the House and authority or warrant of the Speaker, I present at the bar of the House under arrest Mr. A., Mr. B. and Mr. W."

Speaker: "The gentlemen will be noted as present and discharged from arrest."

Thereupon the Speaker should interrogate each gentleman as to whether or not he desires to vote. If they answer in the affirmative, their names are called and their votes recorded.

Under this rule the doors of the House are to be closed. Neither the sergeant-at-arms nor the doorkeeper have any right or authority to permit any member to leave the House during the continuance of the call, or until the conclusion of the vote.

(A) After the roll has been called under rule XV, par. 4, and while the proceedings are going on motions to excuse members are in order and a motion to adjourn is in order before the call begins.

(B) In announcing a vote the Speaker left out the name of a member who was present. Immediately the member called attention to the fact and said that he desired to be recorded present. After consulting the clerk Speaker Reed said: "The gentleman is not recorded. He will be marked as present. The report of members present has been made up and announced by the clerk and whether the gentleman should be counted or not, is not material, as it is not necessary to make up a quorum."

(C) This rule for a call of the House only applies to cases where a quorum is required on a vote and then it works automatically. If upon a yea and nay vote the lack of a quorum is disclosed, **the House is automatically thrown under a call of the House.**

The rule provides that after the completion of the roll, the call shall still be in operation. That absent members shall be sent for and brought to the bar of the House and given an opportunity to vote until further proceedings are dispensed with.

MEMBERS REFUSING TO VOTE

SEC. 1500. **While the right of a member to refuse to vote is now pretty generally recognized by legislative bodies,** yet members so refusing, cannot escape all re-

sponsibility in discharging what is their plain duty. It is the right of every deliberative body to obtain a final decision upon every question brought before it, according to the general and justly formed opinion of the meeting. It has been held by all the large parliamentary bodies in the world and several of our state supreme courts, as well as the federal Supreme Court of the United States, that members who are present and abstain from voting are held, by their presence during the vote to be acquiescent in the decision of the majority and to impart validity to the proceedings, if their votes, had they been given, were essential thereto.

SPEAKER ONLY MAY ANNOUNCE RESULT OF VOTE

SEC. 1501. In Congress it is improper and unparliamentary for the clerk at the conclusion of a roll call to announce to the Speaker the result of the voting, unless the Speaker requests it. The proper parliamentary procedure is for the clerk to hand the Speaker his tally sheet or roll call from which the Speaker reads the numbers and declares the result of the voting. On June 28, 1918, Speaker Champ Clark, in deciding a question of order, said that the Speaker had announced an incorrect result of a vote and the result as given by the chair, **was read from the roll call vote handed him by the clerk. "This is the only means the chair has of knowing the result of the voting."**

SYLLABUS OF SPEAKERS' DECISIONS

SEC. 1502. The right of a member to vote may be brought forward by himself or by another member and is settled by the House.

(A) The fact that the correction of an error in a vote will change the result previously announced, is not to be considered or taken into account, such not being pertinent to the question: "Has the member a right to vote?"

(B) When a vote actually given fails to be recorded it is the right of the member to have the proper correction made before the approval of the Journal.

(C) The fact that a member was absent in the service of the House does not justify the Speaker in submitting to the House, a request that his vote be recorded after the close of the roll call.

(D) A member may not have the record of his vote changed on the statement that he voted under a misapprehension of the question.

WHEN RESULT OF FINAL VOTE FALLS

(E) If an incorrect result is announced on a vote or an amendment, if discovered even the next day, the question recurs to that point with all rights intact, even if the bill so amended has been passed. All related proceedings subsequent to the announcement of an erroneous result fall.

(F) Intervening time does not prevent the correction of an error in voting, and if such correction produces a result different from that previously declared by the Speaker, he then declares the changed result and such declaration is authoritative.

(G) Even the fact that a dangerous precedent might be established is not sufficient to deprive a member of his right to have his vote properly recorded.

(H) Error in voting is to be corrected even though the final result is changed thereby and the chair declares the new result.

(I) The member's right to vote may not be challenged on the ground that his vote if recorded or corrected will change the result. Such is not pertinent to the main question, "Has the member a right to vote?"

PRACTICE IN COMMONS IN CORRECTING VOTE

SEC. 1503. In the Commons after the chair announces the result of a division, if members appear and wish to vote,

the invariable practice is for the Speaker to inquire of each member individually so appearing: "Were you present when the question was put?"

FALSE DOCTRINE RELATIVE TO VOTING

SEC. 1504. If the doctrine sometimes advocated **that the House is without authority to correct an error in a vote, if it produce a result different from that previously declared by the chair; but if the first declaration is to stand unchallenged for any reason is true, then indeed, is the House absolutely at the mercy of, and dependent upon the integrity of the clerk.** The absurdity of this unparliamentary doctrine may be best shown in the following observation: Suppose a vote were taken on an appropriation bill carrying several million dollars and it was declared passed in consequence of the vote of one member, whom everyone knew was not present, but was miles away in a hospital and whose name was recorded by mistake of the clerk. Would it not be the right, yes the duty of the House to correct such error by disallowing the vote and thus securing the true sense of the House? And would it not be the duty of the chair to declare the correct result when found? The writer himself is convinced, yes.

RIGHT TO CHANGE VOTE

SEC. 1505. The right of a member to change his vote exists until the final and conclusive announcement of the result by the Speaker and the fact that he has changed it one or more times, does not operate to prevent subsequent changes as often as he may desire, even after the announcement of the numbers in the voting on each side, he may change his vote, but he may not withdraw it without the consent of the House.

EQUAL (TIE) VOTE

SEC. 1506. **The effect of an equal or tie vote is dependent upon whether the question is put in the affirmative or negative.** If put in the negative and there is an equal vote the decision would be in the affirmative. If proposed in the affirmative and the vote is equal, the decision is in the negative. Therefore in American practice where the rule requires all questions to be put in the affirmative an equal vote produces a negative result. In fact the rule of the national House so provides. But Speaker Reed points out one exception to the rule, viz.: That in cases of appeal from the decision of the chair, an equal vote with the Speaker voting sustains the Speaker.

ANNOUNCING RESULT OF DIVISION VOTE

SEC. 1507. The chair in announcing the result of a division vote after a count, should declare the numbers on both sides for the information of the House, but such numbers need not be recorded in the Journal.

VERIFICATION OF VOTE

SEC. 1508. The means of securing an accurate vote of the House and the verification of each are many, e. g. the chair states the question and takes a voice vote and announces the result, which is challenged. He then divides the House by a rising vote and announces the result, that is challenged and a verification demanded by the tellers, this is taken and before or after the process is completed the yeas and nays may be demanded and the Speaker may direct a recapitulation of the latter, but here the process stops, unless error is discovered.

ANNOUNCING NEW RESULT OF VOTE

SEC. 1509. If in correcting errors, in a vote previously taken, a new result is thus obtained, the chair announces the changed result and the former announcement is a nullity.

ROLL CALL

SEC. 1510. If the records show a member to be recorded as voting when the fact can be established that he was not present, the Speaker may order the clerk to strike his name from the roll.

If any error is made by the clerk in computing and reporting the yeas and nays to the Speaker and the Speaker declares a result different from that actually shown by the roll call, the status of the question must be determined by the vote as actually recorded.

INTERRUPTION OF ROLL CALL

SEC. 1511. The roll call may not be interrupted even by a question of highest privilege, not even a motion to adjourn, **but the rule is frequently relaxed to receive a message from the president.**

CHAPTER XXXIV

ALLOWANCE (ADDITION) DISALLOWANCE (SUBTRACTION) AND CORRECTION OF VOTES

GENERAL PRACTICE OF LEGISLATIVE BODIES IN CORRECTION OF ERRORS IN VOTING

SEC. 1512. The general rule of Congress is fully expressed in the following rule found in the House Digest:

(A) **"All proceedings of the House subsequent to the erroneous announcement of a vote, which would have been irregular, if such vote had been correctly announced, are to be treated as a nullity and are not to be entered in the Journal."**

(B) The general practice of all legislative bodies is to protect the final result of a vote, and the final and conclusive pronouncement of such vote by the chair, up to the point where error is discovered, then corrections are to be made, and if necessary, the previously declared result must yield to correction. It is not discretionary with the Speaker in matters of correction of errors in votes, but he is bound to direct such corrections to be made and to declare the result when so made. In doing so he merely enforces the rule and practice of all legislative bodies the world over. On the subject embraced in this chapter, Sir Erskine May, for many years clerk of the Commons, says in his great parliamentary work, May's Parliamentary Practice, which is the recognized authority of Parliament:

SEC. 1513. **"At whatever time it may be discovered that members were not present when the question was put, whether during a division, before the numbers are**

reported, or after they are declared, or even at a subsequent sitting, such votes are to be disallowed." (May, p. 335.) **Mr. May does not directly refer here to so patent a matter as the declaration of the new result, if it be changed as indicated by the disallowance of votes.** The real practice of parliament as indicated in the rule is shown in the following precedent and ruling:

ENGLISH PRECEDENT—SPEAKER DECLARES NEW RESULT

SEC. 1514. The tellers reported the result of a division to the chair. Objection was made that several members who had voted in the division came in **after the question was put.** The Speaker requested all members who had taken part in the division and were not present when the question was put to signify the same by standing; several members stood and the speaker directed their votes be stricken from the numbers reported. So their names were stricken from the yeas and nays and then the **numbers so altered were announced by the Speaker of the House.** (May, p. 335.)

SEC. 1515. Mr. Hatsell also a former clerk of the Commons, gives the following instance of the correction of error in vote:

PRECEDENT

The tellers reported the result of a division to the speaker and the speaker declared the result to be yeas 64, nays 12. Following this pronouncement of the result, objection was made to the vote of a member who was counted in the affirmative and was not present when the question was put. The chair inquired of the member if he were present when the question was put. He replied he was not, thereupon the chair directed that his vote be disallowed and immediately **announced the changed result** to be yeas 63, nays 12. (Hatsell 2 Vol. p. 187.)

SEC. 1516. The House of Lords recognize the principle of correcting errors in á vote and the practice is ancient.

PRECEDENT

In 1689 a division was had in the Lords, the tellers reported to the chair and he declared the result to be contents (yeas) 17 and non-contents (nays) 18, the question lost. After this declaration one of the tellers arose and informed the house that an error had been made in giving the votes to the Speaker, that as a matter of fact, the contents were 18 and the non-contents 17. (This announcement provoked the usual discussion that arises in legislative bodies when the unusual occurs.) After the discussion, the Lords resolved as a rule: "That when a mistake is made by tellers, it may be corrected by the clerk after the report." The house then ordered the clerk to correct the error and the chair **declared the changed result.** (Hatsell 2 Vol. p. 210, note.)

AMERICAN RULE

SEC. 1517. Mr. Cushing in his Law and Practice of Legislative Assemblies describes this principle more in detail and bases his rule on both the practice of Congress and Parliament.

RULE

(A) **"If in consequence of the allowance** (addition) **or disallowance** (subtraction) **of votes, or in any other manner, the apparent numbers voting in a division** (or any other way) **are changed, thereby** changing the result of the voting, not only are the changes of the individual vote to be noted in the Journal, **but a change in decision takes place as of the day on which the voting occurred, and with the same effect as if it had been correctly announced on that day, and all subsequent proceedings in reference to such vote on the question and predicated upon the idea that it was correctly announced on that day are of course null and void."** (Cushing.)

SEC. 1518. Mr. Hinds, for a quarter of a century Parliamentarian of the National House, agrees with Mr. Cushing. He says: "The vote of a member having failed to be recorded, he may insist as a right that it be recorded **even after the chair has declared the result and the chair makes a new declaration.**

SEC. 1519. **In case of error of any kind if it be corrected and the final result is thereby changed, the chair makes a final declaration of the true and changed result.** It is never too late to have a vote recorded or corrected, in case of error.

ILLUSTRATION OF PRACTICE

(A) On Sept. 9, 1850, a vote was taken in the National House on the adoption of a resolution, resulting, yeas 78, nays 77. The Speaker then voted in the negative, producing a tie or negative vote, and then announced the result as yeas 78, nays 78. **The resolution is lost.**

(B) On the following day when the Journal was read the Speaker in referring to the foregoing vote said, "The vote as given the Speaker by the clerk was yeas 78 and nays 77, when in fact the vote was yeas 78, and nays 76, **therefore, all subsequent proceedings would fall."** Then he declared the resolution adopted and directed the clerk to correct the journal of the preceding day accordingly.

SEC. 1520. **"All proceedings of the House subsequent to the erroneous announcement of a vote which would have been irregular if such vote had been correctly announced are to be treated as a nullity and are not to be entered in the Journal."**

ILLUSTRATION OF PRACTICE

(A) In the session of 1864, the House by yeas and nays voted on an amendment. Speaker Colfax announced the result **as yeas 71, nays 72, the amendment is disagreed to.** At this point a member declared he had voted yea and his vote was not recorded. The speaker ordered the correction to be made and then announced the vote to be yeas 72 and nays 72. **Objection was made that it was too late to correct a former declaration of the Speaker.** The chair overruled the objection and directed the clerk to read the rule in the Congressional Digest, which is as follows: **"All proceedings of the House subsequent to the erroneous announcement of a vote which would have been irregular if such vote had been correctly announced are to be treated as a nullity and are not to be entered in the Journal."** At this point another objection was raised to the effect that an amendment had been voted upon after the announcement of the final

result. The Speaker overruled the objection, saying: **"It is never too late for the gentleman to have his vote recorded."** (1 Sess. 38th Cong. H. J. pp. 586-587.) Upon appeal the foregoing decision was sustained by the house.

SEC. 1521. **After the final result of a vote has been declared, if a recapitulation is had, which must be by unanimous consent, and correction of errors produce a new and different result, the chair declares the new and changed result thus obtained.**

ILLUSTRATION OF PRACTICE

SEC. 1522. In 1892 in the National House, a motion was made to reconsider a vote previously taken, upon which the yeas and nays were demanded, taken the result being declared **yeas 148 and nays 148, the motion is disagreed to.** At this stage of the proceedings a member requested a recapitulation of the vote, which was objected to because **the final result had been declared by the chair.** The Speaker sustained the objection and said: **"A recapitulation at this time can only be had by unanimous consent."** This latter was granted and a recapitulation had, during this process two members declared they had voted in the affirmative, but were recorded in the negative. The speaker directed corrections to be made and **then announced the new result, yeas 150, nays 146, the motion to reconsider is agreed to.** H. J. 1st. Sess. 52d Cong. pp. 113-15.)

SEC. 1523. **A gentleman present and voting has a right to have his vote recorded and in case of tie the Speaker may cast his deciding vote even on a later day. The first result of a vote is merely the first ascertainment.** Speaker casts his vote after the result is announced and then declares a new result.

ILLUSTRATION OF PRACTICE

(A) A bill being under consideration the question was put on passage and then a yea and nay vote was demanded[1], taken, and resulted, yeas 100, nays 99, which the Journal of the House records as being the **first ascertainment,** which was announced to the House and the Speaker directed a recapitulation which was had and showed the votes to be yeas 100 and nays 100, the

[1] 60th Congress. Speaker Cannon in chair.

bill lost, thereupon Speaker Cannon voted in the affirmative and declared the bill passed. A question of order was then made against the Speaker's vote. The Speaker ruled: "This is a very plain matter, the Speaker is not required to vote unless his vote would be decisive. **The vote as announced by the Speaker showed the bill passed by a majority of one,** then a recapitulation was had and showed the vote to be a tie. **The very object of a recapitulation is to see whether the announcement of the Speaker is correct or whether there has been a mistake at the clerk's desk.** Years ago the chair is informed there were precedents of this kind that when there is a mistake in a vote and that mistake is corrected even on another legislative day, so as to make a tie, the chair in that case voted the day after, in other words, **it is an ascertainment of the vote.** Under the rules and under the practice of the House when such ascertainment shows the vote to be a tie the Speaker may vote and the Speaker is very clear on the question of practice, as well as the question of his right to vote." (H. J. 1st Sess. 60th Cong. p. 57.)

CORRECTING VOTE IN JOURNAL—CHANGING RESULT

SEC. 1524. **Intervening time is not to be considered in connection with the right to correct a vote. The Journal of the session of 1840 shows that there is no limit to which the House will not go to protect a member's right to have his vote properly recorded.**

ILLUSTRATION OF PRACTICE

(A) On Dec. 10, 1840, a motion was made to reconsider which resulted, yeas 89, nays 90. Thereafter the house adjourned to meet Dec. 14th, on that day the Journal of Dec. 10th was read and before approval, Robert Winthrop moved to amend the Journal by inserting his own and the vote of Mr. B. with those voting in the affirmative, which had been erroneously omitted on Dec. 10th, when the vote was taken on reconsideration. This motion prevailed and the Journal was so amended. The propriety of this procedure was questioned by members. **The Speaker then declared the acceptance of the two votes, changed the former decision of the House on the question of reconsideration from the negative to the affirmative, therefore the question recurs on the original motion to print the President's message.**[1] (See reconsideration.)

[1] H. J., 2nd Session, 20th Congress, p. 3132.

FINAL AND CONCLUSIVE DECLARATION OF RESULT OF VOTE

SEC. 1525. The announcement by the Speaker of the numbers resulting from a vote, that is for and against the propositions, is not the final and conclusive announcement of the result of a vote. **The final announcement of the result of a vote includes with the numbers a declaration of the effect of such vote, example: yeas 90, nays 62, the motion is agreed to, the bill is passed.**

ILLUSTRATION OF PRACTICE

(A) In 1829, in the session of the 20th Congress, a yea and nay vote was completed on ordering the previous question. **The Speaker arose and announced that there were 79 yeas and 81 nays.** At this stage in the proceedings, a member requested to change his vote from the negative to the affirmative. Objection was made and the Speaker ruled: **"It is the member's right to change his vote"** and directed the clerk to make such change **and then announced the changed result as yeas 80, nays 80,** an equal result and thereupon the Speaker voted in the affirmative and **then announced that the question of ordering the previous question was agreed to.**[1]

Following this declaration of the final result, a question was raised as to the **right of the Speaker to allow a member to change his vote after the numbers had been announced on both sides of the question.** The Speaker ruled: **"It is the right of a member to change his vote at any stage of the proceedings before the decision of the House thereon has been finally and conclusively announced by the chair."**

That the foregoing decision of Speaker Jones is still followed in practice is evidenced by the following decision of Speaker Gillette, in 1925:

ANNOUNCING FINAL RESULT OF VOTE

SEC. 1526. A motion to go into the committee of the whole was pending, a voice vote was taken and Speaker Gillette declared, "The noes **seem** to have it."

[1] It should be noted in this precedent that after the announcement of the numbers of the vote on each side the Speaker permitted a change of vote, and also voted himself before declaring the result.

Then the yeas and nays were demanded but subsequently withdrawn; a member then contended it was in order to proceed with business on the calendar. The Speaker overruled the objection and said: "The chair thinks not, upon the gentleman's motion and a voice vote the Speaker declared the nays **seem** to have it." Thereupon the yeas and nays were called for and later withdrawn. The chair thinks the vote has not been **permanently determined by the House** and the House is still dividing."[1] Thereupon a demand for the yeas and nays was renewed and resulted, yeas 193, nays 164, so the House resolved itself into the committee of the whole. (H. J. 1st Sess. 68th Cong.)

CORRECTING ERRORS IN VOTE AFTER ROLL CALL

SEC. 1527. The practice of permitting members to vote after roll call if they qualify under the rule, **is based on the presumption that members are honest and will not for the sake of a vote be dishonest or resort to trickery. It is the part of the House to assume such honesty if the member qualify by making the usual declaration.**

QUALIFYING MEMBER TO VOTE AFTER ROLL CALL

(A) The following decision and precedent is the most recent in the National House: In the first session of the last (68th) Congress, Speaker Gillette in the chair at the conclusion of a roll call vote, Mr. Sweet requested to have his vote recorded. The Speaker inquired "Was the gentleman present in the House and listening when his name was called?" Mr. Sweet: "I was on the first call." "Was the gentleman absent on the second call?" Mr. Sweet: "I was not." Speaker: "The gentleman does not qualify. The rule is:

[1] The Speaker means he had not finally and conclusively announced the vote on the question.

RULE

(B) When a member does not answer on either roll call he cannot vote, unless, he will declare he was present and listening when the roll was called and did not hear his name called, the theory being, that probably the clerk did not call his name. It is meant to correct an error on the part of the clerk in calling the member's name. So the chair always **in accordance with the precedents,** asks members if they were present and listening when their names were called. If they answer in the affirmative, **they can vote. If they cannot answer on their conscience, they cannot vote.** At this stage Floor Leader Longworth requested unanimous consent for all members who had not voted to be permitted to record their vote. Objection was made and his request defeated. Mr. Sweet then arose and declared, "as a matter of fact I was present and listening and did not hear my name called." Thereupon the Speaker directed the clerk to receive the vote of Mr. Sweet, and his name being called, he voted in the affirmative, and then **the Speaker declared the changed and final result.**

SEC. 1528. **An error in announcing the number of votes may be corrected, even the next day, by direction of the Speaker, or upon motion and vote of the House and the last and final announcement of the Speaker is authoritative. No matter what the result as first announced by the Speaker the vote as shown and recorded in the Journal is final and conclusive evidence of the correct result.**

ILLUSTRATION OF PRACTICE

(A) On June 27, 1918, Mr. Speaker Champ Clark in the chair, there was a lengthy and spirited discussion over the result of a vote on a report from a committee of conference. There was much contention over the result of the first roll call, **a recapitulation was had and several members corrected or changed their votes, the Speaker voted, and on several occasions**

announced the numbers of those voting on each side without declaring the result, the vote being close. At this stage of the proceedings motions to adjourn and to reconsider and charges of fraud were numerous. After the recapitulation, a member inquired whether the vote given by a member rejected the report? Speaker Clark replied the vote as handed to him by the Clerk stands at 149 yeas and 150 nays. (It should be noted that the Speaker did not declare the result of the vote.)

(B) Following this announcement a member arose and said in view of the fact that the Speaker has announced three separate votes, I request another recapitulation. Speaker Clark replied, **the Speaker has never announced the result of the vote. The yeas are 149 and the nays 150, the report is rejected.** The House then adjourned.

(C) On the following day, June 28, 1918, after the reading of the Journal the following took place. Mr. Kitchen: "Mr. Speaker, does the Journal show the conference report voted on yesterday was adopted or rejected." Speaker: "It was rejected." Mr. Kitchen: **"I desire to move that the Journal be corrected to show that the conference report was agreed to by a vote of yeas 150 and nays 149.** That is a fact and an examination of the roll call will show it." At this stage the members entered into a general discussion of the correction of errors and a review of the proceedings of the previous day. At the conclusion of which the motion to correct the Journal was decided in the affirmative. After reviewing the proceedings of the previous day and explaining the several errors of the clerk, etc., the Speaker then cited an opinion rendered by Speaker Carlisle, the syllabus of which is:

(D) **Where through an error the clerk in reporting the yeas and nays, the Speaker announces a result different from that shown by the roll, the status of the question must be determined by the vote as actually recorded.**

(E) He then concluded: "In conformity with Mr. Kitchen's motion the chair announces that the vote on the conference report stood, yeas 150, nays 149, and the conference report is agreed to." (Cong. Record, June 27-28.) At the conclusion of the Speaker's decision, Congressman Fess arose to a parliamentary inquiry, as he said, affecting the dignity of the rules and asked: "When an error appears in the records does it take a vote of the house to correct it?" Speaker Clark replied: **"The chair does not think it does. The gentleman had made his motion and the chair thought it would be more satisfactory to let the house settle it, itself."** (June 28, 1928.)

CORRECTING VOTES IN JOURNAL

SEC. 1529. The following decisions and precedents of the House clearly disclose the rules and practice of the National House in correcting errors in voting in the Journal. These do not represent unusual instances; they were selected from many hundreds of recorded instances, because of their clarity, and the frequent references to them with approval by present day speakers.

SEC. 1530. **When by error a member has not voted or his vote has been incorrectly recorded, his right to vote or to have his vote correctly recorded, may not be challenged on the ground that such vote or correction will change the result of the vote as previously announced, nor that it will establish a dangerous precedent. Such are not pertinent to the question "Has the member a right to vote?" In all such cases the Speaker directs the correction of the record, and if in the operation a different result is obtained from that previously announced the chair declares the new result which is authoritative.**

ILLUSTRATION OF PRACTICE

SEC. 1531. On March 1, 1847, a member requested to have his vote recorded on vote taken the previous day, which had been by error omitted, another member arose to a parliamentary inquiry and asked whether the gentleman's vote if recorded would make any difference in the result. Speaker Davis said: **"The question is not pertinent to the matter before the House, the only question is whether the gentleman has a right to vote or not. If so, under the uniform practice of the House, his vote must be recorded. The chair desires to say a word further about this objection. In the early history of 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 cor-**

rected and has been so treated where he is incorrectly recorded, so it will be corrected in this case." The motion was put to the House, decided in the affirmative and the Journal was corrected. (Vol. IV, Sec. 2964.)

(A) Another instance of changing the Journal for a member's vote is as follows: Mr. Donovan being detained from the House on account of illness, sent a letter to the Speaker, stating that in a certain roll call he was wrongly recorded, the fact being he was not present and had not voted at all. By unanimous consent the Journal was amended by making the correction. (Vol. IV, Sec. 2765.)

(B) **Consent of House to correct vote before approval of Journal is unnecessary. That is the member's right.**

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 the vote of the House. While the question of approving the Journal was pending a member called attention to the fact that he was recorded as voting aye, when in fact he voted no. The Speaker said: "The correction will be made according to the statement of the gentleman." (Vol. IV, Sec. 2766.) While the regular time for amending the Journal expires with its approval, yet this rule has been sometimes waived for the correction of a yea and nay vote, (Vol. IV, Sec. 2766.) On November 5th, a member raised the question that in the Journal of October 28th, his name was omitted from the list of the yeas and nays on a certain question. He therefore proposed to amend the Journal of that day making the correction. **The 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.** On the other hand it was contended **that the member 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 on his desk, and that**

he had a constitutional right to have his name in the Journal on that question. The House agreed to correct the Journal and it was accordingly done. (Vol. IV, Sec. 2767.)

SEC. 1532. As an evidence that the foregoing is still effective in the House, note the following which occurred on December 8, 1925 (69th Congress).

(A) The Journal of the proceedings of yesterday was read and approved.

Corrections

Mr. Browning. Mr. Speaker—

The Speaker. For what purpose does the gentleman from Tennessee rise?

Mr. Browning: For the purpose of correcting the Record. On page 7, roll call No. 2, I am recorded as having voted for the Hon. Henry Allen Cooper for Speaker. I voted for the Hon. Finis J. Garrett, of Tennessee, for Speaker on that roll call, and I ask that the Record be changed to that effect.

The Speaker. Without objection, the correction will be made.

There was no objection.

Mr. Browne. Mr. Speaker, I ask unanimous consent to correct the Record on page 7, where I am recorded as having voted for Mr. Garrett of Tennessee. I voted for Mr. Cooper of Wisconsin, for Speaker.

The Speaker. Without objection, the correction will be made.

There was no objection.

SEC. 1533. **All related proceedings subsequent to the announcement of an erroneous result fall, including the motion to reconsider and lay that motion on the table.**

ILLUSTRATION OF PRACTICE

(A) On the 18th of July, 1848, the committee of the whole reported a bill with a recommendation to strike out a section of the bill. Upon the question the yeas and nays were taken and the speaker announced the result to be yeas 85, nays 83, the amendment is agreed to and the section ordered stricken from the bill. The bill was then ordered to be engrossed. It was then moved that the latter vote be reconsidered and the motion to reconsider be laid on the table, which was agreed to.

(B) **On the following day,** Alexander Stephens, of Georgia, called attention to an error in recording his vote on the amendment. He said he was recorded in the affirmative when in fact he voted in the negative. **The speaker directed the correction to be made and announced that the operation of the correction changed the result as formerly announced, and then declared the new result to be yeas 85, nays 84.** Thereupon, the Speaker voted producing a tie vote, yeas 85, nays 85, and then declared, the motion is lost and the amendment is not stricken from the bill. A motion was then made to reconsider and lay that motion on the table. This was objected to and the speaker said as soon as the motion to reconsider is disposed of the question of engrossment will again be open to the house. (Cong. Globe, 1st Sess. 30th Cong. pp. 953, 954, Robert Winthrop, of Mass., Speaker.)

SUMMARY OF RULES RELATIVE TO VOTING AND DIGEST OF DECISIONS

SEC. 1534. Members of right may have their votes recorded and counted on any question upon which the House gives its decision and the Speaker is without authority to deprive him of such right. A member may, however, by his own negligence, destroy his right to have his vote recorded.

(A) **The final result of a vote as declared by the chair is conclusive and may not be overthrown except by the House, or in case of error,** properly brought to the attention of the House, such as errors in computing the vote; the announcement of an irregular result obtained in any way; where a member actually votes and is not recorded; when a member votes and the clerk in-

correctly records him, or any other error in recording vote; **when a member is present and listening and does not hear his name called.**

(B) **The foregoing is not to be construed as permitting a member who is absent without leave of the House to come in subsequently and have his vote recorded on votes taken in his absence,** nor if he was inattentive when the roll was called and did not hear, nor can he change his vote on a later day if correctly recorded after the result is announced, nor can he change it at a later day because he voted under a misapprehension of the question, nor because he was absent on business of the House. Even serving on a conference committee does not justify recording his vote out of regular course unless he was excused for such purpose by the House, nor that his attention was distracted by another when his name was called.

(C) From the numerous decisions on the subject of voting it seems certain that it is not within the competence of the chair to suppress the correcting of actual errors, as if it were against order, but the House by motion may allow or disallow votes. If the Speaker were permitted to decide such questions, he might negative or affirm questions and thus usurp a legislative function instead of subserving the legislative will. However, it is the duty of the Speaker when a question of error arises, relative to voting, to make diligent inquiry to establish the existence or nonexistence of such error.

(D) It is the undoubted right, recognized by all legislative bodies, of members to have errors in voting corrected and if correction of such errors produces an equal (tie) vote, the Speaker may vote, even though the result previously declared is changed thereby. In this latter case it is the duty of the Speaker to declare the new result thus obtained and direct the clerk to correct the Journal of the day the error was made.

CHAPTER XXXV

OTHER IMPORTANT UNCLASSIFIED RULES

SEC. 1535. By unanimous consent members are permitted to address the house on any subject they may specify. This privilege is usually secured as follows: I request unanimous consent to address the house on Tuesday for one-half hour, immediately following the reading of the journal, on the subject of taxation.

RESOLUTION INCREASING SALARIES

SEC. 1536. Resolved, that the clerk of the house be, and he is hereby authorized and directed to pay out of the contingent fund of the house until otherwise authorized by law additional compensation per annum payable monthly to the clerk at the speaker's table the sum of five hundred ($500.00) dollars.

When the foregoing resolution was introduced in the national house a question was raised that the resolution was not in order because it sought to change by resolution of the house an act passed by congress, fixing the compensation of officers and employes. The Speaker said: "This form of resolution has been the practice in the house for many years to increase salaries by resolution and the chair overrules the objection."

EFFECT OF RECORDED PROCEEDINGS

SEC. 1537. An act of the House, or a decision of the Speaker, or a vote recorded in the minute book (Journal) is prima facie evidence of the result, and of the correctness of the decision.

(A) Unless a yea and nay vote has been taken or division made, the declaration of the Speaker as to the result of a vote, is deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favor of or against the question.

READING PAPERS

SEC. 1538. The rule:—**When the reading of a paper other than one upon which the House is called to give a final vote, is demanded, and the same is objected to by a member, it shall be determined by vote of the House and without debate.**

(A) It is the recognized right of any member to demand the reading of any paper on which he may be called to vote. Every member has the right to have a paper once read before he is called upon to vote on it. (Hinds.)

(B) When a paper on which the House is to vote has been read once, the reading of it again may not be required, unless the House shall order it. (Boyd.)

(C) A paper or letter not before the House for action, should relate to the pending matter of business, if the question of reading is to be forced on the attention of the House. Neither may a member displace the order of business in order to read a paper.

(D) When the rule provides for the reading of papers, you cannot dispense with such required reading except by a suspension of the rules. (Boyd.)

(E) A member in debate usually reads or has read by the **clerk or secretary,** such papers as he pleases, but this privilege is subject to a vote of the House, giving such right, if such reading is objected to by any member. (Chairman Wayne.)

OATH ADMINISTERED TO ABSENT MEMBER

SEC. 1539. In the American House when a representative-elect was unable to attend on account of illness,

the house adopted a resolution authorizing the speaker to administer the oath at the residence of the member, which was done, and the speaker reported that fact to the house and it was entered on the journal.

DISPOSITION OF PRESIDENT'S MESSAGE

SEC. 1540. "A message from the President dealing with questions within the jurisdiction of several committees, may be properly referred to the several committees having jurisdiction of the subject matter of the message." (Longworth.)

CONSIDERING UNPRINTED BILL REPORTED FROM COMMITTEE

SEC. 1541. An unprinted appropriation bill was reported from the committee. The report was received and it was moved to proceed with its immediate consideration. Objection was made that the bill was not printed. Speaker Longworth decided that while the rules provide that the report and bill must be printed there is nothing in the rules that prevents their consideration before printing. The chair overrules the question of order.

CONSIDERING BILLS BEFORE PRINTING

SEC. 1542. On Monday, January 25, 1926, an appropriation bill was reported or introduced by committee, read the first time and ordered on the calendar. (When an appropriation bill is reported by the finance committee it is not deemed necessary, in congress, to again refer the bill to the committee that prepared and introduced it, but it at once goes on the calendar.) Later in the same day it was moved to resolve into the committee of the whole to consider this appropriation bill. Objection was made that such bill was not printed and therefore could not be considered but must lie over one day. Speaker Longworth overruled the objection and said: "The chair is quite prepared to con-

cede that as a general rule it is better procedure in reporting a bill of grave importance like this to permit it to lie over one day. But the chair is not called upon to decide that question. The only question before the house is, under the rules is it in order to bring up for consideration a privileged bill for consideration on the day on which the bill and report are presented? There is nothing in the rules that provide that a privileged bill shall lie over. Even in the case of other bills not privileged there is nothing in the rules providing that, while the bill and report shall be printed, they cannot be considered on the day they are reported and before printing." The bill and report were then taken up and considered in the committee of the whole.

EFFECT OF DECLARATION OF SPEAKER

SEC. 1543. Mr. May says: "It is the **declaration of the Speaker which finally resolves the question into an affirmative or negative vote."** The foregoing rule presents the strongest possible reason why the chair should never fail to declare his decision on the result of a vote.

UNANIMOUS CONSENT AGREEMENT FOR TAKING UP BUSINESS ON CALENDAR

(A) In the United States Senate, when they are ready to proceed to the consideration of business on the calendar, and wish to expedite the business, a motion as follows is made: "I request unanimous consent (or move) that when we take up the calendar today, that only unobjected business be considered. If the request is granted or the motion prevails, then under the agreement when a matter is taken up, if a member objects or requests it to be passed over (informally passed) the chair immediately, without permitting the slightest discussion announces the bill will be passed over, and the next business reported. Bills passed over retain their place on the calendar. As each bill is reported, the chair inquires, "Is there objection?"

TIME TO QUESTION RIGHT OF BILL TO BE ON CALENDAR

SEC. 1544. **If a committee consider and report a bill over which it has no jurisdiction and if such bill reach the calendar a question of order may be raised against the right of such bill to be on the calendar, which should be sustained, and the bill committed to the proper committee.** In fact a question of order under such conditions is good at any time before the House begins **actual consideration of the bill.** (Crisp.)

(A) A bill referred to a committee of the House in violation of the rules of the House, the committee has no authority to consider and report such bill. (Crisp.)

CLERK PUTS QUESTION

SEC. 1545. In Parliament the clerk is sometimes permitted to put the question, but when he does so, it is always noted in the Journal that the clerk was ordered by the House to do so—thus: "By leave or order of the House the clerk put the question." In the National House the clerk always presides at the opening of a new Congress and puts and decides questions of order until a Speaker is elected.

CONDITIONS FOR SUBSTITUTING SENATE BILL FOR A BILL OF THE HOUSE OR VICE VERSA

SEC. 1546. A Senate bill to be brought up directly from the Speaker's table, and substituted for a House bill on the calendar, must have come to the House after and not before a House bill substantially the same, has been placed on the House calendar. (Reed.)

PRESERVING PARLIAMENTARY LAW

SEC. 1547. Preserving the authority and binding force of parliamentary law is as much the duty of each member of the House as it is the duty of the Speaker, because the rights of all depend upon it, **and on questions**

of order a member ought to vote, not according to his interests or desires in respect to the particular question, but as he thinks is really the parliamentary law.

TERM SUBSTANTIALLY DEFINED

SEC. 1548. In defining the word substantially in a parliamentary sense, Mr. Reed said: "The question to be considered is whether the bill upon the Speaker's table from the Senate is 'substantially' the same as the House bill reported by the House committee. The reason it ought to be substantially the same is that the House may be notified of the subject that is to come before it and have the information of what is to be brought up and if it is so informed by a bill having been considered and reported by one of its committees, that is enough. The rule does not say that the two measures shall be absolutely the same, it only requires that they shall be substantially the same." (H. J. 2d Sess. 55th Cong., p. 54, par. 7.)

PRINCIPLE OF DECISION

SEC. 1549. It is a well established principle in all American assemblies, that a **majority of those participating shall control the acts of the entire body.** Accordingly all questions submitted for the decision of the body are decided affirmatively by a **majority vote of the whole number voting,** unless, as is frequently the case, it be provided by rule that it shall require a number **greater or less,** than a majority to decide a question affirmatively, as in the case of the suspension of the rules.

CONSENT OF MAJORITY

SEC. 1550. If the consent of the majority shall not in reason be received as the act of the whole, and include every individual, nothing but the consent of every individual can make anything to be the act of the whole. (Locke.)

RIGHT OF SPEAKER TO ADJOURN BODY

SEC. 1551. The right of the presiding officers to adjourn their respective Houses in Parliament, in absence of a quorum, has been a well established and necessary usage in their early practice, for the reason that in the absence of a quorum no business could be transacted. The making of a motion to adjourn and putting the question is business, and was not in order in Parliament in the absence of a quorum, and unless by rule or usage they had provided for adjournment by the Speaker, the House might be kept indefinitely sitting unable to do business, or adjourn.

(A) In our American practice this English rule has no effect except in perhaps a few Eastern states, whose Constitutions are silent on the subject.

(B) The Federal constitution, and the constitution of nearly all our states provide that in the absence of a quorum the motion to adjourn is in order.

(C) We therefore feel that we do not draw on our imagination when we say that it is a well established American **parliamentary law** not rule, that the presiding officer is without authority to adjourn a meeting for any cause, except he be instructed to do so by order of the body over which he presides. The motion to adjourn is always in order, in the absence of a quorum.

LEGISLATIVE DAY

SEC. 1552. The Journal of Congress is always dated as of the "Legislative day" and not the Calendar day. No matter when the House meets its legislative day continues until it adjourns. Sometimes by recessing they have continued the legislative day through an entire week and in one notable instance one legislative day consumed the calendar days of an entire month. The French Parliament prolonged its 1922 session 4 hours into the year 1923.

CORRECTING PRINTED BILL

SEC. 1553. In congress it is in order by unanimous consent to order a bill reprinted with proposed corrections.

SPEAKER'S TABLE

SEC. 1554. **A distinction** should be made **between the Speaker's table and that of the House.** When a motion is made to lay on the table, the paper or question goes on the table of the House because the House table only can be the subject of the order to lie on the table. Whatever is under the present consideration of the assembly, or may be so, whenever it is proceeded with, is on the Speaker's table.

INFORMAL MEETINGS

SEC. 1555. In all our reading and study of procedure, we have never found a **parliamentary procedure** called, "informal consideration". The writers who describe this procedure are persuaded so to do, because they find that business is transacted in the committee of the whole informally, in legislative bodies. So when it is desired to consider a question without being hampered by the restrictions of the rules, that is informally, it is best to use the regular parliamentary device, and "resolve to go into the Committee of the whole", or "Quasi committee of the whole." In the former members may speak as often as they can get recognition and as often as the patience of the committee will admit. In the latter, you would retain your identity as a body, but transact your business the same as you would in the committee of the whole, by doing this you will be acting in an approved parliamentary way.

(A) The writer favors strongly the latter plan, because it is strictly of American origin and in **Quasi Committee** they can do business in an informal manner, and still anything would be in order, in the Quasi committee, that would be in order in the main body in a regular session, except taking the final vote on the question under

consideration. Before taking the final vote the committee should **rise** and report to the House proper, when the final vote should be taken.

NECESSITY FOR CHAIR DECLARING RESULT OF VOTE

SEC. 1556. If the chair should neglect or for any reason fail to publicly declare the final result of a vote and proceed to other business without making such announcement, a point of order should be raised and further proceedings suspended until such declaration is made; because no vote is resolved either in the negative or affirmative until so declared by the chair.

NO DEBATE ON FIRST READING OF BILL

SEC. 1557. Debate is not in order on the first reading of a bill unless objection is made and the question is put "Shall the bill be rejected?"

PROTECTION OF MINORITY

SEC. 1558. It is in debate alone that a minority can hope to compete with a majority. The rules and forms of the House can ultimately assist neither party, but so far as they offer any intermediate advantage, the minority have the greatest protection in the rules and forms, while the majority are met with vigorous objections to the exercise of their will.

POSSESSION OF PAPERS

(Discussion of Rule)

SEC. 1559. A rule of parliament as ancient as the body itself is that no action may be taken by either body of the legislature, unless the body taking such action is in **actual possession of the papers to be acted upon.** In the practice of the Ohio Assembly this rule has frequently led to much inconvenience and serious complication at the clerk's desk.

(A) In his discussion of this principle of parliamentary practice Mr. Cushing says: "It is a general rule, that it is not competent for either House, or any of its committees, to proceed upon a bill or other paper **not in its possession,** and in such cases, therefore, when a bill, joint resolution or series of amendments from the other branch is lost, or mislaid, the House to which the same is sent, may request of the other **by message,** for a certified copy of such bill, resolution or amendments, and this request is never refused, but if the bill or other paper in question is of the same House, the committee on reporting the fact that the paper referred to it is lost or mislaid, or that it has been sent to the printer and that it will not likely be returned in season, action should be deferred, or the committee may proceed to act upon a copy furnished by a member.

APPLICATION OF THE ABOVE RULE TO CONFERENCE REPORTS

SEC. 1560. Mr. Jefferson thinks that **neither House should ask for a committee of conference unless they have possession of the bill.** He says: **"A request for a conference must always be by the House which is possessed of the bill or other papers."** Manual, p. 98.

(B) Mr. Cushing says: **"The report of the committee of conference is the same in both branches and is made in each House by the committee which belongs to it, accompanied by the bill and other papers in that branch, the committee of which is entitled to them."** (Sec. 2269.)

(C) **"A similar report without the bill or papers is ready at the same time, to be made in the other House by its committee. If made immediately, the consideration of the report is deferred until the bill comes into that branch or the making of the report may be deferred until that time."** (Cushing.) (Sec. 2270.)

APPLICATION OF RULE TO RECONSIDERATION

SEC. 1561. In Mr. Jefferson's discussion of this rule in its application to reconsideration he says: "If after a vote, the paper on which it passed has been parted with, there can be no reconsideration."

(A) Mr. Cushing, however, says: "A motion for reconsideration may be made and **discussed** in the **absence** of the paper to which it relates, yet, if decided in the affirmative, it will be wholly ineffectual and **inoperative,** until the paper in question is in **possession** of the **House."** (Secs. 1250-1254.)

(B) It is entirely safe to lay down as a general parliamentary law, that no order can be made in reference to any subject which is not **regularly before the House.**

ILLUSTRATION OF PRACTICE

SEC. 1562. On June 26, 1902, the conferees on the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans, presented in the House their final report, through Mr. William P. Hepburn, of Iowa, chairman of the managers.

The report and statement having been read, it appeared that the original bill and amendment were not in the **possession of the House.**

(A) The Speaker, David D. Henderson, said:

"It is impossible to consider this matter unless the papers are before the House, and they do not seem to be in the possession of the House.

"The report and statement of the conferees are in our possession, but the House is not in possession of the papers; and it has been repeatedly held, and long ago threshed out, that business cannot be done by this body **unless the papers are in its possession."**

Mr. William Sulzer, of New York, as a parliamentary inquiry, asked what papers were necessary.

The Speaker said:

(B) **"The bill itself and the substitute bill and all of the original papers in the case.** The chair will state that nothing can be done until these original papers are found."

Mr. Hepburn, as a parliamentary inquiry, asked if the House could not, by unanimous consent, proceed with the report.

The Speaker said:

"Not without the original papers. The matter will have to go over until they are found."

On March 3, 1869, Mr. Colfax expressed the opinion, in the case of a verbal report from a committee of conference, that "no motion could be entertained or action had on any bill not in the possession of the House."

(C) On April 23, 1858, in the Senate, Mr. James S. Green, of Missouri, presented the report of the managers of the conference on the bill (S. 161) "for the admission of the State of Kansas into the Union." The original bill and amendments were at that time before the House, having been presented with the report of the House managers.

(D) Objection was at once made by Charles E. Stuart, of Michigan, that the report could not be made because the papers were with the other House—i. e., the original Senate bill, the House amendment, and the substitute proposed by the conferees. At once a debate began as to whether a conference report might be presented in the absence of the papers. Mr. Stuart quoted the parliamentary law showing the papers were left always with the House agreeing to the conference —i. e., in cases where the conference was asked after a vote of disagreement. He admitted that in a case where a conference was asked without a disagreement, the papers are retained by the House **asking the conference.** In this case the Senate had disagreed, and asked the con-

ference, and the papers were properly with that House. The Senate decided to receive the report, the presiding officer, Mr. James M. Mason, of Virginia, deciding that the report might be presented and then the objectionable matter might be considered later if any should be found. The report having been presented, Mr. Stuart renewed his objection to action without the papers, and a debate, evidently divided somewhat on party lines as regarding the merit of the bill, arose. It was urged by Mr. Green and others that the report of the conferees was the only thing acted on, and that it could be acted on in the absence of the bill itself. They declared that this had frequently been done. On the other hand it was urged that such a procedure never took place, except by unanimous consent or in the late hours of a session. In the course of the debate Mr. William H. Seward, of New York, said:

(E) "I think that the written law on this subject is perfectly plain. **According to the law this bill is in the House of Representatives; and the proposition being nothing more than an amendment to a bill, which would occur if an individual Senator were to rise in his place and propose the same amendment, in the same words, to a bill now pending in the House of Representatives.** The fact that this amendment has come from the committee of conference does not alter the nature of the **transaction in the least,** for * * * **it is either a new bill, and therefore must be read three times before it can pass, which is** a reduction ad absurdum, **or else it is an amendment; and if it is an amendment, and not an original or new bill, then it is an amendment to something, and it can not be an amendment to anything that is here, and can only be an amendment to a bill which is somewhere, which bill is not here, but it is in the House of Representatives. It is impractical as well as a legal impossibility for the Senate to amend a bill which they have not the custody of, and which is not before them;** for the effect of passing the amendment, or concurring in

the report, is to stamp that amendment upon the identical parchment upon which the bill is written, and obliterate from the bill the matter for which the amendment is submitted."

TEXT OF A BILL

SEC. 1563. In general the text of a bill is that to which **both Houses have agreed**—the clerk is not permitted to make any change, no matter how unimportant, in the text of a bill, to which both Houses have agreed. The text of a bill to which both Houses have agreed may not be changed except by unanimous consent of both Houses or suspension of the rules. When considering in either House amendments of the other to a bill, it is not in order to change the text of a bill, to which both Houses have agreed.

Under general parliamentary law, provisions changing the text of a bill have been permitted to be appended to a conference committee report, and agreed to by unanimous consent, after action has been had on the report proper.

HOW TO PROCEED WHEN A BILL FROM THE OTHER HOUSE HAS BEEN LOST OR MISPLACED

SEC. 1564. Not often, but it sometimes happens that a bill received from the other House is lost or misplaced. When this happens some member should introduce a motion ordering a duplicate copy of same from the clerk of the other body. This is necessary for the reason that no action can be taken upon the bill unless it is actually in possession of the House considering it, e. g., it would be out of order for either House to proceed to consider a bill of the other unless in possession of the engrossed copy.

(A) Form for motion to get duplicate copy. (A motion of this importance should be written out and sent to the clerk's desk.) Ordered: That the Clerk of the Senate be directed to request the House of Representatives to send to the Senate a duplicate engrossed copy of the original bill

of the House, H. B. No. —— (Title) the original having been lost and after diligent search the same cannot be found.

(B) On the occasion of a lost Senate bill in the House of Representatives, Mr. Mann made the following parliamentary inquiry of Speaker Cannon. "Is it in order to suspend the rules to consider a Senate bill without the engrossed copy of the bill?" The Speaker said: **"Certainly not.** In other words, if the bill is not in possession of the House no vote can be taken. The House cannot act upon a bill of which it does not have actual possession."[1]

COUNT OF THOSE NOT VOTING TO MAKE OR ESTABLISH A QUORUM OF RECORD ON A ROLL CALL

SEC. 1565. Rule XV. Sec. 3. On the demand of any member, or at the suggestion of the Speaker, the names of members sufficient to make a quorum in the hall of the House who do not vote shall be noted by the clerk, and recorded in the Journal, and reported to the Speaker with the names of the members voting, and be counted and announced in determining the presence of a quorum to do business.

(The foregoing rule resulted from a decision of Speaker Reed, which was later upheld by the supreme court. (Vol. IV, sec. 2895.)

SEC. 1566. In appointing committees the Speaker does so in accordance with the principle that the responsible majority party shall have the majority of each committee (Vol. IV, Sec. 4477) and fixes a ratio of representation conforming generally to the relative size of the majority party and the opposition on the floor of the House. (Vol. IV, Secs. 4476, 4477, 4478.)

[1] The clerk would be without authority to produce a duplicate copy of any bill without authority from the House.

THE VALUE OF PARLIAMENTARY PRECEDENTS

SEC. 1567. Mr. Ashur Hinds, in his introduction in his great work, "Hinds Precedents of our National Congress", says: "The value of precedents in guiding the action of a legislative body has been fully demonstrated by the experience of the National House of Representatives for too many years to justify any argument in their favor now. We have no other means of building up parliamentary law, either in the mother country or here, except by instances as they arise and treatment of them and disposition of the law and of the good reasons that should govern these considerations," commented William M. Everts, a great lawyer and experienced legislator in the United States Senate, and another great legislator, who spent a lifetime in the House of Representatives and the Senate, John Sherman, said: "The great body of rules of all parliamentary bodies are unwritten laws; they **spring up by precedent and custom; these precedents and customs are this day the chief law of both bodies of Congress."**

AMERICAN GENERAL PARLIAMENTARY LAW
(Defined)

SEC. 1568. According to the best and most reliable authorities in Congress, "American General Parliamentary law" is founded partly upon the decisions, precedents and practice of the National House, and partly upon Jefferson's Manual, out of which it has been evolved, and partly on the practice of American legislative assemblies generally.

SEC. 1569. In a decision on the effect of the rules of a prior congress, on the existing congress, Speaker Reed said: "Until this House adopts rules, it is governed by 'General Parliamentary Law,' such as has been established, in the same manner, that the common law of England was established, that is, by repeated decisions and the general acquiescence of the people in the system

which governs all ordinary assemblies, **but principally the practice of the National House of Representatives.** This opinion was acquiesced in by the House.

In the 26th Congress the Senate after long debate, expressed a doubt as to the validity of a law, passed by a preceding congress, which proposed to govern the House as to its rules or its organization.

DEFINING LEGISLATIVE DAY

SEC. 1570. On Thursday, May 11th, 1854, the House was considering a resolution when the members engaged in a filibuster which continued until noon on Friday, the regular meeting hour of the House for that day, at which time, Mr. Dean inquired if it was not the duty of the Speaker to cause the Journal of the preceding day to be read. Mr. Speaker Boyd said: **"As there has been no adjournment there could be no new meeting of the House,** and that **the legislative day which commenced yesterday at 12 o'clock would not terminate until an adjournment took place."** Mr. Banks, later Speaker of the House, cited the rule providing the House should meet at a certain hour each day. The Speaker, Mr. Boyd, overruled the point of order saying: "The gentleman from Massachusetts, Mr. Banks, raises the question that, by order of the House, passed on the first day of Congress, the House stands adjourned to 12 o'clock today. The chair overrules that question of order upon the ground that there **cannot be a meeting of this body without an adjournment;** and upon the further ground that when the House does adjourn, even if it is a week hence, it will meet again as directed by its own order. The **Legislative day will continue until the House adjourns,** and when the House after such an adjournment, meets at 12 o'clock, or at such time as the House shall fix, it will be the duty of the Speaker, under the rule which has been referred to by him, to take the chair, call the members to

order, and cause the journal of the preceding day to be read, and a portion of that Journal must necessarily be a motion and a vote to adjourn; without that it is incomplete. The Speaker could not take the chair at 12 o'clock today for the reason that he was continuing to occupy it, and the House was continuing to progress in its proceedings upon a legislative day and must continue to do so until it adjourns. One of the three hundred and sixty-five days of the year has passed over, the chair admits, but one of the legislative days allowed to Congress is now being consumed." Upon appeal the decision of the Speaker was sustained.

Practically the same ruling was made by Schuyler Colfax in 1868, at which time the House received on the legislative day of Monday, messages sent from the Senate on the calendar day of Tuesday.

THE MACE

SEC. 1571. In legislative assemblies the mace is the symbol of authority of the office of sergeant-at-arms and is borne by that officer while enforcing order on the floor.

(A) Rule IV of the National House says: "The symbol of the office of sergeant-at-arms shall be the mace, which shall be borne by him while enforcing order on the floor."

PRACTICE IN USE OF MACE

SEC. 1572. The use of the mace in Congress is practically that of the English Parliament, which is as follows:

On the assembling of Parliament, the mace is brought into the House by the sergeant-at-arms and placed under the table of the House, where it remains until a speaker is chosen and then it is placed upon the table, where it is always put while the House is sitting, if the speaker is in the chair. During the sitting of Parliament and adjournments thereof (for however long a time) the speaker has the keeping of the mace which is always carried before him

when he enters the house, or leaves it, and also on all public occasions. The mace is then borne by the sergeant-at-arms of the House on his shoulder.

(A) When the mace lies upon the table of the House, the assembly is a House, when it is under the table the House is in committee of the whole. When the mace is out of the House (as when the speaker omits to attend the House from illness or other cause) nothing can be done but to adjourn. When the mace is not on the table but is borne by the sergeant-at-arms on his shoulder in the House (as when messengers from the House of Lords are introduced or when a witness is examined at the bar of the House or a person is accused, or an offender is brought to the bar) no member, except the speaker, can say a word or make a motion, or indicate a question to be put to a witness, but the speaker alone manages.

(B) The mace should not be confused with the gavel. In Congress the mace during the session of the House is kept in an upright position on a marble pedestal at the right of the speaker's chair. It is taken from its pedestal and borne by the sergeant-at-arms while enforcing order on the floor under the direction of the speaker or chairman of committee of whole.

DESCRIPTION OF MACE

(C) It is a representation of the **Roman fasces,** is made of ebony rods bound transversely with a silver band and each tipped with a silver spearhead. From the center of the bundle of rods is a silver stem supporting a globe of silver, upon which is a massive eagle of silver. The length is about three feet.

EFFECT OF REPEAL

SEC. 1573. Whenever an act is repealed which repealed a former act, such former act is not thus revived unless it shall be expressly so provided. (U. S. Statute Law.)

PRECEDENTS OF LEGISLATIVE BODIES

SEC. 1574. While precedents of a legislative body are not strictly written rules of the body, yet precedents form the basis of nearly all parliamentary rules, in fact precedents are usually better than the written rules, because in the precedent the rule is at least implied and its application and effect clearly shown. Precedents and rulings are a correct guide to parliamentary practice.

RESOLUTION INCREASING SALARY

SEC. 1575. A resolution was introduced in the House increasing the salary of several employes, as follows:

Resolved, That the clerk of the house be, and he is hereby authorized and directed to pay out of the contingent fund of the house, until otherwise authorized by law, additional compensation, per annum, payable monthly to the clerk at the speaker's table, the sum of $400.00.

CHANGING LAW BY ADOPTING RESOLUTION

SEC. 1576. A question of order was raised that the resolution was not in order because it sought to change by resolution an act passed by congress fixing the compensation of officers and employes of the house. The speaker overruled the question and said, "This form of resolution has been the practice of the house for many years to increase salaries of officers and employes by resolution." (Speaker Longworth.)

RESIGNATIONS

SEC. 1577. Resignations from membership on committees are addressed to the speaker and by him presented for the action of the house. The speaker laid before the house the following communication: "Mr. Speaker. I hereby resign as a member of the committee of World War Veterans."

Respectfully yours,

J. L. Milligan.

The resignation was accepted by the house.

CHAPTER XXXVI

LEGISLATIVE JOURNAL

MAKING OF JOURNAL

SEC. 1578. The Journal records acts, but not the reasons therefor. The Journal records the proceedings simply and not the circumstances attending it. (Vol. IV, Sec. 2811, 2812.)

(A) A motion which is not entertained by the Speaker is not entered in the Journal.

(B) While the Journal ought to be a correct transcript of proceedings the House has refused to insist on a strict chronological order of entries. (Vol. IV, Sec. 2815.)

(C) The Journal is a record of proceedings simply and does not record the statements or opinions of members, in other words, the Journal expresses facts and not reasons or opinions. (Vol. IV, Sec. 2817-19.)

(D) The request of a member to be excused from voting, or his refusal to vote, may be recorded in the Journal, but his reasons therefor or even the fact that he offered reasons may not be recorded. (Vol. IV, Sec. 2626.)

(E) There are instances where the House has permitted the names of absent members to be recorded in the Journal among the yeas and nays.

(F) **A number of members being absent on a preceding day the Journal was corrected by placing the names of such members in the roll call as they desired to vote yea or nay.**

(G) Objection being made to the proceeding, a member recalled the fact that several who were not present

when the American Declaration of Independence was adopted were allowed to affix their signatures on the succeeding day. (Vol. IV, Sec. 2825.)

(H) When a vote is recorded by yeas and nays the nature of the question on which they are taken should be clearly stated in the Journal. The result of a vote is recorded in the journal **in figures only when the yeas and nays are taken,** the refusal of the yeas and nays is not recorded in the Journal. (Vol. IV, Sec. 2826-28.)

(I) Only on special occasion are communications addressed to the Speaker recorded in the Journal. Instance: A telegram addressed to the Speaker announcing the death of the last soldier of the Revolution was ordered in the Journal. (Vol. IV, Sec. 2835.)

(J) When the Speaker calls a member to order for irrelevancy in debate, and the House votes that the member should proceed, the journal should contain a record of the transaction. The Journal records the rules, but not the remarks of the Speaker; in later years the Journal records the reasons for the decisions of the Speaker. (Vol. IV, Secs. 2839, 2840, 2841.)

(K) The response of the Speaker to a parliamentary inquiry is not recorded in the Journal. The Speaker having ruled a resolution out of order, and an appeal having been taken from the decision, it was held that the resolution should appear in the Journal in full. (Vol. IV, Sec. 2843.)

(L) It is the usual practice that motions, points of order, and appeals not entertained by the Speaker shall not appear on the Journal. (Vol. IV, Sec. 2844.)

JOURNAL (PRACTICE OF CONGRESS)

(Correction and Approval)

SEC. 1579. The title of the Journal indicates whether or not the Congress was convened by law. Thus on March 4, 1867, the Journal speaks of the session as "Held in pur-

suance of the Constitution and the law of the United States." (Vol. IV, Sec. 729.)

(A) A motion to amend the Journal has precedence of the motion to approve the Journal.

(B) Amending Journal after approval requires unanimous consent.

(C) A motion to amend the Journal has precedence of a motion to approve it. (Keifer.)

(D) The Journal is the official record of the proceedings of the House. It is the uniform practice of the House to approve the Journal of the proceedings of the prior day. (Vol. IV, Sec. 2731.)

(E) The Journal may neither be read nor approved until a quorum is present. (Vol. IV, Sec. 2732.)

(F) If a question of a quorum be raised before the reading of the Journal, the Speaker then proceeds to ascertain if a quorum is present by count. (IV, Sec. 2733.)

(G) The only Journal which may be read to the House is the one that has been read and corrected by the Speaker. (II, Sec. 2734.)

CORRECTING JOURNAL AFTER APPROVAL

SEC. 1580. Sometimes errors are found in the Journal after it has been approved. May it be corrected? Yes, by unanimous consent, or if the two day period in which reconsideration may be made has not elapsed, the vote on approval may be reconsidered, the correction made and then the reapproval of the Journal as corrected.

The Speaker's right to examine and correct the Journal after it has been made up by the clerk has always been affirmed. (IV, 2735.) At one time the House declined to adopt a resolution providing that the House could question the propriety of corrections made by the Speaker. The right of the Speaker to correct the Journal must be exercised before it is read to the House. (IV, Sec. 2739.)

(I) If a member demand it the reading of the Journal must be in full. (IV, Sec. 2739-40-41.)

(J) The transaction of business is not in order before the reading of the Journal. (IV, Sec. 2751, 2752.)

(K) It was held by Speaker Carlisle, however, that a motion to suspend the rules and approve the Journal without reading was in order. (IV, Sec. 2758.)

(L) The motion to amend the Journal takes precedence of the motion to approve. (IV, Sec. 2760.)

(M) The reading of the Journal is dispensed with only by unanimous consent, or a suspension of the rules. (IV, Sec. 2747.)

(N) The only motion that is permitted before the reading of the Journal is the motion to adjourn. (IV, Sec. 2753.)

POWER OF HOUSE OVER JOURNAL

SEC. 1581. The House has declined to allow amendment of the Journal entry on a motion which was recorded exactly as made. (Vol. IV, Sec. 2783.)

(A) There is one instance where the House by vote, allowed an explanation of a motion to be entered on the Journal. (Vol. IV, Sec. 2783.)

(B) In amending the Journal the House may decide as to what are proceedings, even to the extent of omitting things actually done or recording things not done.

(C) The Journal of the House being correct, the Speaker nevertheless entertained a motion to amend it so as to cause it to state what was not the fact, leaving to House to decide as to the propriety of the action. Objection being made to the foregoing procedure the Speaker said: "The constitution does not prescribe the manner in which the Journal shall be kept, the House has control thereof, and may judge what are, and what are not proceedings."

(Vol. IV, Sec. 2789, 2785.) The Senate has declined to amend the Journal so it would show what was not an actual fact. (Vol. IV, Sec. 2786.)

(D) The Speaker has ruled out of order a motion to expunge a part of the Journal. (Vol. IV, 2790.) However, the **House sometimes rescinds its action and authorizes the clerk to write on the margin of the Journal opposite the matter rescinded the word "Rescinded".**

(E) It is not in order to move to amend the Journal by inserting what the House has refused to hear read. (Vol. IV, Sec. 2804.)

(F) The rule of the National House is, **that every motion offered, and entertained, shall be recorded in the Journal, unless withdrawn.** Under this rule the House directed the clerk to insert in the Journal a resolution he had omitted.

CONTROL OF JOURNAL

SEC. 1582. It is in order for a member to present a written explanation of his vote or other legislative action and have same entered in the Journal, if no objection is made and objection to this procedure is unusual. The House and not the Speaker or clerk controls the Journal. The clerk is to faithfully record the proceedings of the House in the Journal and the Speaker may correct same before it is approved and this is the extent of their privilege.

READING THE JOURNAL OF LAST DAY

SEC. 1583. In the practice of our National Congress the Journal of the last day of the session is sometimes read and approved as far as completed, but this practice is very unusual. (Hinds.)

DATE OF JOURNAL

SEC. 1584. In the National House of Representatives the Journal is dated as of the legislative and not the calendar day.

DISPENSE WITH READING OF JOURNAL

SEC. 1585. A motion to dispense with the reading of the Journal, is in order and such action is of frequent occurrence in Congress.

READING OF JOURNAL IN PARLIAMENT

SEC. 1586. It is not customary in either House of the English Parliament to read and approve the Journal of the preceding day as is done in the United States parliamentary bodies. It is thought that the printing and laying on the members' desk of the printed Journal is sufficient.

MOTION DISPENSING WITH READING OF JOURNAL

SEC. 1587. If it is desired to dispense with the reading of the Journal, the motion should be: **I move to suspend the rules and dispense with the reading and approval of the Journal.**

UNUSUAL ADJOURNMENT

SEC. 1588. It is not customary for the Journal to show a reason for an adjournment, but the House, not the clerk, may order that the Journal do show its reasons for adjournment.

BUSINESS ENTERED ON JOURNAL

SEC. 1589. All propositions submitted for the consideration of the House whether decided affirmatively or negatively, are business and are entered in the Journal with all the proceedings thereon. However, it is not in order to enter in the Journal in any form what the House refuses to have read or entertained.

SEC. 1590. When the Journal is read **it stands approved unless objection to it is raised.**

SEC. 1591. It is not in order by motion or otherwise to amend the Journal by inserting what the House refused to consider on a previous day.

SEC. 1592. It is not in order to place in the Journal indirectly what the House has refused directly to do.

SEC. 1593. Motions, points of order and appeals not entertained by the Speaker, should not appear in the Journal.

SEC. 1594. If the Speaker calls a member to the chair for the remainder of the day's sitting the Journal should record the fact.

SEC. 1595. **An amendment to the Journal disapproving a Speaker's decision is not in order.**

SEC. 1596. The improper making of the Journal or its **mutilation by the Speaker or clerk, or other officer presents a question of privilege** if attention is called to same.

ENTRY OF MOTIONS IN JOURNAL

SEC. 1597. Motions made and upon which there has been no action by the House are not to be entered in the Journal.

RECORDING RESULT OF VOTE

SEC. 1598. The result of a vote taken in the House is never recorded in figures, except such vote be taken by yeas and nays.

APPROVAL OF JOURNAL IN ABSENCE OF QUORUM

SEC. 1599. It is not in order to read and approve the Journal in the absence of a quorum.

VOTING AND APPROVAL OF JOURNAL WHEN PREVIOUS QUESTION IS ORDERED ON MOTION TO ADJOURN

SEC. 1600. The Journal of the preceding day was read, when objection was made to its approval. A motion to amend the Journal was offered. Then a motion was made to approve the Journal as read, upon which the previous question was ordered. A question of order was raised on the ground that an amendment had precedence of the motion

to approve the Journal. The Speaker overruled the point of order because the previous question was ordered on the motion to approve. An appeal was taken and the Speaker was sustained and the Journal approved.[1]

RULE RELATIVE TO AMENDING JOURNAL

SEC. 1601. While the regular time for amending or correcting a vote in the Journal expires with its approval, the rule is frequently waived for the correction of a yea and nay vote, so careful is the house to protect its members' rights in voting.

CORRECTING VOTE IN JOURNAL

SEC. 1602. When the Journal is incorrectly made up and the votes of a member are recorded differently from the fact, a motion to correct the Journal is in order.

ERRORS IN VOTING CORRECTED IN JOURNAL

SEC. 1603. It is very unusual, yet it will sometimes happen that the clerk in calling for a yea and nay vote will not hear the response of members, and therefore does not get them recorded as voting, or he may get them incorrectly recorded. In these and like cases of error before the Journal is approved, it is the absolute right of the member to have his vote recorded correctly. The National House will always amend the Journal when a member's vote is erroneously recorded; no matter when discovered. If discovered after the approval of the Journal, such corrections are made upon motion and vote of the house, before approval, upon complaint of member and by direction of the chair. **These corrections are always made even though in the operation the result as previously declared is changed thereby and the changed result is declared by the chair.**

[1] H. J., 1st Session, 55 Cong., p. 115.

The foregoing is a description of the practice of all legislative bodies and is derived from the practice of the English Parliament and Congress. **A motion to approve the Journal will not prevent these corrections,** while such motion is pending.

EFFECT OF RULING OUT RESOLUTION

SEC. 1604. It has been decided and sustained by vote of the national house, on appeal, that when a resolution is introduced and ruled out of order by the Speaker and he is sustained on appeal, such resolution is to be entered in full in the Journal.

Part III

Method of Procedure

in

Ohio General Assembly

And State Legislative Bodies

in

Enacting Laws

by

Passing Bills

EDWARD WAKEFIELD HUGHES

State Parliamentarian

(Revised Edition)

1931-1932

STATE LAWMAKING

INTRODUCTION (PART 3)

SEC. 1605. The third part of this work is devoted to the practice of subordinate or state legislative bodies, taking Ohio practice as a foundation upon which to build. Each state in the United States has its own lawmaking body and to undertake a detailed description of the procedure of each would be a herculean task and without utility. A description of the procedure of any one state is sufficient for our purpose, because the stages of bills are the same in all our legislative bodies. The chief differences in practice are to be found in the procedure used in advancing from one stage of a bill to another that is, **all state legislative superstructure is builded upon the same foundation.**

BILLS

SEC. 1606. The forms of bills vary in the several states very considerably, but the constituent parts are always the same in all these states. **They must always have a title, enacting authority, number, name of introducer, body, divided into sections, repealing clause in amendatory bills, etc.,** in these particulars there can be no substantial difference, all are required. However, the wording of the enacting words is slightly different in nearly all states, the popular wording seems to be "Be it enacted by the people of the state of ————————, in the legislature assembled, etc."

SEC. 1607. The detailed description of bills as here given in its important feature is equally descriptive of bills in all legislative bodies. At least most of the varia-

tions will be so unimportant as to be useless to note. A person experienced in the general process of one legislative body would be reasonably well prepared for service in any American legislative body. Of course he would have much to learn of detail. Some procedure he would need to forget and other procedure he would need to learn in another body but he would in no sense be lost.

RULES

SEC. 1608. The written rules of each of our state legislative bodies are very different, but in their application and final effect they are substantially the same. One state may provide that the speaker shall refer all bills after second reading, still another that they be referred by a special or standing committee after first reading and printing. The result in each case is the same—committal of the bill. No legislative body ignores entirely the stage of the committal of bills. The really important thing is commitment and not the method of commitment.

CHAPTER XXXVII

LEGISLATIVE ORGANIZATION

SIMILARITY OF PRACTICE

SEC. 1609. The state legislative bodies of the United States are all constituted upon the plan of Congress and that of Congress, upon the two Houses of the English Parliament, particularly the House of Commons. It would appear to be helpful to students of parliamentary practice to describe the method of organization of the English Parliament, as follows:

METHOD OF ELECTING OFFICERS IN PARLIAMENT

SEC. 1610. The method employed in the English Parliament to elect the Speaker is very simple, and elastic enough to meet all requirements, and is in common use in this country in small deliberative bodies and societies. It is described by Mr. May as follows: A member, addressing himself to the clerk[3] who standing up recognizes the member by pointing to him, then sits down.[4] The member then proposes to the House the name of some other member, then present, and moves that he "do take the chair of this House as Speaker." This motion is seconded and usually with a speech. If no other names are proposed, then the House calls such member to the chair without any question being put. The member then usually stands up in his place, and expresses his sense of the honor proposed to be conferred upon him, and submits himself to the House, the House then again calls him to the chair; then his proposer and seconder takes him out of his place and conducts him to the chair. If more than one person is proposed, it is

usual to debate the merits of the proposed candidates. When the debate is closed the clerk puts the question, that the member first proposed, do now take the chair of the House as Speaker, if this question receives an affirmative vote of a majority, he is at once taken to the chair, if not, a similar question is put on the other candidate, and so on until some one who has been proposed receives a majority. In the voting the candidate votes like other members, but usually votes for one of his opponents. It seems this method has not found favor in our legislative bodies, perhaps because of certain constitutional requirements that may preclude it.

(A) The methods of organization in American legislative assemblies, though substantially the same in their main or principal features, are so very different in their details of procedure, that it would be next to impossible to describe them all without **confusing** the reader.

(B) The description here given of the organization of the Ohio Assembly is equally descriptive of all American legislative bodies except in some of the minor details, occasioned by constitutional requirements such as who shall call to order the two bodies of the new Assembly.

The method of Ohio herein described exactly describes the organization of the National House, except the officer who calls to order and presides during organization, which in the National House is the clerk and in the Senate, the vice-president.

ORGANIZATION OF NATIONAL SENATE

SEC. 1611. The Senate of the United States being a continuous body, it is always organized and ready for business. Its presiding officer changing with administrative changes, its other officers are frequently changed by resignation, etc., rarely because of politics, and it is rare indeed that a general reorganization takes place. Therefore a description of its methods would be useless, but they are similar to the House.

POWERS OF EACH HOUSE OVER ABSENT MEMBERS

(Law)

SEC. 1612. Upon a call of either House, at the commencement of the General Assembly, or during a session thereof, if a quorum of members[1] is not present, or a member or members are absent, the members[2] present may direct the sergeant-at-arms, or, if there is no sergeant-at-arms of such House, any other person, to compel the attendance of absentees. If, on a call of either House, **the members[3] present refuse to excuse an absentee, he shall not be entitled to compensation during his absence, and shall be liable for expenses incurred in procuring his attendance, which shall be deducted from his salary as a member.** (G. C. Sec. 46.)

EVIDENCE OF MEMBERSHIP

(Law)

SEC. 1613. For the purpose of organizing the Senate and House of Representatives of the General Assembly, a certificate of election from the Board of Deputy State Supervisors of Elections of the proper county shall be prima facie evidence of the right to membership of the person therein to be elected Senator or Representative. (G. C. Sec. 34.)

CAUCUS (CONFERENCE)

SEC. 1614. **Meaning of.**—A formal meeting of the members of the legislative body, belonging to the same political party, to nominate officers of the body, or upon

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[1] It should be noted that the power to order arrests is lodged in the House and not the Speaker or presiding officer.

[2] It would seem from the provision of this statute that the proper procedure after a call of the House, would be for the chair to put the question, "Shall absent members be excused?" If decided in the negative, then the question should be put, "Shall absent members be fined?" If decided in the affirmative the Speaker may then assess fines.

[3] See excuses for absence.

any question to be voted upon in the body, is a caucus. **Its action is treated as binding all members.** (Webster.)

BY WHOM CAUCUS IS CALLED

SEC. 1615. Previous to the meeting of the General Assembly for organizing as provided by law, it is customary for each political party to meet in caucus in the capital city and nominate persons for the several offices. By long established precedent the authority for calling a party caucus and naming the date for same is vested in the person in each body who has had the longest continuous service. Where one or more persons in each body have had the same number of years of continuous service, the duty then devolves upon the member who is the oldest in years as well as in service.

MINORITY FLOOR LEADERS

SEC. 1616. By long established precedent, the candidate of the minority for Speaker is recognized by that party as their floor leader during the session. In other words, he sustains the same relation to the minority as does the Speaker pro tem. to the majority who is majority floor leader. He has no duties or powers vested in him except those granted by courtesy of the members of his party, and the Speaker of the House. Custom has decreed that he should not be a member of any standing committee except the committee on rules.

ORGANIZATION OF THE OHIO SENATE—CONVENER

(Law)

SEC. 1617. At ten o'clock, forenoon, of the day appointed for the beginning of a regular session of the General Assembly, the **President**[1] **of the Senate,** or, in case of his absence or inability, the **oldest senator-elect present,** shall take the chair, call the senators-elect to

[1] The plan seems to have the preference in the State Legislative bodies.

order, and appoint one of them clerk pro tempore. The chairman shall call the senatorial districts in their numerical order, and as they are called the persons claiming to be senators-elect therefrom shall present their certificates and take the oath of office. (G. C. Sec. 35.)

ANNOUNCEMENT OF CONVENER

SEC. 1618. This being the time fixed by the constitution of the state for the meeting of the General Assembly, and the duty of calling this honorable body to order being delegated by law to the..... and there appearing to be present a sufficient number of the members-elect to constitute a quorum, I take pleasure in requesting the Senate to come to order, etc.

WHO MAY ADMINISTER OATH

SEC. 1619. The oath of office of senators and representatives, the president pro tempore of the Senate, the speaker and speaker pro tempore of the House of Representatives, the clerk and assistant clerks, the sergeant-at-arms and assistant sergeant-at-arms of each House, may be administered by a member or by a person authorized to administer oaths. (G. C. Sec. 41.)

CALL OF COUNTIES

(Law)

SEC. 1620. **Temporary Organization.**—The convener then should call to the desk of the clerk, for temporary service, the following officers of the preceding House: The clerk, journal clerk, message clerk, sergeant-at-arms and second assistant sergeant-at-arms, requesting them to immediately assume their respective positions. (G. C. Sec. 33.)

(A) At this juncture it is customary for prayer to be offered.

SEC. 1621. After prayer the presiding officer appoints one member-elect as temporary clerk[1] and immediately directs a call of the counties in alphabetical order. As the counties are called the members-elect therefrom should go forward to the desk of the clerk, present their certificates of election and take the oath of office, usually administered by a judge of the Supreme Court.

PERMANENT ORGANIZATION
OHIO SENATE

(Law)

SEC. 1622. After the senators-elect have taken the oath of office,[1] if there is a quorum present, the Senate shall proceed to the election of a president pro tempore, a clerk, five assistant clerks, to-wit: A journal clerk, message clerk, engrossing clerk, enrolling clerk and a recording clerk; a sergeant-at-arms, first assistant sergeant-at-arms, and a second assistant sergeant-at-arms. The election shall be in order herein stated, and by viva voce vote.

METHOD OF ELECTION IN OHIO SENATE

SEC. 1623. In the Ohio Senate the presiding officer calls for nomination for the permanent **statutory officers** in the order set forth in the statutes. Then the two major parties present the names of persons chosen for the position in their respective caucus. The vote is then taken by calling the roll and each member responds by announcing in a loud voice the name of the person for which he or she votes, for that particular position. The person receiving a majority of all the votes, the President declares elected.

NOTIFYING HOUSE OF ORGANIZATION

SEC. 1624. When the officers are elected the body is then ready to proceed to business and a motion should then

[1] This is merely an honorary appointment, the clerk of the preceding house continues to perform the duties of clerk.

[1] Under this law a quorum is not required to administer the oath of office. However, the law requires a quorum to be present when called to order.

be made as follows:....., I move that the clerk be directed to forward a message to the House, notifying that body that the Senate has organized by the election of its officers and is now ready to proceed to business.

PRESIDING OFFICER OF SENATE

SEC. 1625. The Lieutenant Governor by virtue of his office is President and presiding officer of the Senate. The elective officers of the Senate as provided by statute are the same as in the House, with the exception of Speaker, who is the presiding officer of the House and the Speaker pro tem., who is the party floor leader In the Senate organization the President pro tem. is the highest officer elected and by virtue of such office becomes the party floor leader in that body.

(A) **Note.—Members not answering to their names on the first roll call should, upon their first appearance in the Senate, inform the President of their presence, present their certificates and take the oath of office.**

ORGANIZATION OF THE OHIO HOUSE OF REPRESENTATIVES

(Times and Place of Meeting—Convener)
(Law)

SEC. 1626. At ten o'clock, forenoon, of the day appointed for the beginning of a regular session of the General Assembly, the Secretary of State, or, in case of his absence or inability, the Auditor of State, shall take the chair in the hall of the House of Representatives, call the representatives-elect to order, and appoint one of them clerk pro tempore. He also shall call the counties in alphabetical order, and as they are called, the representatives-elect therefrom shall present their certificates and take the oath of office. (Sec. 35, 36, 37, G. C.)

ANNOUNCEMENT OF CONVENER

SEC. 1627. This being the time fixed by the constitution of the state for the meeting of the General Assembly, and the duty of calling this honorable body to order being delegated by law to me, and there appearing to be present a sufficient number of the members-elect to constitute a quorum, I take pleasure in requesting the House to come to order, etc.

TEMPORARY ORGANIZATION
(Law)

SEC. 1628. The convener then should call to the desk of the clerk, for the temporary service the following officers of the preceding House: The clerk; journal clerk, message clerk, sergeant-at-arms and second assistant sergeant-at-arms, requesting them to immediately assume their respective positions. (G. C. Sec. 33.)

PRAYER

SEC. 1629. At this juncture it is customary for prayer to be offered.

CALL OF ROLL OF MEMBERS-ELECT

SEC. 1630. After prayer the presiding officer appoints one member-elect as temporary clerk and immediately directs a call of the counties in alphabetical order. As the counties are called the members-elect therefrom should go forward to the desk of the clerk, present their certificates of election and take the oath of office, usually administered by a judge of the Supreme Court.

EVIDENCE OF MEMBERSHIP

SEC. 1631. At the time of the organization of the two bodies, members-elect of the General Assembly are required to present their certificates from the board of deputy state supervisors of elections of the several counties, which are accepted as prima facie evidence of the right of such person

to membership in the House or Senate as provided by law.[1]

SEC. **1632. Note.—Members not answering to their names on the first roll call should, upon their first appearance in the House, inform the Speaker of their presence, present their certificates and take the oath of office.**

SEC. 1633. The following is substantially the oath administered to members and officers of the General Assembly of Ohio:

OATH

(A) "I (repeating name) do solemnly swear to support the Constitution of the United States and of the State of Ohio, and to faithfully and impartially discharge and perform all the duties incumbent on me as a Senator or Representative of the State of Ohio (as the case may be), according to the best of my ability and understanding, and this I do as I shall answer to God." (Courtesy of Chief Justice Marshall.)

PERMANENT ORGANIZATION OF HOUSE
(Law)

SEC. 1634. After the representatives-elect have taken the oath of office, if there is a quorum present, the House shall proceed to the election of a speaker, a speaker pro tempore, a clerk, five assistant clerks, to-wit: A journal clerk, message clerk, engrossing clerk, enrolling clerk and a recording clerk; a sergeant-at-arms, first assistant sergeant-at-arms; a second assistant sergeant-at-arms, and a third assistant sergeant-at-arms. The election shall be in the order stated, and by viva voce vote.[1] (G. C. Sec. 38.)

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[1] Members should not become confused relative to depositing their certificates of election. *They are not to be deposited with the Secretary of State.* They should hold such certificates and bring them on the day of the organization of the House or Senate and deposit them with the clerk of the body of which they are a member, as evidence of their election and right to membership.

[1] The opinion has been expressed by many good lawyers that the requirement of a viva voce vote, is intended to prevent their selection by secret ballot.

ACTION AFTER MEMBERS HAVE BEEN SWORN

SEC. 1635. The convener should call for nominations for Speaker. In response, the two major parties place in nomination their candidates previously selected in their respective caucus. After these nominations, the convener directs the clerk to call the roll of members who respond to their names by announcing in a loud voice the name of the person for whom he or she votes for that position. When the result is announced the chair declares the person receiving a majority of the votes duly elected to such office. This is followed by electing the speaker pro tem. in the same manner. The remaining officers are elected as follows:

NOMINATION AND ELECTION OF OFFICERS WITH ONE VOTE

SEC. 1636. Beginning with the earliest Assemblies down to the Eighty-fourth, officers of both bodies in Ohio, have been elected by separate nominations and vote on roll call for each officer. This method was continued because of the thought that it was the proper procedure established under the law and constitution. This practice was always monotonous, tiresome and even irksome and after the selection of Mr. Speaker, but little interest was shown in the election of the remaining officers. In the 84th Assembly members of long service expressed a desire for a method that would expedite business. Such suggestion was made to Captain John P. Maynard, Clerk of the House, who recommended the method employed in the National House which was accepted and proved a highly satisfactory innovation. The result was that for the first time in a quarter of a century the House was fully organized the first day, and on the second day the rules were adopted and all committees appointed and the House was ready to proceed to the business of legislation.[1]

[1] This change in electing officers was made under the speakership of Rupert Beetham. This change was made without authority in law or rules, except the parliamentary rules of the American Congress. It is now firmly established in our practice by custom and precedent.

The congressional method employed was as follows: A resolution was introduced containing the names of the persons previously selected in caucus, designating the positions for which they were nominated.

The following resolution explains the plan used:

(A) **Form of Resolution Electing All Officers With One Vote Plan of Congress.**

H. R. No. 1.

MR. DODD

Resolved that the House of Representatives, That John P. Maynard, of Allen county, be, and he is hereby elected Clerk of the House of Representatives: That John Hanlin, of Van Wert county, be and is hereby elected Journal Clerk of the House of Representatives; That Harold Rose, of Athens county, is hereby elected Message[2] clerk of the House of Representatives. That Ella M. Scriven, of Summit county, is hereby elected Recording Clerk of the House of Representatives. (All the other statutory officers of the House were included in a similar manner)

SEC. 1637. **Procedure on Resolution Electing Officers.**

The foregoing resolution should be introduced by the majority and after its reading the minority could then offer similar resolution in the form of a substitute containing the names of minority candidates which would bring the test on the two sets of candidates. This resolution may be amended, is debatable and requires a majority vote of all those elected to be effective.

OFFICERS OF EACH HOUSE—NOT PROVIDED BY LAW

SEC. 1638. **Note:**—At the time the law was enacted providing for the election of officers the law no doubt covered the needs of the two Houses, but since that time the membership has grown considerably and the business of

[2] The message clerk is in fact the corresponding secretary of the House.

the Houses more than quadrupled, and new systems for the convenience of members in their work, and for the expeditious transaction of business have been installed. Therefore the necessity for additional help and officers has increased correspondingly. In addition to the officers named in the statutes, there are other officers, whose duties are just as necessary and important, to be selected by the House. Some of these by appointment of clerk, and others by the sergeant-at-arms, all of such appointments to be confirmed by the House in which they are appointed. Or, as is done in some instances, it is the right of the House to directly elect all such by direct vote of the House. The most important of these officers or employes will be noted below. They are practically the same in both Houses in each assembly, and by long practice the positions have been firmly established. The titles of these positions here given are not official, but have become fixed by long usage.

(A) Each Assembly fixes the compensation of these officers. They are: a Parliamentarian who acts as Deputy Clerk; Assistant Journal Clerk; an Assistant Message Clerk, who is also Calendar Clerk; Reading Clerk; Index Clerk; Financial Clerk or Bookkeeper; Superintendent of Document Room and two Bill Clerks; Superintendent of Stenographers, and Chaplain.[1]

(B) All the officers herein named and also those mentioned in the statutes are session clerks, with the following exceptions, the Clerk and Deputy Clerk and Parliamentarian remain at work during the interim between the Assemblies, in other words, the services of these in both Houses are for a term of two years; in addition to these it is a long established custom to continue at the close of the session the services of the Recording Clerk, as Clerk Stenographer in the office of the Clerk It is also the custom, to appoint a

[1] In the 86th General Assembly the method of selecting the Parliamentarian by both bodies was somewhat changed. First he was elected by each House by simple resolution, thus making him Parliamentarian of each body. This was followed by a joint resolution electing him Parliamentarian of the General Assembly and denominating him officially *State Parliamentarian.*

Custodian for each House and at the close of each session, both of these serve for two years and to select during the session by joint resolution a Legislative Historian.

PROCEDURE AFTER ORGANIZATION

SEC. 1639. When the officers are elected the body is then ready to proceed to business and a motion should then be made in the following form: ————I move that the clerk be directed to forward a message to the Senate, notifying that body that the House has organized by the election of its officers and is now ready to proceed to business. If no one makes such motion **the chair should order the clerk** to notify the Senate.

FORM OF MESSAGE

SEC. 1640. "Mr. President (or Mr. Speaker as the case may be):

By direction of the House of Representatives, or Senate, (as the case may be) I have the honor to officially inform you that the House of Representatives has organized by the election of the following officers and is now ready to proceed to business:

.....Speaker.

.....Speaker pro tem.

.....Clerk.

.....Journal Clerk.

.....Message Clerk.

.....Engrossing Clerk.

.....Enrolling Clerk.

.....Recording Clerk.

.....Sergeant-at-Arms.

.....First Assistant Sergeant-at-Arms.

.....Second Assistant Sergeant-at-Arms.

.....Third Assistant Sergeant-at-Arms.

(A) **Note:**—Same form of message used by Senate with omission of Speaker and changing Speaker pro tem to President pro tem.[1]

COMMITTEE TO NOTIFY SPEAKER-ELECT

SEC. 1641. Immediately following the election of the Speaker, it is customary for the presiding officer to appoint a committee of three members—two from the majority and one from the minority party—to notify the member of his election and escort him to the Speaker's stand where he takes the oath of office and is introduced to the House by the presiding officer. He is then presented with the gavel and, if he chooses, delivers a short address expressing his appreciation of the honor, after which the House proceeds with the election of the remaining officers.

GOVERNOR NOTIFIED OF ORGANIZATION

SEC. 1642. After the election of officers and notice has been sent to the Senate, the next business in order is to notify the Governor that the General Assembly is in session and is ready to receive any communication he may see fit to transmit. This is done by joint resolution.

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[1] The title of the several officers vary considerably in the State legislative bodies below the Speaker. One state would elect a Clerk of the House and Senate and another will elect a Clerk of the House and a Secretary of the Senate. The duties of the position are the same whether styled Clerk or Secretary. Congress and several states elect a Chief Doorkeeper.

FORM OF RESOLUTION GIVING NOTICE TO THE GOVERNOR

.....General Assembly.

Regular Session, 19.....

H. J. R. o.....

BY MR. KANE

Relative to notifying the Governor that the General Assembly has organized and is ready to receive communications

Be it resolved, by the General Assembly of the State of Ohio:

That a committee of three on the part of the House, and.....on the part of the Senate, be appointed to wait upon the Honorable.....Governor of Ohio, and inform him that the General Assembly is in session and ready to receive any communication he may see fit to transmit.

When the committee has waited upon the Governor and delivered the message of the Assembly, the following report should be made:

FORM OF REPORT OF COMMITTEE TO INFORM GOVERNOR

SEC. 1643. Mr. Speaker (or President, as the case may be):

The joint committee appointed under the provision of H. J. R. No....., Mr.....to wait upon the Governor of the State an inform him that the General Assembly has organized and ready to receive any message he might desire to communicate, beg leave to report that they have performed that service and the Governor

informed your committee he would forthwith communicate to the General Assembly.

.....	.....
.....	.....
.....	.....
Senate Committee.	*House Committee.*

COMMITTEE TO REPORT

SEC. 1644. Is it competent for the House to direct a committee to report a subject before them for consideration before a certain specified date.

PROPER ACTION ON REQUEST FOR RETURN OF BILL

SEC. 1645. On an occasion when the Senate requested the return of a bill from the House and did not state that it was for the purpose **of correcting an error,** Speaker Reed outlined the proper course to take on such request when such bill was in committee as follows: First, he cited numerous precedents showing that the motion directing the return of the bill is privileged, but if it has been sent to committee, the motion to discharge can only be offered except **by unanimous consent.** In this case, Mr. Reed says the best practice is to refer the request to the committee to report the bill to the House with recommendations that it be, or not be returned to the other House, Of course, neither House should ever refuse to permit the other to correct an error.

OFFERING AN AMENDMENT TO A BILL BEFORE THE HOUSE BUT NOT UP FOR IMMEDIATE CONSIDERATION

SEC. 1646. Much time and inconvenience may be saved by members having important amendments to offer to bills to be considered in the future, by offering same on the floor

of the House, to be called up by the member when such bill is taken up for consideration. Such amendments are received and entered upon the journal without question, unless objected to. Amendments of this kind lie upon the speaker's table until the consideration of such bill is taken up when the amendment may be called up for consideration without motion or question. When the amendment is called up it is in order to offer a modified amendment in its stead, as a substitute.

PRINCIPLES OF DECISION IN PARLIAMENTARY BODIES

SEC. 1647. Nearly all American parliamentary writers, with the possible exception of Mr. Cushing and Mr. Reed, lay down an erroneous rule of two-thirds vote required on all motions, restricting or limiting debate, and most of these writers set down that this is a fundamental principle of parliamentary law. If any such rule exists it did not find birth in any parliamentary body that we are acquainted with. Surely no such rule came out of the English parliament, or the American congress or any other parliamentary body.

THE RULE OF THE MAJORITY

SEC. 1648. The principle that governs the decisions of parliamentary bodies, is that of **the majority of the votes.** Of course it is sometimes provided by rule in parliamentary bodies that a larger vote shall be required for certain motions, usually to suspend the rules and several parliamentary bodies do not make this requirement for the reason, they argue, it throws the decision into a very small minority of the assembly. But most of our American writers, quoting Mr. Roberts, require a two-thirds vote for any motion suppressing or limiting debate.

In parliament the cloture rule of debate is ordered by a majority, in the American congress the previous question is ordered by a majority vote. In the lower House of Belgium, the President of the chamber and the Prime Minister

consult before the ordering of the cloture; in Denmark, if the President of the chamber thinks debate has been improperly prolonged he may propose the cloture; which is decided by a majority without debate; in Spain, the cloture may be moved by the President of the House, says Dickinson in his Rules and Procedure of Foreign Parliaments. None of these parliamentary bodies seem to require anything unusual to suppress debate.

DISPOSITION OF GOVERNOR'S MESSAGE

SEC. 1649. After the message of the Governor has been read, the following motion should be made: "Mr. Speaker, I move that the message of the Governor and the several recommendations contained therein be referred to the appropriate committees by the Speaker" (or any special committee or the committee of the whole).

(A) **Note:** — Any of the foregoing joint resolutions necessary at the opening of the session may originate in the Senate in which instance they would be known as Senate Joint Resolutions.

NECESSARY RESOLUTIONS TO FOLLOW

SEC. 1650. For the purpose of expediting business the following resolutions are usually introduced the first or second day of the session.

JOINT RESOLUTIONS

(A) Providing for the inauguration of the Governor. For joint convention to canvass vote for state officers. Providing for joint rules.

HOUSE AND SENATE RESOLUTIONS

(B) Relative to rules of House or Senate as case may be.

[1] For forms of these resolutions see chapter on resolutions.

Providing for the election of Parliamentarian and Deputy Clerk.

For choice of seats.

For additional help in office of clerk. (Usually preceded by a request from clerk.)

For additional help for sergeant-at-arms. (Usually preceded by a request from sergeant-at-arms.)

Providing for chaplain.

Providing pages.

Providing for stenographers.

Relative to renting typewriters.

Providing stationery for members.

Providing sets of General Code for use of members.

SEC. 1651. While it is true the Assembly notifies the Governor it is organized and ready for business as soon as its officers are selected, yet in fact it is only half organized and cannot enter upon the reception and consideration of important business until its standing committees are appointed, which follows as soon as they can be conveniently selected by the speaker or senate committee.

STANDING COMMITTEES

PRINCIPLES GOVERNING THE SELECTION OF STANDING COMMITTEES[1]

SEC. 1652. The standing committees are made up on **party lines, the majority in either House, having a majority of the members** of each committee and the minority representation being arranged in proportion to the relative size of the minority. In select and conference committees, the party divisions are not considered so strictly, but the principle that the opposition, **whether of party or principle,** should be represented is always

[1] In Parliament standing committees are not given names to indicate their importance but are known by the letters of the alphabet, that is, Committee A, Committee B, etc.

followed in making up committees. The arrangement of majority and minority members on committees in the House is made up by the Speaker who consults the minority leader relative to minority appointments.

APPOINTMENT OF COMMITTEES IN SENATE

SEC. 1653. In the Senate, it being a much smaller body and the presiding officer not being a member, that body does not delegate its right of appointment to the President but appoints the committees itself in the following manner:

(A) On the first or second day of the session a resolution similar to the following is introduced in the Senate.

COMMITTEE OF SELECTION (FORM)

SEC. 1654. S. R. No..... Resolved, That a select committee consisting of Messrs. Doe, Roe and Poe, be and is hereby appointed to prepare and report to the Senate the assignment of members to the standing committees thereof and that such standing committee shall have power to recommend the creation of new committees and to increase or decrease the membership of the standing committees provided for by the rules of the last Senate, should they deem such action necessary. (The committee thus provided for is usually composed of seven members, the majority of whom of course are taken from the majority party.) It is customary to place on this committee the majority and minority floor leaders.

APPOINTMENT OF COMMITTEE OF SELECTION

SEC. 1655. The members of the committee of selection are usually suggested by the party caucuses. If the foregoing resolution is adopted by a majority vote the committee proceeds to name the members of the committees and report the same for the ratification of the Senate, which requires a majority vote. Committees have no power or authority except such as is specifically delegated to them by the body creating the committee.

APPOINTMENT OF COMMITTEE IN HOUSE

SEC. 1656. **The invariable rule of the Ohio House has been to permit the Speaker to appoint all Committees.** — So fixed has this practice become that even before the rules to govern the body have been adopted the Speaker sometimes names the committees and his **right to do so has never been questioned.**

ORGANIZATION OF COMMITTEES

SEC. 1657. As soon as possible after the appointment of the committees, it is the duty of the chairman of each committee to consult the clerk for a place of meeting and then call his committee together to complete its organization. The Speaker will announce the time and place of meeting of committees if requested to do so by the chairman. The chairman having been previously selected **the only other officer needed is a secretary whose selection should be reported to the clerk.**

APPOINTMENT OF COMMITTEES—NATIONAL House

SEC. 1658. **The practice of legislative bodies selecting their own standing committees, instead of permitting the speaker to do so,** seems to be **growing in favor.** This is the method now employed by the National House. The fight there to deprive the speaker of this long-standing privilege has been almost continuous with the life of Congress. However, the speaker still appoints all select and conference committees, and the House may not instruct him as to such appointments. The method employed is: The two **major parties** in **party conference** (caucus) select a **committee on committees.** The majority party also decides upon the committee representation for the minority. These two committees select the chairman and committees. The majority committee

selects chairman. The two committees embody their selection in resolutions which are submitted to the House on the first or second day of the session. The selection of these committees are considered **to be merely nominations,** and when offered it is the usual practice to **move the previous question,** which would be analogous to moving to **close nominations.**

(A) If the previous question is not ordered, the resolution is debatable and amendable. A separate vote may be demanded on any one of the names in the resolution and it is also in order to substitute by way of amendment, names for those in the committee resolution.

U. S. Senate

(B) The United States Senate select committees themselves in substantially the manner described for the House. The vote is taken by ballot unless it is ordered by the Senate that it be by a yea and nay vote. If objection be made to consideration of the resolution as a whole, or a separate vote be demanded on the chairman and committee, then it requires a majority to elect the chairman, but a plurality to elect committees, but in practice when a separate vote is demanded on chairmen, the committee appointments are considered as agreed to by unanimous consent.

CHAPTER XXXVIII

DRAWING OF BILLS

PREPARATION AND DRAWING OF BILS IN THE OHIO GENERAL ASSEMBLY[1]

SEC. 1659. Suggestions to be remembered:

1. **A bill must not contain more than one subject.**

2. **The title must contain a brief description of the subject matter.**

3. **In amending existing laws, any omitted matter must be indicated by being enclosed in black-faced brackets.**

4. **All new matter inserted in existing law must be shown by underscoring.**

5. **When the bill proposes to amend existing law it must contain a repealing clause of the original section.**

6. **Bills must be typewritten or printed and only on one side of paper.**

7. **Bills must be introduced in triplicate unless otherwise provided by rule.**

8. **Every bill must contain the enacting clause.**

* * * *

(A) The first step in law making is the preparation of the subject matter a member desires to introduce for the consideration of the House. Whether it be a petition, motion, amendment, resolution or bill, care should be exercised in its preparation.

[1] The forms of bills in our state legislative bodies are as varied as there are states. The practice herein with slight modifications describes in general, the practice of a majority of our state legislative bodies.

(B) After determining upon the subject matter to be incorporated in a bill or resolution, the member should secure the proper forms upon which to typewrite the bill, from the superintendent of stenographers, and if he desires the work will be done by that department. Or members may have bill drawn and prepared by the Legislative Reference Library at any time by requesting that service; which is free to members.

(C) As a member proceeds to draft his bill in proper form his attention should first be directed to the title of the bill. The title commences with the words, "A BILL to, etc." It must contain a brief description of the subject matter set forth in the body of the bill. If the purpose of the bill is to amend or repeal existing law, the number of the section of the General Code to be amended or repealed and a description of the subject should be added. (See Constitution, Art. II, Sec. 16.)

DRAWING OF BILLS—ITS VARIOUS PARTS EXPLAINED

SEC. 1660. Bills are composed of several very essential and distinct parts, the absence of any of them being sufficient reason for the rejection of the bill by the House when the bill is introduced. If error is detected by a member he may move rejection. The clerk may, however, correct the bill, if he can do so readily and without making too great a demand on the time of the body. **It is the general practice, however, for the clerk to call the attention of the member to the deficiencies in his bill, and permit him to withdraw same temporarily to make the needed corrections himself.**

ERROR IN DRAWING BILLS

SEC. 1661. **A very annoying and inexcusable disregard for the rules in our Ohio practice comes in their violation relating to the preparation of bills.** In these cases, a point of order is good wherever the violation of the

rules is discovered and if it is clearly shown that the bill does not comply with the rules in its preparation, the chair should sustain the point of order, and submit the question to the House, "Shall the bill be delayed in its progress and ordered corrected and reprinted?" If the House vote in the affirmative the bill should be returned to the author for correction and then reprinted, when its progress may be continued. If decided in the negative the bill is defeated unless the House vote to proceed with it.

THE IMPORTANT PARTS TO BE OBSERVED IN DRAWING A BILL ARE AS FOLLOWS:

SEC. 1662. **Every bill must carry a number, name of introducer, date, title, enacting clause, purview or body divided into sections or clauses of convenient length.**[1]

(A) **Number.** — When bills or resolutions are introduced **the space for the number is left blank,** such number being supplied by the clerk at his desk when introduced, all bills and resolutions are numbered consecutively and in the order they are received. Numbers given to bills or resolutions are not subject to change or amendment.[2] The number is usually placed at the head of the bill, in the right hand corner of the first page thus (No. 574).

(B) Only title, author and number of bill are printed in Journal, but resolutions and amendments are printed in the Journal in full.

(C) Date.—Consists of the number or name of the assembly, the year, month and day not being used, but should be shown whether it is a regular, special or extra-

[1] The principal parts of a bill as herein given obtain in all legislative bodies, with the exception of the preamble.

[2] In the state of New York and perhaps others, bills are numbered on introduction and then when reported from committee they are given a file number, in both instances the numbers run consecutively.

ordinary session. This is usually placed in the left hand corner, first page thus:[3]
(88th General Assembly
Regular Session, 1929)

(D) **Author.**[4]—Below the date and number should appear the name of the author, or more properly speaking the name of the introducer of the bill in either body thus: Mr. Federman. Below the name of the author on a separate line should appear the words in capital letters "A BILL" and immediately following underneath this, the short title.

TITLE OF BILL

SEC. 1663. The title of a bill embraces all that part of the bill contained in the head of the bill, or which precedes the enacting clause, including that part properly referred to in Parliament as the **short or small title.** The **short or small title is the one referred to in the constitution,** that must clearly express the subject of the bill.

(A) **Title.**—The title, enacting clause and body of bills have been thought to be of so great importance that they have been made subjects of constitutional requirements. The short title of a bill or resolution is the short statement prefixed to it showing the purpose or object of the bill. The preparation of the title is provided for in the constitution as follows: **"No bill shall contain more than one subject which shall be clearly expressed in its title." Art. 11, Sec. 16, O. C.** The title of course is no part of the law, but is the name and description of the bill given to it by the author. The title,

[3] In Congress the date of the introduction is printed on all bills.

[4] It is permissible in the practice of Congress, Parliament, and the Ohio Assembly to change the author of a bill, but the practice in this country seems to be restricted to the addition of other names, rather than a change of the author. In the practice of parliament the member moves after passage that the bill "stand" in the name of a certain member. In this country it is accomplished by amendment.

whether long or short, should be such as to **"clearly express" the subject matter contained in the bill.**

(B) Bills must have noted in their small titles a distinct reference to the subject matter to which they relate and also, if they propose the amendment or repeal of any law, to the section proposed to be repealed or amended. (The rule relative to titles is very important and should be strictly followed, unless it is followed to the letter the House should reject the bill and return same to the member for correction, or if the clerk is familiar with the subject of the bill he may correct or complete such title of the bill. However, under our practice the clerk has little opportunity to examine bills before they are sent to the printer, therefore the member should be sure that this title is correct before introducing it.)

INCORRECT TITLE

SEC. 1664. To illustrate, the following is an insufficient title: **To amend Section 19241 of the General Code.** With such title, anyone examining the title would be compelled to read the bill or look into the Code to find the subject of its content. The rules and constitution provide that the subject must be clearly set forth in the title, therefore the foregoing title should be corrected thus:

CORRECT TITLE

SEC. 1665. **To amend Section 19241 of the General Code, relating to the proper observance of the Christian Sabbath.** This title conveys to the reader at once the real purpose of the bill.

(A) **Bills introduced without title. — If a bill is introduced without title the clerk usually returns the bill to the member for correction.** He may, however, if he chooses, furnish the title. If the title is insufficient the clerk usually completes same. **It is, however, more parliamentary to return bill to the author for correction.**

SEC. 1409. **Preamble.** — In common parliamentary procedure the preamble would follow the title and precede the enacting clause. Preambles are very sparingly used in the Ohio Assembly, in fact are frowned upon, and frequently have been rejected. Usually when found in **bills the clerk by direction of the Speaker, strikes them out before being printed.** We find, however, that one or two assemblies have permitted preambles, but the **unwritten rule** is against them, and with the foregoing exception the rule of not permitting preambles, has been generally observed. In the 81st and 83rd Assemblies, by agreement between the officers of the House and Senate, preambles containing not more than three hundred words were permitted to be placed at the end of a bill in the form of a statement. Such statements were printed with the bill; these statements, however, are **always removed when the bill is engrossed or enrolled to prevent such statements being published with the laws in the session laws or year book.**

PREAMBLE AND STATEMENT

SEC. 1666. It is rare indeed in the practice of the Ohio General Assembly that preambles are used, and they have fallen into disuse in Parliament where they are no longer required. In the present practice of Parliament they permit a short explanatory statement to be inserted at the end of a bill instead of a preamble. This statement must be explanatory and not argumentative. It is in no sense a part of the bill, no action is taken on such statement. It is merely for the information of the members.

(A) In considering a bill or resolution containing a preamble it is the rule to consider the preamble separate from the resolution or bill. The consideration of the preamble is **postponed without motion** to that effect and the **bill or resolution first considered** and last the preamble.

SEC. 1667. **Enacting Authority.** — In view of the fact that in the Ohio practice the preamble is not used at the head of a bill, the next important part of the bill after the title is the enacting clause. The enacting authority is provided by the constitution in Ohio, **no bill can become a law unless it contains the enacting style, clause or authority.** The enacting authority of Ohio is as follows: Sec. 18, Art. 11, Const. **The style of laws of this state shall be, "Be it enacted by the General Assembly of the state of Ohio."** If the enacting words are written by hand or typewriter they should be **underscored,** so when printed the printer will put them in italics. In our practice the enacting style follows the title and precedes the body of the bill.

OHIO CONSTITUTIONAL PROVISIONS RELATING TO BILLS

SEC. 1668. Every bill shall be fully and distinctly read on three different days, unless in case of urgency three-fourths of the House in which it shall be pending, shall dispense with the rule.[1]

(A) No bill shall contain **more than one subject,** which shall be clearly **expressed in its title,**[2] and no law shall be revived or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed.

(B) Every bill passed by the General Assembly shall, before it becomes a law, be presented to the governor for his approval. If he approves, he shall sign[3] it and thereupon

[1] This provision is found in substantially the same language in nearly all our state constitutions, and in those states that do not have this provision in its constitution, the legislative bodies, like Congress, carry it in their rule books. There are two state constitutions that have made very substantial changes in this provision. In the state of Indiana it is required that bills be read three times by sections. In the state of Georgia the rule may be suspended but only in case of insurrection or invasion.

[2] An Ohio justice writing an opinion for Ohio Supreme Court says this provision was inserted so that members might know the subject of a bill when the rule was dispensed with *and the bill was not read.* (6 O. S. Rep., 179.)

[3] It should be noted that the only means the governor has of approving a bill is by his signature.

it shall become a law and be filed with the secretary of state. If he does not approve it, he shall return it with his objections in writing to the house in which it originated, which shall enter the objections at large upon its Journal, and may then reconsider the vote on its passage. If three-fifths of the members elected to that house vote to repass the bill, it shall be sent, with the objections of the governor, to the other house, which may also reconsider the vote on its passage. If three-fifths of the members elected to that house vote to repass it, it shall become a law notwithstanding the objections of the governor, except that in no case shall a bill be repassed by a smaller vote than is required by the constitution on its original passage. In all such cases the vote of each house shall be determined by yeas and nays and the names of the members voting for and against the bill shall be entered upon the Journal. If a bill shall not be returned by the governor within ten days, Sundays excepted, after being presented to him, it shall become a law in like manner as if he had signed it, unless the General Assembly by adjournment prevents its return; in which case, it shall become a law unless, within ten days after such adjournment, it shall be filed by him, with his objections in writing in the office of the secretary of state.

(C) The governor may disapprove any item or items in any bill making an appropriation of money and the item or items, so disapproved, shall be void, unless repassed in the manner herein described for the repassage of a bill. (Adopted Sept. 3, 1912.)

BODY OF BILL

SEC. 1669. The body or purview of a bill is the all important part, for it is here the assembly centers its attention for the purpose of declaring and registering its will.

(A) The preparation of the body of the bill is of such importance as to invite the attention of the makers of the constitution.

SEC. 1670. Art. 11, we find the language, **"No bill shall contain more than one subject which shall be clearly expressed in its title."** There is still another very important provision in the organic law of the state relative to drawing bills. It is also a part of Section 16, Article 11 and is as follows: **"No law shall be revived or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed.** As to the form of bills the joint rules of the assembly and the rules of each branch must be observed.

SEC. 1671. **(New matter or omission to be indicated.)** Every bill amending existing law, when introduced, must have all new matter underscored, and all matter eliminated from existing law must appear in its proper place, enclosed in brackets. In the printed bill all new matter shall be italicized and all matter eliminated shall be enclosed in black faced brackets.

If any bill is reprinted it shall be prepared and printed as if it were being introduced in the form in which it then is.

The matter enclosed in brackets shall be omitted in the engrossing of the bill.

FORMS FOR TITLES

SEC. 1672. **When the subject matter is new, it should read:**

A BILL

To provide for the administration of criminal justice and to increase the powers of prosecuting attorneys.

* * * *

(A) **When the purpose of the bill is to amend existing law, it should read:**

A BILL

To amend section 4303 of the General Code, relating to the title and office of city solicitors in cities, fixing term of office and salary

* * * *

(B) **When the purpose of the bill is to supplement existing law, it should read:**

A BILL

To supplement section 7466 of the General Code by the enactment of a supplemental section, relative to establishing elementary schools and fixing the length of the school year.

(C) **When the purpose of the bill is to supplement a supplemental section, it should read:**

A BILL

To supplement supplemental section 11418-1 of the General Code by enacting a supplemental section, relative to jury drawing when commissioners or infirmary directors **are parties thereto.**

* * * *

(D) **When the purpose of the bill is to amend and repeal a law in conflict with the proposed change in the law, it should read:**

A BILL

To amend section 5808, 5809 and 5811 and to repeal section 5816 of the General Code, relative to animals running at large.

* * * *

(E) **When the purpose of the bill is to amend, supplement and repeal in the same bill, it should read:**

A BILL

To amend sections 1831, 1832 and 1847, and to supplement section 1831 by the enactment of a supplemental section and to repeal section 1944 of the General Code relative to the management of the Ohio Soldiers' and Sailors' Orphans' Home.

* * * *

(F) **When the purpose of the bill is to amend, repeal or supplement, as the same may be, any law passed at a former session of the Assembly, and not printed in the General Code, the title should read:**

A BILL

To amend section 2 of an act entitled "An act to establish a criminal court in the city of Lorain, Lorain county," passed May 10, 1910 (O. L. Vol. 101, page 387).

FIRST SECTION

SEC. 1673. Following the enacting clause comes the first section of the bill, which varies according to the purpose and subject matter. In most instances when the purpose is to amend, repeal, or supplement an existing law the wording of section 1, follows closely that of the title. If the subject matter is all new then the author prepares section 1 as he desires that section to read.

When the bill contains all new matter it should read:

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. When a domestic fire insurance company, etc. (Subject matter continues.)

SECTION 2. (Subject matter.)

SECTION 3. (Subject matter.)

(A) **When the purpose of the bill is to amend existing law it should read:**

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. The section 4303 of the General Code be amended to read as follows:

SEC. 4303. The solicitors shall be elected, etc. (Here follows section 4303 in full with changes desired inserted or omitted as case may be.)

LAST SECTION OR REPEALING CLAUSE

SEC. 1674. After the subject matter has been disposed of and the purpose of the bill is to amend an existing law, the last section should be a repealing clause, as follows:

SECTION ——. That said original section 4303 of the General Code be and the same is hereby repealed.

All bills which seek to amend existing sections must conclude with the repealing clause.

ORIGINAL SECTION REPEALED

SEC. 1675. The Constitution provides that when a law is amended the **original law must be repealed.** All acts of the General Assembly become effective ninety days after passage if approved or not vetoed by the governor or referred to the people. Therefore an additional section providing that "This act shall take effect on its passage" is no longer necessary.

THE WORD "SECTION"

SEC. 1676. In examining the following forms, attention is called to the use of the **word "section" and the abbreviation "sec."**

The word "section" is used for new matter, that is, when the bill is intended to enact an entirely new law.

The sectional numbers should run consecutively, and in each instance the word "section" should be used thus:

SECTION 1.

SECTION 2.

SECTION 3.

THE ABBREVIATION "SEC."

SEC. 1677. This abbreviation is used when a bill is drawn to amend or supplement sections of the General Code or session laws. Section 1 of all bills, is new matter in so far as it sets forth the purpose of the bill and the word "section" should always be used in the initial section. Following this should be the section or sections to be amended or supplemented and the abbreviation 'sec." should precede the numbers of the sections, thus, "Sec. 4592. Whenever any person, etc." In fact, Sec. 4592 becomes a part of section 1 of the bill. If a bill were before the House to amend sec. 4592 and a motion was made to strike out all of section 1 of the bill, if adopted it would take from the bill sec. 4592.

The word "section" should always precede the repealing section.

NUMBERING OF BILLS

SEC. 1678. When bills and resolutions are introduced they are given consecutive numbers by the clerk before being read. These numbers are not subject to change or amendment.

FORMS OF BILLS

(A) **When the bill contains all new matter.**

..... General Assembly.
Regular Session, 19.....

H. B. No.....

Mr. Runser

A BILL

To provide for the administration of criminal justice and to increase the powers of prosecuting attorneys.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. The prosecuting attorney may, etc.

SECTION 2. (Subject matter.)

SECTION 3. (Subject matter.)

* * * *

(B) **When the purpose of the bill is to amend existing law.**

.....General Assembly.
Regular Session, 19.....

H. B. No. .....

Mr. Bartlett

A BILL

To amend section 4303 of the General Code, relating to the title and office of city solicitors in cities.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 4303 of the General Code be amended to read as follows:

SEC. 4303. The city solicitor shall be chosen for a term of * * * *four* years, commencing on the first day of * * * *February* after his election, etc.

SECTION 2. That said original section 4303 of the General Code, be and the same is hereby repealed.

Note. — The italics indicate new matter and the asterisks the matter omitted.

(C) **When the purpose is to supplement existing law.**

.....General Assembly.)
Regular Session, 19.....) H. B. No.....

Mr. Myers

A BILL

To supplement section 7644 of the General Code by the enactment of a supplemental section of the General Code, relative to establishing elementary schools and fixing the length of the school year.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 7644 of the General Code, be supplemented by the enactment of an additional section of the General Code, to read as follows:

(Subject matter.)

* * * *

(D) **When the purpose of the bill is to supplement a supplemental section.**

.....General Assembly.)
Regular Session, 19.....) H. B. No.....

Mr. Bostwick

A BILL

To supplement supplemental section 11418-1 of the General Code, relative to jury drawing when commissioners or infirmary directors are parties thereto.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 11418-1 of the General Code be supplemented by the enactment of a supplemental section to read as follows:

(Here follows subject matter.)

(E) **When the purpose of a bill is to amend and repeal a law in conflict with the proposed amended law.**

.....General Assembly.)
Regular Session, 19.....) H. B. No.....

Mr. Cramer (By Request)

A BILL

To amend sections 5808, 5809 and 5811 and to repeal section 5816, of the General Code, relative to animals running at large.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 5808, 5809 and 5811 of the General Code be amended to read as follows:

(Here follows the section with changes desired.)
(Here follows the section with changes desired.)
(Here follows the section with changes desired.)

SECTION 2. That said original sections 5808, 5809, 5811 and section 5816 of the General Code be and the same are hereby repealed.

* * * *

(F) **When the purpose of a bill is to amend, supplement and repeal.**

.....General Assembly.)
Regular Session, 19.....) H. B. No.....

Mr. Mardis

A BILL

To amend sections 1931, 1932 and 1937 and to supplement section 1931 by the enactment of a supplemental section, and to repeal section 1944 of the General Code, relative to the management of the Soldiers' and Sailors' Orphans' Home.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1931, 1932, 1937 of the General Code be amended and section 1931 be supplemented by a supplemental section to read as follows:

(Here follows section with changes desired.)
(Here follows section with changes desired.)
(Here follows section with changes desired.)
(Here follows the supplemental matter to the section.)

SECTION 2. That said original sections 1931, 1932 and 1937 and section 1944 of the General Code be and the same are hereby repealed.

* * * *

(G) **When the purpose is to amend, supplement or repeal as the case may be any law passed at a former session of the Assembly and not yet published in the General Code.**

.....General Assembly.)
Regular Session, 19.....) H. B. No.....

Mr. Streicher (By request)

A BILL

To amend section 2 of an act entitled "An act to establish a criminal court in the city of Lorain, Lorain county," passed May 10, 1910. (O. L. Vol. 101, page 387.)

SECTION 1. That section 2 of an act entitled "An act to establish a criminal court in the city of Lorain, Lorain county," passed May 10, 1910, be amended to read as follows:

SECTION 2. (Here follows the section with changes desired.)

SECTION 3. That said original section 2, of an act entitled "An act to establish a criminal court in the city of Lorain, Lorain county," be and the same is hereby repealed.

DRAWING BILLS TO REVIVE OR AMEND LAWS

SEC. 1670. A law **may not be revived** by enacting a new law referring specifically to its sectional number or subject. Bills of this character must contain the full text of the act or the section or sections sought to be revived. The Constitution provides, "No law shall be revived or amended unless the new act contain the entire act revived, or the section or sections amended, and the section so amended shall be repealed."

FORM FOR TITLE WHEN LAW REVIVED

SEC. 1680. A bill to revive and re-enact and put in full force an act relative to prohibition enforcement, repealed Jan. 28, 1910.

FIRST SECTION OF BILL TO REVIVE AN ACT

(A) SECTION 1. That an act entitled an act to provide effective prohibition enforcement in Ohio repealed Jan. 28, 1910, be and the same is hereby revived and re-enacted as follows: (Here should follow full text of law.)

PREPARATION OF BILLS

SEC. 1681. **Bills that have been drawn in violation of House rules may have all such matters stricken out.** A bill was under consideration in committee of whole when a question of order was raised that it was printed in violation of the rules of the House. By unanimous consent the committee was discharged, the objectionable matter ordered stricken out, the remaining part of the bill ordered reprinted and recommitted. (H. J. 1st Sess. 56th Cong., p. 152.)

CHAPTER XXXIX

METHOD OF PASSING BILLS IN OHIO

SIMILARITY OF PRACTICE IN BOTH HOUSES

SEC. 1682. Before presenting the matter of passing bills in the legislature, it may be presumed that the practice of the Senate and House of Representatives is so similar in regard to the stages of a bill and the proceedings connected with it, that except where variations are distinctly pointed out a statement of the proceedings of one body is equally descriptive of the proceedings of the other.

WHERE BILLS ORIGINATE

SEC. 1683. Bills may originate in either House, except, that by general consent the House of Representatives has assumed the right to prepare and first act upon all bills appropriating money, but this unwritten rule of the House preparing appropriation bills is not rigidly enforced except as to general or budget appropriations, which are always prepared by the Finance committee of the House and introduced first in the House and after the House acts on said bills they are introduced in the Senate by message from the House, where they are acted upon in substantially the same manner as in the House.

INTRODUCTION OF BILLS IN PARLIAMENT

SEC. 1684. Two methods of introducing are used in Parliament. Under the older method the procedure in Parliament is as follows: When a member desires to introduce a bill he asks **leave** to bring in a bill on a cer-

tain subject. If leave is granted the Speaker then asks Who will prepare and bring in the bill? [1] The member asking leave answers the question by stating the names of the members by whom it is to be prepared and brought in, or presented and supported by. He then presents a "dummy **bill"** to the clerk upon which is inscribed the title, name of **proposer and supporters of the bill,** not to exceed twelve in number. Later when the regular bill has been prepared by the members designated for that purpose, it is then taken to the clerk and exchanged for the "dummy bill" and is then printed and a day set for first reading. It seems the "dummy bill" is used even when bills are introduced without leave under the new plan of filing with the clerk.

(A) Bills introduced in either House must be legibly written, typewritten or printed and must bear the name of the introducer, and must in all respects as to form comply with the laws and the rules of the General Assembly of Ohio.

INTRODUCTION IN SENATE

SEC. 1685. Bills may be introduced in the senate by a senator or as a report of a committee in the regular order of business, or at any other time by leave of the senate. Bills introduced in the Senate are at once read the first time and without motion to that effect are referred to the calendar for second reading in regular order.

In the practice of both houses bills are introduced in triplicate, one of these is retained on the files in the clerk's office, one is given to the newspaper correspondents and one is sent to the printer.

INTRODUCTION OF BILLS IN OHIO

SEC. 1686. The right of a member of either house to introduce a bill or other business is not specifically

[1] It is recorded that one Speaker put the question jocularly thus: "Who is prepared to bring in the bill?"

guaranteed in the state constitution nor by statutory law, such right is simply a parliamentary right and is provided and protected under parliamentary law and the rules of the two houses.

In the early practice of parliamentary bodies in Europe and America they were jealous of what they called their inherent right to decide upon and approve the subject of any business a member sought to bring to their attention and before its introduction. This was accomplished by the member giving notice to the house of his intention and requesting leave of the house to introduce the bill.

INTRODUCTION IN OHIO HOUSE

SEC. 1687. In the present practice (1932) members may only introduce bills regularly and in order on the alphabetical call of the counties. Of course bills may be introduced at other times out of order, by suspension of the rules or on leave of the house. The roll of counties is called whenever reached in the regular order of business.

All bills introduced in the house are given a consecutive number by the clerk and at once read the first time by title and without motion, question or rule to that effect, and then delivered to the reference committee for its consideration and as to whether it was introduced in good faith, is frivolous or a duplication. The House by majority vote may set aside any action of this committee.

For good reason they may recommend to the House that the bill be not printed or read the second time in which case if approved by the House the bill would remain upon the Speaker's table and make no further progress. The reference committee also selects the standing committee to which the bill is to be sent for consideration. All bills are read for the first time by title when introduced and a second time when returned by the reference committee so recommending.

INTRODUCTION OF BILLS IN SENATE

SEC. 1688. Introduction of bills in the Ohio Senate is somewhat different from the procedure in the House. Neither house has a specific rule governing this practice other than a place provided in the order of business. In the Senate when the order of business is reached for introduction of bills, the member's right to introduce is dependent on the recognition of the member by the chair. The roll of counties or districts is not called, as in the House. In a large body this procedure would result in disorder and confusion, but in so small a body as the Senate it seems to give satisfaction. However, a few larger state legislative bodies use the same method. The practice of the House is more orderly and is to be preferred because in the House precedence of introduction is dependent upon where the member's county stands in the alphabetical list of the counties.

In the Senate precedence may be governed by the wish of the presiding officer.

STAGES IN THE PROGRESS OF A BILL BEFORE IT BECOMES A LAW

SEC. 1689. **First: Preparation and introduction.**

Second. First reading. (Which occurs immediately upon its introduction and reception, but could by vote of the House be deferred to another day.)

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[1] The foregoing description applies to the Senate, but in the 84th assembly the House very materially changed this procedure by adopting the Beetham rules, which provide that all bills after first reading shall be referred to a committee of reference. This committee has unlimited powers of recommendation and designates the committee to consider a bill subject to the approval of the House.

[2] The steps or stages in the progress of a bill before it is enacted into law, as here set forth is substantially the same as in all legislative bodies. All the stages here mentioned are necessary, but in the practice of legislative assemblies the method employed in reaching these several stages of a bill varies according to the practice and tastes of the body. But in no state is any of these important stages omitted, except perhaps that part relative to sending to the Governor, where there is no constitutional requirement to that effect. All the other stages hold good in practically all the states.

Third: Second reading. (Usually the following day.) [1]

Fourth: Commitment.[2] Immediately after second reading.) [3]

Fifth: Report of committee. (In the regular order of business and on call of committees.) [4]

Sixth: Engrossment. (Usually follows committee report.)

Seventh: Third reading. (In regular order provided by rule.)

Eighth: Passage. (Immediately follows third reading and debate.)

Ninth: Transmission and introduction in the other House by message, where it is read twice and committed, and if amended, then re-engrossed. When passed by the receiving House the next step is:

Tenth: Its return to the originating House by message.

Eleventh: Concurrence in amendments if any by the originating House. If disagreement then settlement in conference.

Twelfth: Enrollment. (By originating House.)

Thirteenth: Report of enrollment committee and signing by the Speaker, in the presence of the House, a quorum being present, in the language of the Constitution the Speaker signs when the House is capable of doing business. **It is not capable of doing business unless a quorum is present.**

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[1] Bills in Ohio House are read the second time, upon report of Reference committee.

[2] In a number of our state legislative bodies bills are not given any reading or printed until they are reported from committee.

[3] In many of our legislative bodies bills are referred to committees by the Speaker following first reading.

[4] In most of our legislative bodies bills reported from committees are placed on a general calendar and referred to and considered in committee of the whole, in others they are considered and amended on second reading.

Fourteenth: Return to the Senate and signing by President of that body, who affixes the date of signing.

Fifteenth: Transmission by Senate to Governor.

Sixteenth: Approval or disapproval by the Governor.

Seventeenth: If approved, transmission by Governor to the Secretary of State.

Eighteenth: Disapproval of Governor.

(A) If disapproved, return of to the House in which it originated for reconsideration. If Governor approves a bill it becomes a law ninety days after filing it with the secretary of state. If he disapproves it, it does not become a law unless reconsidered and repassed by the assembly and filed with the Secretary of State. This latter action is what is commonly known as "passing a bill over the Governor's veto."

PASSING BILLS OVER OBJECTION OF GOVERNOR

SEC. 1690. To those unacquainted with our constitutional law this action of the assembly might seem to be a discourtesy to the chief executive. **It is not, and should not be so considered.** The disapproval of the Governor is in fact, merely a very urgent request that the assembly reconsider its action and modify or reverse it. The negative of the Governor and the final act of the assembly merely represents a difference of opinion, on the one side, of one man, on the other of one hundred fifty—the makers of our constitution have wrought wisely in their efforts to safeguard the people against unwise legislation. Neither branch of our assembly can of itself make a law, there must be an agreement between the majority of the two Houses and the Executive. In other words, the Senate holds a negative power over the action of the House, and the House holds a negative power over the

action of the Senate. Then when both Houses of the Assembly have agreed, the Governor is vested with a negative power, but this action of the Governor is not final. The two Houses of the Assembly by a three-fifths vote may negative the action of the Governor. Then by referendum the people may negative the action of both Governor and Assembly. If the Governor does not scruple to negative an act of the Assembly, there is no reason why the Assembly should hesitate to negative the act of the Governor. In refusing to exercise the power of negative of the action of the Governor, they admit that their former action was unwise and admit the judgment of the Executive to be correct.

DESCRIPTION OF BILL

SEC 1691. The clearest and most comprehensive description of a bill that has come under our notice is given by the English writer Redlick. "A bill is simply to be regarded as an aggregate, composed of a group of motions; to employ a simile, a motion is like a cell, and a bill like a body composed of cells." It is always composed of a series of constituent parts, elsewhere fully explained. A bill is a legislative proposal and may be analyzed into a series of motions, because in regular course in parliamentary bodies its component parts are so considered; each of its parts or clauses are so considered, each section or clause being made the subject of a motion and division of the House upon same.

A bill is the sole form in which the legislature exercises its supreme function of legislation.

READING OF BILLS

SEC. 1692. The constitution of Ohio provides that **"Every bill shall be fully and distinctly read on three different days."** These words in the constitution are merely a restatement of one of the oldest parliamentary laws. It was originated in the early days when the ac-

complishments of reading and writing were not so general as they now are, and when the art of printing was either unknown or very little practiced. To supply this deficiency it was directed that every bill should be read in full by the clerk on three different days in the hearing of the members.

(A) At the present day in the practice of the Ohio Assembly these three readings are perfunctory. The clerk confines himself to reading the title and the first lines, closing with the repealing clause, if one. It is, however, the right of any member to demand the reading in full of the engrossed bill, but this is seldom done because the members have the printed bills on their desks, and it is unnecessary and would cause the bill to be delayed in passage.

PURPOSE OF READING BILLS

SEC. 1693. **The first reading of a bill is merely for information. The second reading is for the purpose of commitment.** Under the old parliamentary law it was for debate and amendments, as a bill could not be amended after engrossment and third reading except verbally. In the Ohio practice we have changed the old rule. **The third reading in Ohio practice is for debate and amendment.** This change has not contributed in the least to the efficiency of our procedure. The **perfunctory manner** of reading bills in the Ohio Assembly **is the practice now of the English Parliament and our National** Congress, except on second reading bills are read in full by sections or paragraphs for amendment as elsewhere described.

STAGES IN PROGRESS OF BILL EXPLAINED

SEC 1694. When a bill has been carefully prepared in the proper form, that is—in accordance with the rules of the assembly and the laws and constitution of the state, it is then ready for introduction and the consideration of

the House. Bills are regularly introduced under the order of business, "Introduction of bills."

INTRODUCTION AND RECEPTION OF BILLS

SEC. 1695. When this order of business is reached the Speaker orders the introduction of bills without motion or question put, and directs the clerk to **call the roll of counties in alphabetical order.** As the names of the counties are called, the member from that county desiring to introduce a bill should arise from his seat and address the chair as follows: **"Mr. Speaker or President** (as the case may be), a bill sir."[1]

RECOGNITION OF MEMBER BY CHAIR

SEC. 1696. If the chair recognizes the member he does so by saying "The gentleman from————county introduces the following bill." If, however, there be more than one member from the county the chair should announce the gentleman from Cuyahoga county, Mr. Snow, introduces the following bill.

SEC. 1697. **This announcement by the chair establishes the right of the member to introduce a bill,** but it does not license him to introduce a resolution, petition, committee report, or any other paper **under this order of business,** and should he take advantage of the chair and do so, a point or order would be good against a member so doing. When recognized the member holds the bill until a page comes to carry it to the desk of the clerk, where it is numbered and given its first reading, which is usually at once, as explained elsewhere in this volume (see reading of bills).

[1] When a county is called a member may indicate to the clerk that he desires a repetition of the call of his county until he has introduced as many bills as he may desire. There is at present no limitation on the number of bills a member may introduce on a roll call.

NUMBER OF BILL NEVER CHANGED

SEC. 1698. **The number given to a bill by the clerk on first reading, is never changed.** The bill itself may be changed entirely, even to the name of the author, but the original number remains to the end.

INTRODUCTION OF BILLS OUT OF ORDER

SEC. 1699. Bills may be introduced out of order in two ways by consent of the House. First by request for unanimous consent; if one objection is made the request is defeated. If there be no objection the chair will notify member to send his bill to the clerk.

(A) **Form for requesting unanimous consent:** "Mr. Speaker or President (as the case may be), I ask unanimous consent to introduce a bill out of order." If objection is made the chair announces "There is objection, the bill cannot be received." Second: To move a suspension of rules, this requires a two-thirds affirmative vote.

(B) When the clerk has finished the reading of the bill the chair then announces: **"First reading of bill," it is ordered placed on the calendar and read the second time tomorrow.** It is then printed. It is an invariable rule of parliament that no bill can advance from one stage to another without a motion and vote of the House.

HOW BILLS ARE ADVANCED IN OHIO PRACTICE

SEC. 1700. In Ohio practice bills are regularly advanced from one stage to another by order of the chair, under the rules, and when no objection is made to the order of the chair **it is presumed that the order of the chair to advance the bill, carries with it the unanimous consent of the House.** If, however, when the chair orders a bill to another stage in its progress, any one member should object, it would be incumbent on the

chair to put the question, **"Shall the bill advance to its next stage?" Second reading or whatever stage it might be.** If decided in the affirmative the bill would be advanced and read regularly a second time the day following. If negatived it would remain upon the **Speaker's table** until another motion was made to advance it and if no such motion were made the bill would die there.

DUTY OF SPEAKER TO ADVANCE BUSINESS

SEC. 1701. At the conclusion of the consideration of a bill at any stage it is the duty of the chair to **advance the bill by announcement of the fact of such advancement.** In the early practice a bill could only advance upon **motion from the floor,** but to expedite business, our American practice places the **responsibility of advancement in the chair, to so order.**

When a bill is read second time, the chair should order it to third reading, or if passed, he should always order the clerk to transmit the bill to the Senate.

FIRST READING OF BILLS

SEC. 1702. Bills are regularly read the **first time** by title by the clerk **when introduced.**

OBJECTION TO BILL ON FIRST READING

(A) It sometimes occurs that a bill is found to be objectionable upon first reading. When this occurs the member who notes the objectionable matter should rise and address the chair saying: "I object to this bill." It is not necessary for him to even state the ground for his objection unless he desire to strengthen his position with the House, or it is demanded by the House.

REJECTING BILL ON FIRST READING

SEC 1703. When objection is made by any member on first reading it is the duty of the chair to put the

question, **"Shall the bill be rejected?"** If decided in the affirmative the bill is rejected, and cannot be advanced to another stage, but the House may give leave to the member to bring in another bill eliminating the objectionable features of the bill rejected. If decided in the negative the bill proceeds as if the decision had never been raised.

(A) When a bill is read the first time it is considered to be in **possession of the House** and no change or alteration of any kind whatsoever can be made in it except by order of the House. **Immediately following the first reading** the clerk sends all bills to the **printer for printing,** unless otherwise ordered by the House.

(B) During the interim between first and second reading of bills they remain on the Speaker's table to be called up when read a second time.

HOW CORRECTIONS ARE MADE

SEC. 1704. Upon first reading of the bill and before it is printed the author may **by leave,** make correction in phraseology but after a bill has been read the second time, such change must be made in the regular way, by amendment.

RESOLUTIONS BUT NOT BILLS ARE PRINTED IN THE JOURNAL

SEC. 1705. Bills and joint resolutions are printed after their second reading and distributed for the use of the members of the two Houses. All bills must be printed and distributed in the order in which they are introduced before any other action can be taken except their second reading. Simple resolutions are printed in the Journal.

SECOND READING OF BILLS AND COMMITMENT—SENATE

SEC. 1706. While it is true that the parliamentary rule relative to the reading of bills has been incorporated in the constitution, to-wit: **"That all bills shall**

be fully and distinctly read on three separate days," it is unusual and **rarely ever occurs** that they are so treated. It is **customary** when this order of business is reached for a member to move as follows, addressing the chair:

(B) **"I move that the constitutional rule** relative to reading bills be dispensed with **and all bills on the calendar for second reading be read by their titles only."**

This motion must be agreed to by three-fourths of those present or the rule is not suspended. If this motion is not made promptly the chair may order thus: "Is it the pleasure of the Senate to dispense with the constitutional rules relative to reading bills and bills be read a second time by title only? If no objection is made the rules are suspended by unanimous consent, and the chair directs the clerk to read the bills by title only.

(C) **If there be one objection unanimous consent is** defeated and the bills must then be read *extenso,* and the chair should order the bills so read. If, however, the rules are suspended, he orders the clerk to read the bills by title only in the order they appear on the calendar. After the reading of each small title the chair should announce **"First or second reading of the bill." Such declaration by the chair being as necessary in parliamentary law as the reading by the clerk.**

(D) The chair then announces, **"The bill is ready for commitment or engrossment."** It being the custom of the Senate to refer all bills, the chair usually inquires, **"To what committee? Then the member who introduced the bill names the committee he desires to consider the bill. Any member may name a committee, the Senate may on motion and by majority vote, pass over commitment, and order the bill engrossed and placed on the calendar for third reading.**

SEC. 1707. When no committee is suggested by the Senate it is fair for the chair to assume that the Senate does not desire commitment, and he should put the ques-

tion on egrossment. If this question is negatived the bill is defeated and remains on the Speaker's table.

If the question on engrossment is agreed to, a motion should follow, fixing the time for third reading and consideration.

SECOND READING IN HOUSE

SEC. 1708. The second reading of bills in the House occurs when the Reference Committee makes its report. A suspension of the Constitutional rules is necessary because it will be desired to read bills by title on second reading. The rules of the Senate relative to commitment and second reading are effective in the House when bills are introduced and referred from the floor. Of course if bills were read a second time by title and without suspension of the rules on motion and no objection was raised from the floor, the rules would be suspended by unanimous consent and the journal should so state.

BEETHAM RULE FOR REFERENCE[1]

SEC. 1709. **Rights.** After a bill has been read for the first time, it shall be referred to the reference committee for its consideration. If it be apparent to said committee that any bill is of a frivolous nature, or that it was not introduced in good faith, or that it is a duplication, said committee shall report said bill back to the House for its return to the author with a notation thereon of the reason for its return. The clerk of the House shall

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[1] The principal merit claimed for these rules by the members are that they prevented the introduction of many unimportant bills, and the records will show this claim to be true.

[2] The foregoing head to the report should be followed with a list of the titles of the bills and the committees to which they are to be referred. If the committee assignments are unsatisfactory members may object and have the question of reference referred to the house.

[3] We have found but one other state that uses a reference committee to refer bills—Utah. Colorado refers bills on first reading and bills may not remain in committee longer than three days, when the committee shall report on the printing of the bill, unless the committee authorize such printing/ bills are not printed. After printing bills are again referred by the speaker to proper committees for final consideration and recommendation.

thereupon return such bill to the author. Any bill so returned to its author may be printed and referred to committee by majority vote of the members of the House voting on the motion made for that purpose. (Rule 73.)

SEC. 1710. **(Reference and printing of bills.)** All bills not so returned shall be reported back to the House by the reference committee with recommendation for reference to the proper standing committee of the House at which time it shall be read for the second time, be so referred, **then printed and distributed after such reference.** The reference committee shall make a written report to the House of its action on each bill referred to it, and such report shall be entered on the Journal of the House. All Senate bills shall be immediately referred to the proper standing committees of the House by the reference committee. No bill shall be held by the reference committee for more than six legislative days. (Rule74.)

POWER OF REFERENCE COMMITTEE DISCUSSED

SEC. 1711. The reference committee is, in fact, a "sifting committee," that is, instead of the house exercising its right to decide in advance what subjects may be brought to their attention through bills, it very wisely waives the right, to save valuable time and confers upon one of its committees the duty of sifting the desirable from the bills that have been introduced, without restraint, and to throw out the unnecessary and undesirable and then report its action to the house for its approval. So in the last analysis it is the house that rejects and not the committee. The individual rights of the members are fully protected against any arbitrary action of the committee. When the committee reports, if his bill has been rejected in the committee, he may present the merits of his bill to the house and it may set aside the action of the committee and proceed with the bill.

In these matters personalities are not to be considered

but merely the substance and advisibility of the body giving its time to the consideration of certain subjects.

At times there has been much criticism of this procedure by the newer members who imagine that they have an individual right under the constitution to introduce any business and have it considered. It would be as reasonable to argue that individual rights are superior to the collective rights of the members.

It is the right of any parliamentary body to reject or prevent the introduction of business by any one of its members. This it may do directly or indirectly by approving this action on the part of one of its committees.

If you are displeased with the action of the reference committee do not wait until its report is accepted by the House and then express your grievance to the individual members. When the reference committee reports, the speaker always puts the question, "Will the house agree to the report?" This presents your opportunity to bring your grievance to the house. If you fail to do so, the fault if any, will be at your door, not the house or committee's.

In the original or early practice of English and American legislative bodies, the right to introduce a bill was very considerably restricted. In fact, no individual right to introduce any subject for the consideration of the house existed. The right to introduce was entirely a collective one. That is, the individual member desiring to introduce a bill would arise in his place and request permission of the house to do so, naming the particular subject of his bill. If after debate the house determined to consider such subject, a committee was at once appointed by the speaker to draft and bring in a bill on that subject, taking into consideration matters brought out in the debate. The member suggesting the subject oftentimes was not even placed on the committee. The early American legislative bodies adopted this English practice without material change and it was handed down to succeeding congresses and state

legislative bodies. However, it was later found that this method of bringing forward legislative business consumed much time and soon modifications were introduced and practiced with varying but mostly unsatisfactory results. The most popular of the latter methods being by call of states or counties for introduction of bills. The principal effect of this new method of introduction was to lead members to the erroneous conclusion that introduction of bills was an individual constitutional right.

POWERS AND DUTIES OF REFERENCE COMMITTEE

SEC. 1712. The rule of the house provides, "After a bill has been read the first time, it shall be referred to the Reference committee for **consideration.** If it be apparent to said committee that any bill is of a frivolous nature, and that it was not introduced in good faith, or that it is a duplication, said committee shall return same to the author, etc."

First the bill goes to the reference committee for the purpose of **consideration.** The term **consideration** is very elastic and certainly gives a wide latitude for action. It seems pertinent to inquire here, just what is the committee to consider in reference to any particular bill? The quality of the paper it is printed on, or the neatness of its preparation? The writer is persuaded to define the term consideration in its broadest sense and application. Such definition would include the merits or demerits of the subject of the bill, and therefore would imply the right of amendment. If this conclusion is erroneous, then the right of the reference committee to consider is very much restricted and in the end the practice would be fruitless. The right of the committee to report a bill to the house adversely is somewhat restricted. They must find it frivolous or a duplication or introduced in bad faith. It might be argued that the foregoing is the extent of the committee's right of consideration. But the right of consideration is

first given and then follows the right of rejection if the foregoing conditions are apparent.

THE REFERENCE COMMITTEE REPORTS

SEC. 1713. The reference committee is one of the standing committees and is therefore subject to all the rules governing reports of standing committees. The house should insist upon a strict observance of these rules by the reference committee. That is, the house should insist that such committee in reporting a bill adversely to the house or with amendments make all such reports separately and the amendments on a regular amendment blank. This would give the house an opportunity to consider the merits of the report of the committee unhampered by other matter.

This latter thought leads to another important matter. The rules do not directly nor even inferentially confer upon the reference committee the privilege to report rules or procedure in the transaction of business. This function belongs entirely to the committee on rules. The reference committee should not invade the privileges of other committees by assuming the authority to suggest or lay down a rule to govern the procedure of the house in the consideration of any matter.

FORM OF REPORT OF REFERENCE COMMITTEE

SEC. 1714. Mr. Morgan reports that the reference committee recommends that the following bills be read the second time, printed and referred for consideration to the standing committee named.

COMMITTEE REPORTS IN OHIO HOUSE

SEC. 1715. Committee reports in Ohio are made regularly from the floor of the house, on the alphabetical call of the committees. When these reports are offered unless they contain a specific recommendation therein other than for passage, they are merely received and by the speaker ordered to be engrossed and placed on the calendar in reg-

ular order for third reading. The question on engrossment is never moved or put to the question unless objection should be made to the order of the speaker. If amendments are reported from committee the question is always put on agreeing to the amendments without motion from the floor.

In the Ohio house the right of standing committees to report is somewhat curtailed by the house rules, that is, before any standing committee may report a bill to the house, the chairman of the standing committee "shall submit same to the reference committee and **obtain its suggestions as to form and legal effect thereof."**

The standing committee is neither bound or obligated to accept the suggestions of the reference committee, but must in a formal meeting of the committee consider such suggestions and may upon motion and question in committee or by unanimous consent reject or adopt them. The report of a standing committee with a bill shall state that the bill was referred to the reference committee and its suggestions, if any, **were considered by the committee.** In reading the rule there is not the least intimation that the reference committee is delegated or authorized to amend or suggest amendments unless such authority be conveyed in the language to "examine as to form and legal effect thereof." An amendment might be necessary to cure a constitutional or legal defect and such amendment might reasonably be suggested and forced on the standing committee by the reference committee, but certainly not an amendment that would go to the heart of the bill, or that would alter its original purpose, such is not even intimated in the rule and if this should occur and it was accepted by the standing committee and house it would be effective. It is doubtful, however, that if the reference committee should go so far as to amend a bill to accomplish any result outside of "form and legal effect thereof" that they could under the rule force the standing committee to give consideration to such amendment.

WHEN BILLS ARE REPORTED BY COMMITTEES

SEC. 1716. When a committee having bills under consideration makes a report on them, it is not the custom in the assembly for a motion to be made to agree to a committee report. Such motion is presumed to be pending. The chair inquires, **"Is the report agreed to?"** If no objection is made to the report, the chair assumes that it is unanimously agreed to and announces 'the report is agreed to." Receiving committee reports in Ohio practice is an informal proceeding.

(A) The chair should further proceed and advance the bill to its next stage, engrossment and third reading, as follows: **"Without objection the bill is ordered engrossed and read the third time in regular order."** If one objection is made the order of the chair would be defeated, and the bill could not advance further unless the House by vote would so order.

SECOND READING OF BILLS IN SENATE

SEC. 1717. All bills are read the second time, in the order in which they are introduced, and unless made a special order, are placed upon the reading calendar in the order in which they are directed to third reading.

"On the second reading of a bill, the President shall state that it is ready for commitment or engrossment, if no motion or order be made to the contrary, it shall be committed to the committee of the whole to be considered in its order; if the bill be ordered to be engrossed the Senate shall direct on what day it shall be read the third time. **If the question on ordering a bill to be engrossed for a third reading on a particular day be lost it shall not preclude a motion to order it to be engrossed for third reading on a different day, unless** a division of the question be called for, if on such division the question on engrossing a bill shall fail, then the bill shall be considered lost." "After commitment and report to the

Senate or at any time before its passage a bill or resolution may be committed." (Senate Rules.)

OPPOSITION TO BILL ON SECOND READING

SEC. 1718. When a bill is read the second time it is before the body for consideration and may be delayed or defeated at this time, by motion to indefinitely postpone, lay on the table.

WHEN TWO COMMITTEES ARE NAMED

SEC. 1719. When two or more committees are named, the chair should put the question to the Senate on the committees in the order in which they are named, and the bill goes to the committee determined upon by the Senate.

AMENDING COMMITTEE REPORT (ENGLISH PRACTICE)

SEC. 1720. "When a bill amended by the committee, is considered, the House may not only agree or disagree to the amendments but may make fresh amendments and add new clauses, whether they be within the title or not; but the practice of adding clauses at this time is inconvenient and should be avoided as far as possible. The amendments of the committee are considered, first; clauses may then be offered, after which amendments may be made to other parts of the bill." (In the practice of Parliament all clauses offered to a bill are read three times and the final question on the clause is: "That it be made a part of the bill." May.)

COMMITTEE REPORT AND AMENDMENTS—AMERICAN PARLIAMENTARY LAW

SEC. 1722. All amendments made in committee are reported to the House with the bill and forthwith received and ordered on calendar and when taken up in committee of whole or in the House the committee amendments are first to be considered and disposed of,

At this time such amendments are debatable and subject to amendment, but amendments to the bill may not be offered **until the committee amendments are disposed of.** If a bill is reported without amendments it is received by general consent, if no objection be made.

DISPOSING OF COMMITTEE REPORTS—OHIO

SEC. 1723. When bills are reported from committee with amendments or without amendments, the House receives the report at once and without motion made to that effect, disposes of the report. If accompanied with amendments, the Speaker puts the **question on agreeing to the amendments,** and without motion from the floor, and if agreed to, orders the bill engrossed and placed on the calendar and read a third time in its regular order. **If not accompanied by amendments or other specific recommendation other than for passage,** the proceeding is very perfunctory, the **question on agreeing should not be put.** The **report and bill are merely received, ordered engrossed and placed on the calendar.** The House at this time does not agree to recommendation of passage. Such agreeing is done by a yea and nay vote after engrossment. The report is **fully disposed** of by the Speaker ordering engrossment and the bill placed on the calendar. The congressional method is decidedly the best. In the Ohio practice opportunity for considering committee amendments is too restricted.

DEMANDING SEPARATE VOTE ON COMMITTEE AMENDMENTS

SEC. 1724. When bills are reported from a committee with amendments, it is in order to demand a separate vote on any specified amendments reported. In this instance the vote would be first taken on all the amendments except those reserved for separate vote and last on the reserved amendments in the order of the reservation.

WHEN QUESTION OF ENGROSSMENT IS PUT

SEC. 1725. When objection is made the chair should put the question on engrossment or a motion by a member to engross and read a third time would bring the House to a determination of the advancement of the bill.

DEFEAT OF MOTION TO ENGROSS

SEC. 1726. If the simple motion to engross is made and defeated the bill is negatived. But should the motion to engross and read a third time on a specific day be lost, it would not preclude another motion to engross and read a third time on another day. If the motion to engross and read a third time prevails the bill automatically goes on the calendar in its regular order to be taken up for consideration when reached in the regular order of business.

SEC. 1727. If a bill is committed after its engrossment and it is reported with amendments and the amendments are agreed to by the House, the question of engrossment immediately arises and must again be put on the bill.

IMPORTANCE OF ENGROSSMENT

SEC. 1728. As stated in the foregoing when the committees report bills the next step in their advancement is engrossment. **By many this is thought to be the most important stage of the bill,** and there are good, substantial reasons for this thought. Elsewhere we have written if the question of engrossment is lost the bill is defeated, because it is so written in the rules of the House, as well as a good parliamentary rule.

(A) The rules further provide that no bill can be read a third time unless it be engrossed, if it is not read a third time ,it cannot be passed. Yes, it could be done under suspension of rules. But the House that refuses to engross would certainly refuse to suspend the rules, because there could be but one reason to refuse engrossment and that to defeat the bill.

MECHANICAL ENGROSSMENT DESCRIBED

SEC. 1729. The engrossment of a bill is the preparation of the bill in its official form. This is accomplished by taking the printed bill and pasting it on heavy legal cap paper. It is then folded in convenient form, and the title, number and name of the author are placed upon the back thereof. If during the progress of the bill to this stage it has been amended or changed in any particular, such amendments are inserted in their proper place in the bill as ordered by the House and recorded in the Journal. This nearly always necessitates a rearrangement of the lines in the bill and they are renumbered by the engrossing clerk.

REENGROSSMENT

SEC. 1730. If a bill is amended after engrossment it should be ordered reengrossed, or such amendments will not appear in the bill. The clerk is without authority to engross a bill without order from the House. The question of engrossment is not put in the English Parliament now. It was discarded many years ago.

SEC. 1731. In a large number of states when bills are reported from committees, the **next stage in their progress is consideration in the "committee of the whole," in still others they are placed on the calendar for second reading and when taken up they are read by sections for amendments. In others, bills are not given a single reading, nor are they printed until considered and reported by committee.** With this and minor changes noted elsewhere the Ohio model as presented in this volume is **fairly representative of the practice of all our state legislatures.** The writer is convinced after examining the rules of all the states, that the practice of Ohio in passing bills, is the most **simplified** of any of them. It seems to have discarded all frills and retained only the **essential stages in passing bills.** So that the consideration of a bill proceeds automatically from introduction

to final passage, freed as far as possible, from opportunities of delay; the procedure in general is designed to abate loquacity and to hinder the waste of time. We do not wish to convey the thought that the Ohio plan is perfect or even parliamentary; it is not, but it does present a good foundation to build upon.

OFFICIAL BILL[1]

SEC. 1732. **After a bill is engrossed it becomes the official bill for the further consideration of the House and every action taken thereafter is predicated on the engrossed bill and the printed bill has no further standing in the Ohio House. For this reason members desiring to amend a bill after third reading should make sure that the amendment fits in the engrossed bill and not the printed bill, otherwise errors may occur for which the member will be responsible and not the clerk.**[2]

It would be well to remember that the line numbers in the printed bill do not correspond to the line numbers in the engrossed bill if it has been considerably amended.

TEST OF STRENGTH

SEC. 1733. Mr. Jefferson tells us that in Parliament it is customary after second reading of a bill and it has been perfected by amendments and the question of "Engrossment" is presented, for the friends and opponents of the bill to **test their strength.** If the question of engrossment is defeated the bill is lost and passes from the consideration of the House, i. e. This test discloses the exact attitude of the members toward the bill. Mr. Hinds thinks, however, that in our American practice there are two other and better means of testing

[1] If bills with amendments reported from committees were always printed and laid on the members' desks, much uncertainty that exists in offering amendments would be obviated.

[2] Nearly all state legislative bodies have a committee on enrolled bills, also one on engrossed bills, whose duties are to compare bills after engrossment and enrollment. In Ohio this extra work and responsibility has been shifted by the members on the clerk's department.

strength. and this is particularly true in our Ohio practice, where it is rare that the question of engrossment is put to the House. Engrossment is usually ordered by the chair under the rules, and if no objection is made, the order of the chair is supposed to carry unanimous consent—a **test of strength** says Mr. Hinds may be brought about by raising the question of consideration, when the bill first comes up, or by moving to amend by striking out the enacting clause. Without the enacting clause the bill would be valueless. By these methods the progress of the bill may be stopped by an adverse vote without permitting the bill to consume the time of the House at later stages.

IMPORTANCE OF ENGROSSMENT IN ANCIENT TIMES[1]

SEC. 1734. The engrossment of bills in ancient times was considered of so great importance that after a bill was once engrossed no member was even permitted to look into it, and very rarely were amendments permitted to it, and when they were accepted, it was required that they be written out fully and engrossed on a separate paper known as a rider and were attached to the bill, but never inserted in it. In modern practice, with the exception of a few states, an engrossed bill may be amended in any particular and this irregularity and laxity in procedure is responsible for ninety-nine per cent of all errors found in enrolled bills or finished laws.

WHEN QUESTION OF ENGROSSMENT DOES NOT ARISE

SEC. 1735. The question of engrossment does not arise upon a bill introduced into either House by way of message from the other House, except such bills as are amended by the receiving House, in which case, they should be ordered

[1] In several of our legislative bodies, bills are not engrossed until after final passage. This is also the practice of the U. S. Senate, says Jefferson. The advantage in this seems to be that the bill is then in its final and perfected form, and will not be disturbed by amendments before being sent to the Senate, and the opportunity for errors in the bills is considerably minimized.

reengrossed. Bills received by either House by message are already engrossed in their official form, and it would seem senseless for the receiving House to order the doing of that which has been done.[1] (See any accepted writer on parliamentary law.)

THIRD READING

SEC. 1736. After a bill is reported from committee and engrossed it is placed on the calendar for third reading the second day following, unless otherwise ordered by a vote of the House. Motions to advance bills from one stage to another are not necessary under our rules and procedure, unless objection is made to their advancement when ordered by the chair.

(A) The rules of both the House and Senate provide for advancement of bills by order of chair. All bills ordered to third reading, go on the calendar under that order of business and when reached on any day the chair announces "Bills for third reading" and the bills are taken up and read and disposed of in the order in which they appear on the calendar.

THIRD READING OUT OF ORDER

SEC. 1737. If taken up out of regular order it requires a suspension of the rules, which requires a two-thirds vote of those present. At this time the clerk is supposed to read the bills in full, but this rarely ever occurs. The purpose of reading bills three times being merely to acquaint the members with their contents of the bills. It would seem that under the modern practice of printing and distribution of all bills for the use of the members, a partial reading as now practiced is sufficient and the requirements of the constitution are fully met in the printing of bills.

(A) The bill read by the clerk at this time is usually the engrossed bill containing all amendments made to

[1] In the present practice of parliament the question of engrossment has been discontinued.

the bill previous to this reading. When the clerk finishes the reading, the chair announces **"Third reading of the bill."** If no objection follows the announcement or amendments are not offered, the chair puts the question without motion, **"Shall the bill pass?"** Under the rules and procedure of both Houses it is the practice to **debate and amend bills after third reading.**

METHOD OF THIRD READING AND PASSING OF BILL

SEC. 1738. When the presiding officer takes the chair on any day; after the prayer and the reading of the Journal, the rules provide that each body shall proceed to the orders of the day, which are printed in the calendar. Except on Mondays, Fridays and Saturdays, the first order of business on the calendar is bills for third reading.

Chair: Bills for third reading, the clerk will read the first bill on the calendar. The clerk then reads the bill.

Chair: Third reading of the bill. The question is "Shall the bill pass?" At this time members may offer amendments.

Mr. Metcalf: I move to amend.

The Chair: The gentleman from Franklin moves to amend as follows:

Clerk: Having received the amendment carried to him by a page, proceeds to read same. (After reading.)

Chair: "Will the House agree to the amendment (stating same). As many of you as favor the amendment will say aye, those of you who are opposed will say no." (If the affirmative prevails.)

Chair: The amendment is agreed to. The question recurs "Shall the bill pass?" Other amendments may be offered so long as the question is pending on passage. (If other amendments are not offered.)

Chair: The question recurring "Shall the bill pass?" The clerk will call the roll, those of you who favor the bill

will vote aye, those opposed will vote no, as your names are called, the clerk will call the roll.

Chair: Yeas 63, nays 35. The bill having received a constitutional majority is passed, entitled 'an act" (the clerk here reads the title).

Chair: Is the title agreed to? If no objection is made, The title is agreed to. The clerk will read the next bill. If the title is to be changed it should be amended at this time.

AMENDMENTS IN SENATE

SEC. 1739. In the Senate after a bill has been read a third time it **shall not be amended, except by reference to a committee with instructions, which instructions shall embody the amendment or amendments proposed.** But it shall be in order to instruct the committee to **amend an engrossed bill in any particular.**

PRACTICE OF SENATE IN AMENDING BILLS

SEC. 1740. Amending bills after the third reading in the Senate under its rules is as follows: If a member desires to amend, the form of his motion is "I move the bill be referred to a select committee of one, with instructions to amend as follows:" (Then follows the amendments whether it be one word, a paragraph or several pages, or merely the inserting or striking out of a comma.)

(A) The amendment must show the line or lines in the bill where the change is to be made. If the motion is agreed to, the member making the motion **is supposed to be appointed** the **select committee of one,** and it is announced immediately that he has amended the bill as directed. In the working out of the amending process the member has no part whatever, except the making of the motion.

(B) In actual practice the bill is never delivered to

the member appointed the select committee of one to amend.[1]

AMENDMENT TO AMENDMENT IN SENATE

SEC. 1741. If it be desired to amend the amendment the motion under the rule should be, "I move to amend the instructions to amend as follows:" (Here should follow the proposed amendment.)

AMENDMENT IN HOUSE

SEC. 1742. In the House a member desiring to offer an amendment to any pending proposition must proceed as follows: He prepares his amendment as to substance, designating the line or lines where he desires the amendment to be placed, then he rises in his seat and addresses the chair and says, "I desire to offer the following amendment."

(A) No motion or proposition upon a subject different from that under consideration shall be admitted under color of amendment.

COMMITTEES AMEND BILLS IN ANY PARTICULAR

(B) A motion to amend by striking out parts of a bill and inserting other matter is deemed to be divisible in the Senate; and a refusal to strike out is equivalent to agreeing to the matter in the form it is, when it is proposed to be stricken out, but a further amendment to the matter permitted to stand by way of addition is not precluded. **A motion to strike out and insert is not divisible in the House.**

(C) Any matter inserted in or stricken from a bill by amendment **except committee amendments,** cannot

[1] The procedure in the Ohio Senate in amending bills is not practiced by any other legislative body in existence. Of course all legislative bodies occasionally refer with instructions to standing committees and on important matters sometimes appoint select committees. No doubt the Ohio Senate practice grows out of an effort to evade the parliamentary rule that bills may not be amended on third reading, except they be referred to a committee for that purpose.

subsequently be stricken from or inserted in a bill by amendment, thus restoring it to its original form, but this result may be reached by reconsideration if in order.

(D) **Committee amendments are subject to amendment in any way, even to striking them out of the bill entirely.** The rule for striking out and inserting in the Senate, is descriptive of the practice observed in the House, but it has no corresponding rule regulating the practice.

(E) "No bill or resolution may at any time be amended by annexing thereto or incorporating therewith any other bill or resolution pending before the body."

(F) **Substitutes for bills and resolutions for the purpose of amendment are treated as original propositions,** they are printed and **retain the same status as the original bill.**

MODE OF AMENDING BILLS IN THE HOUSE

SEC. 1743. Amendments to bills in the House are now made in the ordinary and proper way by reducing to writing the amendment and moving to amend the bill. If it is desired to amend the amendment the member moves to amend the amendment.

AMENDMENT STAGE

SEC. 1744. The third reading stage of the proceeding is where the Ohio Assembly begins to whip the bill into **satisfactory shape by amendment.**[1]

POSTPONING CONSIDERATION TO PRINT BILL

SEC. 1745. A bill under consideration to which numerous amendments have been accepted or are pend-

[1] In nearly, if not all other legislative bodies bills are considered and amended on second reading and amendments are admitted on third reading only by unanimous consent. When amendments are admitted on third reading the bills are re-engrossed and printed before being sent to the other House. The former is the best practice.

ing may be **postponed or laid aside temporarily without prejudice** and the clerk directed to have same printed. Under this motion the consideration of the bill could be resumed at the pleasure of the House, on request of author or member when no other business is pending.

LAYING AMENDMENT ON TABLE

SEC. 1746. There is nothing whatever to be gained by a motion to lay on the table an amendment, because, if decided in the affirmative it carries the bill and all other papers[1] to the table with it. This is also true of a motion to commit an amendment, if carried, the bill is also committed. It would be the same with a motion to postpone. If it is desired to table the bill the motion should be to lay the bill on the table and not the amendment. However, in any event the result is just the same, both bill and amendment are removed from the consideration of the House.

PASSAGE

SEC. 1747. After the third reading of a bill and the debate ended and the members appear to be satisfied with its form and substance, the chair announces the question, **"Shall the bill pass?"** The motion for passage **is presumed to be pending.** If no member rises in debate or offers amendment the chair directs the clerk to call the roll of the members. As their names are called members announce their judgment on the bill by answering yea or nay, and as they answer they are recorded by the clerk. (See chapter on voting.)

SEC. 1748. After the roll call on passage, the Speaker announces the vote thus: Speaker: Yeas 82, nays 25. **So the bill having received the constitutional majority, is passed,** entitled an act, (here the clerk reads title) and the Speaker continues, **is the title agreed to?**[2]

[1] Pending motion and other adhering matter.

[2] This is the time and place to perfect (amend) the title.

If no objection is made, or amendment offered he announces, the title is agreed to. **Ordered,** that the clerk notify the Senate or House (as the case may be.) In early parliamentary practice a motion and question were necessary to transmit a bill to the other house, but under our modern practice the chair orders the bill sent which is the authority of the clerk for transmitting same.

BILLS PASSED WITH UNUSUAL EXPEDITION

SEC. 1749. In the ordinary progress of a bill, the proceedings either follow from day to day, or some days are allowed to intervene between each stage subsequent to the first reading; yet when any pressing emergency arises, bills are frequently passed through all their stages in the same day and by both houses.

(A) This unusual expedition is commonly known as passing bills under suspension of rules. There are no rules of the Assembly which forbid the passing of bills in this manner and it is nothing more than an occasional departure from the usage of the Assembly. From the urgent necessity of such cases, the bills so passed are often of great importance in themselves, and may require more deliberation than bills passed with the ordinary intervals. On this ground the practice may appear objectionable but it must be recollected that no bill can pass readily without general or unanimous consent of the House. One stage may follow another with unusual rapidity, but they are all as much open to discussion as at other times, and a small minority could protract the proceedings for an indefinite period.

EXPEDITING PASSAGE OF BILLS (PRESENT PRACTICE)

SEC. 1750. If a member should desire to introduce a bill out of order and pass it along through the several stages without the usual delay, he would proceed as follows, under the present practice, in both House and Senate.

Mr. Cotton. Mr. Speaker, I ask **unanimous consent to introduce a bill out of order.**

Speaker: Is there objection? (after a pause the chair hears none, and the request is granted). The member will send his bill to the desk of the clerk who will read the bill the first time. After reading of bill.

Speaker: First reading of bill (following this announcement).

Mr. Guard. Mr. Speaker: **I move that the constitutional rules relative to reading bill be dispensed with and the bill be read the second time now by its title.**

Speaker: Is there objection? (pausing) The chair hears none. (If there should be objections, the Speaker could put the **question direct for a vote** on suspension.) The clerk will read the bill a second time by title. (After reading.)

Speaker: Second reading of the bill.

Mr. Sullivan: Mr. Speaker, **I move that the constitutional rules relative to reading bills be dispensed with and the bill be engrossed and read the third time now and placed on its passage.**

Speaker: Is there objection? (pausing) The chair hears none, it is so ordered, the clerk will read the bill the third time, which would be immediately, the Speaker would put the question, **"Shall the bill pass?"** and order the vote taken.

EXPEDITING BILLS BY SUSPENSION—(MODERN METHOD)

SEC. 1751. If a member has a bill he thinks should be enacted into law, without delay, he may test the sense of the House as follows, which presents another shorter, and better method than the foregoing, (Sec. 1492) which is the **practice in other states,** but is yet to be tried in the Ohio House. It should be **adopted as its constant practice.**

Mr. Sims: Mr. Speaker, I request **unanimous consent to dispense with the constitutional rules relative**

to reading bills, to enable me to introduce a bill for immediate consideration and passage."

Speaker: "Is there objection? (pausing) the chair hears none." The gentleman may send his bill to the desk. After the bill is fully read by the clerk **(not by title,** (unless printed).

Speaker: "First reading of the bill, the **constitutional readings** of bills having been **dispensed with,** the bill is **ordered engrossed** and placed on its **passage now.** The question is shall the bill pass?"

UNANIMOUS CONSENT AGREEMENT[1]

SEC. 1752. The theory involved in the unanimous consent agreement is that it suspends all rules that would prevent the carrying into full effect the request which is granted by the House. Everything, however, depends upon the form of the motion or request, which should always take the form of the thing he desires to be accomplished and it should be stated precisely and clearly and without effort to deceive or mislead the body.

(A) A member may desire that his bill be read the second time and placed on the calendar. Then he should make his request in this form: **"I request unanimous consent to suspend the constitutional rules relative to reading bills to enable me to introduce a bill and have it placed on the calendar in regular order",** or wherever he may desire, say, second reading. If the request is granted the bill could be introduced and after first reading, the chair should then order it engrossed and placed on the calendar in place named by the member.

(B) If it should be a resolution upon which he desired immediate action, he would form his request thus: "I desire unanimous consent to dispense with the rules to enable me to introduce a resolution for immediate considera-

[1] See chapter on suspension of rules.

tion." If granted, the resolution could be presented and acted upon finally without being laid over one day.

(C) While it is true all the rules may be suspended they may not be altered except by giving at least one day's notice. The constitutional rule providing for the three readings of bills in the practice of the House is usually, upon motion, dispensed with for each reading. This practice is unnecessary, according to the opinions of the best authorities. The rule provides for three readings on separate days. **If the rule is dispensed with then no rule remains relative to reading bills,** and after one suspension the bill should pass on to its final consideration without further interruption.

(D) **The thought seems to prevail, that in suspending the constitutional rule, only the reading on different days is affected by such suspension. While it has this effect it goes farther, it in fact does away with the necessity of three readings. In other words, when a bill is introduced after dispensing with rules, it should be carefully, distinctly and fully read through once for the information of the House; the first reading being completed the Speaker should at once put the question on passage; this practice satisfied the constitutional provision. (See Chap. on discussion of constitutional rules.)**

SUSPENSION OF RULES

SEC. 1753. The rules of both Houses may be suspended by a two-thirds vote of each House. All the rules of either House, both written and unwritten including Hughes' Guide may be suspended by a two-thirds vote, except in the House it is specifically provided that rule 95 may not be suspended. The constitutional rules may not be suspended except by a three-fourths vote.

SUSPENSION OF JOINT RULES

(A) The joint rules have no rule for their suspension, but many years ago there was a joint rule providing for their suspension by a **two-thirds vote by either House.** The rule for some reason was dropped and never revived, yet the practice established under that rule has continued to be the practice of both Houses and has been **considered as an unwritten joint rule.** The rules may not be suspended in the absence of a quorum.

RULING BY SPEAKER GRISWOLD

(B) Mr. Speaker Griswold, in the 85th assembly 1922, ruled that there was no authority for one House by separate action to suspend a joint rule. Such suspension must have joint or concurrent action of the two Houses.

MEANING OF URGENT

SEC. 1754. The word "urgent" as contained in the constitutional rule is construed in the practice of both Houses to mean "at the pleasure of the House in which the motion to dispense is made." The question of urgency, however, is never raised.

THREE READINGS OF BILL IN VIRGINIA ON SUSPENSION

SEC. 1755. The constitution of Virginia, one of the oldest states, provides: **"Every bill shall be read at length on three different days, unless in case of urgency the rule is suspended by a four-fifths vote.** In practice it is clear that they construe this provision to mean exactly what it says, that any or all three readings may be dispensed with at once. When they desire to expedite business and **avoid three readings,** they do not camouflage by reading by title, but they move once to dispense with the constitutional rule relative to reading bills. If this motion prevails, the Speaker orders the bill en-

grossed and placed on its passage, without further reading, motion or vote and regardless of whether it has been read once or twice previously.

MOTION TO SUSPEND RULE AND PASS BILL IN CONGRESS

SEC. 1756. When this motion is made it is not put to the question unless a majority present by actual count support or second the motion. If a majority support the motion, the bill is then read. The question is put, debated but may not be amended. If decided in the affirmative by a two-thirds vote, the rules are suspended and the bill is declared passed.

(A) If a bill is passed under suspension of the rules in Ohio then either the senator, or the member introducing the bill should introduce a joint resolution providing for the enrollment of the bill in typewriting.

TRANSMITTED TO OTHER HOUSE

SEC. 1757. After a bill has passed the originating House the next step in its progress is its transmission to the other House by message for introduction in that body. Before this is done, however, if the bill has been amended, it must be re-engrossed and then the clerk endorses his certificate of its passage on the back of the bill.

The following is the form in constant usage in both Houses. If passed in House.

FORM:

In House of Representatives [1]

Passed (date).

Attest. ——————————Clerk.[2]

[1] If endorsed in Senate these words should be changed to "In the Senate".

[2] The correct parliamentary practice appears to be that this endorsement should be made at the end of the bill.

(A) The message clerk then prepares a message similar to the following: Mr. President: I am directed to inform the Senate that the House of Representatives has passed the following bill: (Here follows title, number and author) in which the concurrence of the Senate is requested.

Attest: ——————————Clerk.

(B) The message and bill are then enclosed in an envelope and forwarded to the clerk of the other body who receipts for the same and delivers it to the chair, who at a convenient time, or at his own pleasure, when no other business is pending, delivers the message to the clerk, who reads it to the receiving House. The reading of the message constitutes its introduction in that House and the bill is read the first time and then moves through that body in the regular way, its progress being practically the same as in the body from which it came, **except the question of engrossment does not arise unless the bill is amended.**

RETURN OF BILL FROM RECEIVING HOUSE

SEC. 1758. When a bill is passed by either House and is rejected in the other, it is immediately returned to the originating House with a message to that effect. If the bill was passed without amendment the message would be similar to the following:

Mr. Speaker: I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following: (Here follows title, number of bill and author.)

Attest: ——————————Clerk.

(A) If the bill has been amended, it is re-engrossed by amending body and the re-engrossed bill and original are returned to the originating House with a message similar to the following:

Mr. Speaker: I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill: (Here follows title, number of the bill and author) with the following amendments:

(B) (Here follows the amendments in full) in which the concurrence of the House is requested.

Attest: ——————————Clerk.

(C) When this message is received the receiving clerk receipts for it, and delivers it to chair, who later hands it to the clerk to be read. When read the Speaker "announces the amendments go over under the rules," meaning the amendments will come up for consideration the next day, or at some future time.

(D) **Note:** It would be a great convenience if both clerks would insist that their message clerks in sending amendments number all amendments consecutively as they do in the National Congress.

AMENDING AMENDMENTS OF OTHER HOUSE[1]

SEC. 1759. Of course the rules could be suspended and the amendments considered at once, but when they lay on the Speaker's table one day, the amendments are printed in the Journal the following day and members have opportunity to examine them before voting on them. When these amendments are called up later for concurrence, they are subject to amendment. In other words, if unsatisfactory, the House may proceed by amendment to make them satisfactory.

VOTE NECESSARY FOR CONCURRENCE[2]

SEC. 1760. If amendments to the amendments were adopted it would be necessary to return the bill and

[1] See chapter on Disposing of Amendments of Other House.
[2] See chapter on Court Decisions.

amendments to the amending House for concurrence. If it be desired to concur in amendments of the other House such concurrence requires the same vote as was necessary to pass the bill originally and must be according to joint rule by yea and nay vote.

If the House should refuse to concur in Senate amendments, the clerk immediately sends a message to the Senate as follows:

Mr. President: I am directed to notify the Senate that the House of Representatives refuses to concur in Senate amendments to House bill No. ——.

Attest: ——————————Clerk.

If disagreement on amendments, then settlement of disagreement by conference.

(A) At this stage there are several proper courses for the Senate to pursue, which is fully explained under the head **Amendments Between the Houses,** but here it will be sufficient to say that the usual course is for the Senate to insist on its amendments and notify the House of its insistence and ask for a committee of conference.

(B) Elsewhere the subject of conference committee is fully treated, and the best known authorities on the subject are cited. Before passing from this subject we should observe that if the House should refuse a conference and insist on its disagreement, the Senate could then adhere or recede. In the latter case the bill would be passed. In the former the House would likely adhere which would defeat the bill unless such action was reconsidered.

ENROLLMENT

SEC. 1761. After a bill has finally passed both branches, and all disagreements settled, the next stage of its progress is enrollment, and it is supposed to be sent directly to the enrollment committee, but in fact

goes to the enrolling clerk of the House in which it originated.

ENROLLMENT—HOW ACCOMPLISHED

(A) The enrollment of a bill is accomplished by the enrolling clerk producing an exact copy of the engrossed bill except the words "A Bill" in the engrossed copy are changed to "An Act" in the enrolled copy. This duplicate copy is then sent to the printer who prints the enrolled bill according to the provisions of the law.

(B) After the enrolled bill is returned from the printer it is delivered to the enrollment committee whose duty it is to carefully compare the enrolled bill with the engrossed copy and note any and all errors which they may find and report same to the House. If no errors are found they report that fact to the House. A report of the committee on enrollment is privileged and can be made at any time.

POWERS OF ENROLLMENT COMMITTEE

SEC. 1762. Mistakes in the enrollment of bills (says Mr. Cushing, p. 918) are to be corrected by the committee before they report an enrolled bill; but, in looking over bills for this purpose, they sometimes discern important mistakes which have hitherto escaped detection, and which, upon being pointed out, are corrected by general consent. (That is, Mr. Cushing means, the committee should report the finding of the errors to the House where they are corrected by unanimous consent.) "When this takes place the bill is again examined by the committee, enrolled and reported, and, if it has already been signed, is signed again by the presiding officers of the two Houses." The foregoing is also the practice of Congress. See H. J., 30th Cong. 1st Sess., 979-991; J. of S., same sess., 453.

ENROLLMENT

(A) An enrolled bill may be prepared by hand or by typewriting, but the latter enrollment must be ordered by joint resolution.

CERTIFICATE OF PASSAGE

SEC. 1763. When the enrollment committee reports a bill correctly enrolled, the Speaker of the House, in the presence of the House, affixes his signature thereto, thus certifying that the bill has passed the House. The clerk then transmits the engrossed and enrolled bill with a message to the Senate, notifying that body that the Speaker of the House has signed the bill. The signing of the enrolled bill does not destroy the right of reconsideration.

SIGNING OF BILL BY PRESIDENT OF SENATE

SEC. 1764. The President of the Senate certifies to the passage of the bill by the Senate **by affixing his signature, also date of such signing.** The bill is then transmitted to the Governor for his approval or disapproval.

APPROVED OR DISAPPROVED BY GOVERNOR

SEC. 1765. All acts passed by the General Assembly must be transmitted to the Governor for his approval or disapproval. Acts of the Assembly approved by the Governor under the new constitution become operative ninety days after the act has been filed by the Governor with the Secretary of State, except the following, which become operative immediately after being approved by the Governor: acts of the Assembly providing tax levies; appropriations for the current expenses of the state government and state institutions; emergency acts necessary for the immediate preservation of public peace, health or safety.

REGULAR FORM OF QUESTION TO PASS BILL OVER VETO

SEC. 1766. Mr. Lindsley moved that the House on reconsideration agree to pass the bill (H. B. 92) the objections of the Governor to the contrary, notwithstanding.

FORM FOR PUTTING QUESTION ON GOVERNOR'S DISAPPROVAL IN OHIO

(A) Will the House on reconsideration pass the bill notwithstanding the Governor's objection?

PROCEEDINGS ON VETOED BILL

SEC. 1767. It has been the practice of both the House and Senate to proceed without delay to the consideration of a veto message from the Governor. It is not, however, the invariable practice. Frequently such bills remain on the calendar for weeks at a time before being taken up for consideration. When the message of the Governor is read, a motion to proceed to consider is not necessary, as a matter of fact, the motion, "Shall the bill pass notwithstanding the objections of the Governor?" is considered as pending. The bill and message together or separately are subject to postponement, commitment, or, may be laid on the table. A vetoed bill received by way of either House is considered as if received directly from the Governor and supersedes the regular order of business.

(A) The consideration of a vetoed bill may be indefinitely postponed, according to the practice of Congress. Vetoed bills laid on the table are still highly privileged and permit a motion to take from the table by **majority vote. If a vetoed bill or message is referred to a committee the motion to discharge a committee from the consideration of the bill or a message presents a question of constitutional privilege and is in order at any time and supersedes any pending business.** If a vetoed bill is passed by one House it immediately without delay informs the other House by message of its action.

WHERE TO FILE BILL

(B) When a vetoed bill is passed notwithstanding the objection of the Governor, by the last house acting on such bill ,the speaker of that house should order the clerk to file such bill properly with the secretary of state. If the speaker should neglect to do so, a motion should be made to this effect.

The following is the usual form of the message sent with the bill to the other House when same has been passed over the objection of the Governor:

FORM OF MESSAGE

SEC. 1768. "Mr. President: The Governor of Ohio having returned to the House of Representatives H. B. No. .... entitled an act (here follows the title of the bill) with his objections to the same, the House proceeded to reconsider the bill, which was passed, three-fifths of the House agreeing thereto. I am directed by the House to communicate said bill, the message of the Governor, returning same with his objections, and the proceedings of the House thereon to the Senate.

"Attest: .....Clerk."

CHAPTER XL

EMERGENCY AND APPROPRIATION BILLS

EMERGENCY BILLS

SEC. 1769. Emergency bills are those which become effective immediately following the approval of the Governor. A referendum vote cannot be applied to them. Under the Constitution all bills which are intended to take effect immediately after passage and approval of the Governor (with the exception of those provided in the Constitution) must contain an emergency clause fully setting forth the reasons for such emergency. The emergency section is the last section of the bill, in Ohio practice, and must be adopted by a two-thirds vote. If the emergency section is adopted, i. e. requires a two-thirds vote to pass the emergency bill.

FORM OF EMERGENCY SECTION

SEC. 1770. We have examined the emergency section attached to bills in several states and we are of opinion that the following is a safe form to be used:

FORM[1]

SEC. 1771. SECTION —. This bill is hereby **declared to be an emergency bill.** That its enactment into law is necessary for the preservation of the public **peace, safety and health** of the inhabitants of the state of Ohio, and that the provisions of this bill shall be enacted into law and become effective at the earliest possible time; and shall take effect and be in full force from and after its passage and approval by the Governor. The necessity therefor lies in the fact that: (here state the reason for such emergency).

[1] In some states it is provided that the emergency be expressed in the preamble, in which case the preamble is last to be considered.

FORM OF EMERGENCY TITLE

SEC. 1772. To the end that there shall be no misunderstanding as to the purpose of the bill the constitution of the state provides that the subject matter shall be fully expressed in the title. For this reason any emergency bill that is introduced should state in the title that it is an emergency bill. In recent sessions this suggestion has been adopted and is now required, but not by any rule of the House further than contained in this volume.

A BILL

(A) To appropriate money to pay the cost of rental, porter service, cost of moving and other expense necessary to the location and maintenance of the state offices **and to declare an emergency.**

THIRD READING OF AND ACTION ON EMERGENCY BILLS

SEC. 1773. Upon the third reading of a bill which is an emergency measure within the meaning of the constitution, the presiding officer should direct that the section of said bill setting forth the facts constituting the necessity for such emergency (known as the emergency section) be first read and put to a vote. The question should be thus stated: "Shall this section (naming section) setting forth the emergency features of this bill **stand as part of the bill?"** If upon the final vote upon such section two-thirds of all the members elected to the House in which it is pending, shall vote in the negative, then such section, as if by amendment, is removed from the bill. The vote should then be taken upon the bill, which without the emergency section would require but a majority vote to pass. If the emergency section is adopted, it then requires a two-thirds vote to pass the bill.

AMENDING THE TITLE OF EMERGENCY BILL

SEC. 1774. When the emergency clause of a bill has been rejected, it is necessary to amend the title by striking out the emergency feature of same.

COMMON BILLS CONVERTED INTO EMERGENCY BILLS

SEC. 1775. Any bill that has been introduced into the General Assembly may be converted into an emergency bill either by committee, or upon the floor of the House by amendment, inserting an emergency clause.

POINTS TO BE OBSERVED IN EMERGENCY BILL

SEC. 1776. The following is part of an opinion rendered by Attorney General Turner, of Ohio.

Before an emergency law may be passed the following conditions must exist and steps observed:

(a) An emergency in fact must exist.

(b) The passage of such law must be necessary for the immediate preservation of the public peace, health or safety.

(c) The emergency law (not one section of it, but all of it) must receive the affirmative votes of two-thirds of all the members elected to each branch of the General Assembly. Such vote must be a yea and nay vote.

(d) The law must contain one section in which are set forth valid reasons showing the necessity for the immediate preservation of either, any two of, or all for the public peace, health or safety.

(e) The section above referred to must be voted on, by yea and nay vote, on a separate roll call and must also receive the vote of two-thirds of all the members elected to each branch of the General Assembly (this section being one section of the law).

The essence of the bill must be to provide for an emergency and the reasons showing the necessity for the

immediate preservation of the public peace, health or safety must be set forth in one section.

VOTE REQUIRED ON EMERGENCY MEASURE

SEC. 1777. The emergency clause to be effective must be adopted by a vote of two-thirds of all the members elected to each House. If such emergency clause be not adopted by such two-thirds vote, it should be struck out before enrollment, even though the bill be otherwise constitutionally passed. (Supreme Court Decision 18, Colo., 292.)

WHEN IS A BILL AN EMERGENCY BILL WITHIN THE MEANING OF THE CONSTITUTION?

SEC. 1782. Is a bill that declares in its title and sets forth in one section of its printed page reasons why it should go into immediate effect an emergency bill? The writer thinks not.

REQUIREMENTS TO MAKE AN EMERGENCY BILL

SEC. 1783. It requires definite legislative action to produce an emergency bill, to give it proper form to be converted by the same authority into an emergency bill.

If the constitution had not provided a definite legislative action on emergency bills, then perhaps the printing would be sufficient.

The purpose served by printing such section in the bill is merely **notice** to the members that the introducer of the bill proposes to ask the House to make such bill an emergency bill and it also serves as notice of proposed amendment to the bill and when the speaker orders the emergency section read and considered, it is substantially the same as if proposed from the floor. If, as we believe, the emergency section when attached to the bill has all the elements of an amendment, and is an amendment, because it has no effect until the House takes the printed words

and adopts them as their own and signifies by a vote of the House that these words are satisfactory and give a true expression of its will, then, and only then, have we before the body what may properly be termed an emergency bill. Parliamentary law does not permit the amendment of a bill after its passage. If the foregoing is true, then the question is pertinent. How can the House pass an emergency bill before the necessary constitutional step has been taken to make it an emergency?

It is the opinion of this writer that the space in the printed bill containing the printed emergency should be considered and acted upon as a blank to be filled by the action of the House, for the reason an emergency section does not exist until the House by vote creates such section. In practice blank spaces must be filled before the bill is passed.

Chief Justice Marshall, of the Ohio Supreme Court, in part at least, agrees with the writer, in his dissenting opinion, in the case of State, ex rel. Durbin v. Smith, when he records **"The formal requirements of the constitution have been met when the section declaring the reasons for the bill going into immediate effect have been added to the bill, (not the law) by a yea and nay vote on a separate roll call, receiving a two-thirds vote."** (Vol. 102, p. 591.)

The chief justice was then considering the legal and not the parliamentary side of the question, the parliamentary feature is left to the legislature to work out and it would seem after twelve years we would establish a reasonable parliamentary rule to guide us and not be subject to whim or caprice of individuals.

It is true, and we admit the chief justice does not say that the best thing to do in considering an emergency bill is to adopt the emergency section; but that thought is strongly implied, for he does say that we do not have an emergency bill before us until we have met the requirement of the constitution. How then may we put the ques-

tion, "Shall the bill pass as an emergency? When no emergency bill is before the House?"

We infer from the reading of the constitution that the emergency section must be considered separate and apart from the bill and therefore can only be considered as an amendment to be made by legislative action a part of the bill. Perhaps the chief justice had in mind an amendment embodying the emergency section offered from the floor, and this may have been the thought of the constitution makers but for the sake of uniformity in practice and convenience and to keep members informed of the intention of members relative to proposing emergency laws, the Ohio and other legislative bodies have permitted the insertion of the emergency section in the printed bill depending largely on the judgment of the speaker.

PRACTICE OF THE OHIO HOUSE ON EMERGENCY BILLS

SEC. 1784. The practice of the Ohio House of Representatives in passing emergency laws heretofore has not been uniform and might **"politely be termed the convenience of the speaker,"** such convenience usually turning to the taking of the question, first on the bill before it is converted into an emergency by the House, except one notable exception, Mr. Speaker Griswold, as good a parliamentarian as ever occupied the chair, always followed the correct parliamentary practice, as does also the Senate.

The writer has never interposed serious objection to this procedure during a session when informed by Mr. Speaker, that he intended to follow this course on emergency bills, except to offer the information that it was unparliamentary. He has always been content to join the passive acquiescence of the House to a violation of its rule and practice. It is not the province of the parliamentarian to dictate to the speaker nor to object personally to a wanton disregard for its rules. That is the business of the House. There is nothing to be gained by reversing the procedure, either way it is accomplished two questions and

two votes are required. In either case the process is not shortened, nor is the process expedited.

NOTHING GAINED BY REVERSING PRACTICE

SEC. 1784a. Just what is gained by taking the vote on an emergency bill first, and the emergency section last, has never been satisfactorily explained to the writer, nor can it be unless our minds are entirely lost to all known parliamentary principles. Therefore, we are bold to assert that the change of practice comes primarily from a limited understanding and a misapplication of parliamentary principles.

ADVANTAGE OF CORRECT PROCEDURE

SEC. 1784b. There is however a distinct advantage in disposing of emergency bills as provided in this volume in section 1773. When the question is put first on the emergency section and it is negatived, the bill as an emergency is dead the emergency section is automatically removed from the bill. The bill if desired may be passed as an ordinary bill, subject to referendum.

COMPLICATIONS THAT MAY ARISE IN HOUSE PRACTICE

If a regular bill were read the third time and was under consideration and Mr. Bittinger would arise and offer an amendment containing an emergency section to the bill, would Mr. Speaker hold in abeyance such amendment until after the bill was passed? The writer thinks not but he would be compelled to do this if he were consistent in his practice.

After the passage of the regular bill, would Mr. Speaker receive and put the question on an amendment containing an emergency? No, he would no doubt tell the member his amendment was too late, the bill was passed, but under the present practice it cannot be reasonably denied that such an amendment would be in order.

BILLS CONTAINING APPROPRIATIONS

SEC. 1785. A question of order may not be directed to the act of reporting a bill containing a direct appropriation, but must be directed against the item of appropriation itself. (Gillette.)

RIGHT TO REPORT BILL APPROPRIATING MONEY

SEC. 1786. The member makes the objection that the bill is not properly before the House because it includes an appropriation which the committee reporting the bill has no right to make. Now in conformity with the ruling the chair made some time ago—he does not think that the question of order can be made that the bill is not properly before the House, in other words, that the committee could not report the bill. The committee could report it and the question of order, if it is valid, can be made at any time against the particular clause.

APPROPRIATION IN ORDINARY BILL

SEC. 1787. "The question of order that a bill contains an appropriation of money must be directed to the item of appropriation in the bill and not to the act of reporting the bill and may not be directed to the entire bill but when a point of order is made against the whole paragraph or section containing the appropriation the whole must go out." (Longworth.)

NATIONAL HOUSE CARES FOR ITS EMPLOYES

SEC. 1788. The following resolution is taken from the last session of Congress and discloses its attitude toward a faithful employe in case of death.

"Resolved, that the clerk of the House of Representatives be, and he is hereby authorized to pay, out of the contingent fund of the House, to the estate of Aaron H. Frear, late employe of the House, a sum equal to

six months salary of the position held, and that the clerk be further directed to pay out of the contingent fund of the House, the expense of the last illness and funeral of said Aaron H. Frear, not to exceed the sum of ———."

COURTESIES BETWEEN HOUSES

SEC. 1789. The principle is generally accepted in Congress that where one House proposes to an appropriation bill an amendment firmly resisted by the other, the proposing House should recede.

(A) It is also well established act of courtesy in Congress that neither House will interfere with salaries of officers and employes which were decided upon and fixed by the other House, whose officers they are. It is likewise rare indeed, for the executive to interfere with legislative and judicial appropriations, as such interference is considered the height of discourtesy and tends to abridge the good correspondence between co-ordinate branches of the government.

CONSIDERATION OF APPROPRIATION BILLS

SEC. 1790. Under the rules all bills appropriating money must be considered by the committee of finance, this being the only committee having authority to report and recommend appropriations, but bills which merely authorize appropriations but do not directly appropriate would not fall under this rule. The passage of a bill authorizing but not appropriating money would **stand as an instruction to the finance committee to consider and report such appropriation.** When the entire body orders its agent the committee, to do a certain thing, no matter what the **opinion of the committee may be,** it is the **duty of such committee to carry out the will of the House, not in part, but as a whole.** However, despite the rule requiring appropriation bills to be consid-

ered by the Finance committee, if the House itself refers an appropriation bill to another committee for consideration and such reference remains uncorrected, the right to consider and report is thereby granted and when taken up for consideration a point of order is not good against the bill but must be directed to the appropriation.

WHERE APPROPRIATION BILLS ORIGINATE

SEC. 1791. There is no provision in the Constitution requiring appropriation bills to originate in the House. They do so merely by long established practice and because no objection to such practice has ever come from the Senate. The practice comes to us no doubt from the English Parliament. However, in the Constitutional Convention of 1851, an effort was made to insert this language in the organic law. "All bills appropriating money shall originate in the House of Representatives." To this proposal there was strong opposition and it was defeated.

VOTE NECESSARY ON APPROPRIATION BILLS

SEC. 1792. The question as to the number of votes necessary to pass an appropriation bill presents itself at the beginning of nearly every new session of the Assembly. The constitution being silent on this subject, except as to appropriations for claims against the state which require **a two-thirds vote.** The question was thrice submitted to the Attorney General who in each instance decided that a **majority vote passed any ordinary appropriation.** From the Constitutional Debates we learn that in the Convention of 1851 an effort was made to require a two-thirds vote to pass an appropriation bill; but was defeated by a decisive vote and there was a large number of the members who were strongly

[1] This is a requirement usually provided for in constitution of the State, it is also a parliamentary requirement.

opposed to the requirement that a majority of the House should be necessary to pass any bill. It was argued that to require a majority would be to place in the hands of the minority control over important legislation. Attorney General Turner again decided this question as above indicated in 1927 and Attorney General Bettman in 1930.

LEGISLATION IN APPROPRIATION BILLS

SEC. 1793. It is a rule of Congress, strictly enforced, that no legislative provisions may be attached to an appropriation bill. It has been generally held that provisions giving a new construction of law or limiting the discretion which has been exercised by officers charged with duties of administration are changes of law, and not permissible in appropriation bills.

(A) Where a proposition might be construed by the executive officer as a modification of a statute, it is not permissible to place them in appropriation bills; a proposition to regulate the public service, as by transfer of a portion of it from one department to another, may not be included in an appropriation bill, this being legislation.

LANGUAGE THAT APPROPRIATES MONEY

SEC. 1794. The following language is subject to objection on the ground that it appropriates money. "And when the fees referred to in the above mentioned act shall have been collected and deposited, they shall be warranted and made available for expenditure of payments to states and for payments for road purposes in the same manner, etc." The chair regretted the question of order was raised because the bill was desirable, but he must enforce and construe the rules, regardless of the merits of the bill. (Gillette, July 6, 1921. "Available until expended.")

CHAPTER XLI

MISCELLANEOUS (PROCEDURE AND PRACTICE)

CAN MEMBERS BE COMPELLED TO VOTE?

SEC. 1795. The rules of the House and Senate which are modeled after the rules of the National House of Representatives, declare that every member present shall vote.

(A) The rules of both the House and Senate in Ohio require every member present to vote.

(B) In the National Congress it has been found impracticable to try to enforce the rules requiring every member to vote and it seems the weight of authority also favors the idea that there is no authority in the House to deprive a member of his right to vote. (Hinds, Vol. 5.) America's great parliamentary writer, Cushing, agrees with this practice of Congress that there is no authority to compel or prevent a member from voting.

MEMBERS—RESIGNATION OF

SEC. 1796. If a member of the House or Senate shall desire to resign while the Assembly is in session, he should file his resignation with the house of which he is a member. The following form of resignation is used in the National Congress.

FORM OF RESIGNATION

Columbus, Ohio.

(A) Mr. Speaker or President (as the case may be).

Sir: I hereby resign my office as representative in the General Assembly of Ohio from.....county.

With great respect,

.....

WHEN RESIGNATION EFFECTIVE

SEC. 1797. A member's resignation is not effective until it has been accepted by a majority vote of the members elected to the House in which it is presented, exclusive of the vote of the person tendering his resignation. If members resign when the Assembly is not in session, resignations must be presented to the Governor and they become effective when accepted by the Governor. (Sec. 47, G. C.) When resignations tendered to either House are accepted, the House should then order the Speaker or President to notify the Governor of such resignation.

SEC. 1798. An officer or member's responsibility does not cease when he files his resignation. His duties as such member or officer continue until his resignation is accepted by the proper authority.

EXECUTIVE NOMINATIONS

SEC. 1799. Many of the appointments that the Governor is authorized to make must, under the laws, be confirmed by the Senate. The following will show procedure in the Senate when such nominations are received. It has been the custom upon motion to refer them to the committee on rules for consideration and to report recommendations before final action is taken.

In my examination of this procedure in other states, I have found that in many of them it is the invariable custom, before taking final action upon executive nominations, for the Senate to refer such nominations to the senator or senators representing the district in which the person nominated resides, for approval or disapproval.

(A) It would seem that this is a courtesy due the senator. The rule of the National Senate on the subject of executive nominations is as follows: Rule 38.

(B) Section 1. When nominations shall be made by the President of the United States to the Senate, they shall, unless otherwise ordered, be referred to appropriate com-

mittees; and the final question on every nomination shall be, "Will the Senate advise and consent to this nomination?" which question shall not be put on the same day on which the nomination is received, nor on the day which it may be reported by committee, unless by unanimous consent.

(C) Section 2. All information communicated or remarks made by a senator when acting upon nominations concerning the character or qualifications of the person nominated, also all votes upon any nomination shall be made against the person nominated, the committee may, in its discretion, notify such nominee thereof, but the name of the person making such charges shall not be disclosed. The fact that a nomination has been made, or that it has been confirmed or rejected, shall not be regarded as a secret.

(D) Section 3. When a nomination is confirmed or rejected, any senator voting in the majority may move for a reconsideration on the same day on which the vote was taken, or on either of the next two days of actual executive session of the Senate; but if a notification of the confirmation or rejection of the nomination shall have been sent to the President before the expiration of the time within which a motion to reconsider may be made, the motion to reconsider shall be accompanied by a motion to request the President to return such notification to the Senate. Any motion to reconsider the vote on the nomination may be laid on the table without prejudice to the nomination, and shall be a final disposition of such motion.

(E) Section 4. Nominations confirmed or rejected by the Senate shall not be returned by the secretary to the President until the expiration of the time limited for making a motion to reconsider the same, or while a motion to reconsider is pending, unless otherwise ordered by the Senate.

(F) Section 5. When the Senate shall adjourn or take a recess for more than thirty days, all motions to re-

consider a vote upon the nomination which has been confirmed or rejected by the Senate, which shall be pending at the time of taking an adjournment or recess, shall fall; and the secretary shall return all such nominations to the President as confirmed or rejected as the case may be.

CONFIRMATION OF EXECUTIVE NOMINATIONS

(G) In the National Senate when a committee reports favorably upon a nomination of the President recommending confirmation, the chairman introduces a resolution substantially as follows:

Resolved by the Senate, That the nomination of his excellency the President of the United States, of John Doe to be Judge of the District Court for the .....District..... to fill the term of.....from.....to .....is hereby confirmed, and the said John Doe is appointed said Judge for said district and term. (Yea and nay vote.)

FILING BILLS PASSED OVER OBJECTIONS OF PRESIDENT

SEC. 1800. In Congress, the clerk of the body last acting on a bill passed notwithstanding the objections of the President, files the same with the secretary of state, properly certified by the proper officers of both bodies. For many years immediately following the passage, a motion was made and carried instructing the clerk to file such bill with the secretary of state. Now this motion is unnecessary in Congress because the duty falls as above described under the National law. When not governed by rule or law, the motion should be made or the chair order it done thus, **ordered that the clerk certify this action of the House to the secretary of state.**

[1] This is a constitutional and not a parliamentary requirement. The method and vote required is usually set out in the constitution of the State and also the Federal constitution.

DERELICT BOOK

SEC. 1801. The clerk of the House of Commons keeps a record book known as the **derelict book** in which is recorded the number of divisions each member takes part in and the important votes he fails to take part in.

WATCHING A BILL AFTER INTRODUCTION

SEC. 1802. When a member has introduced a bill his troubles and work have barely begun. After the bill is introduced it is sent to the printers to be printed. This usually takes from three to ten days, depending of course on the amount of work the printer may have on hand. As soon as printed the bill will be placed in the member's bill book on his desk. He should watch for its appearance in his bill book and should it not appear in a reasonable length of time, he should make inquiry of the bill clerk to ascertain if the bill was printed. If he finds that it has not been printed he should notify the clerk or his deputy.

(A) When he finds the bill in his bill book he should if possible, find time to compare the printed with the original copy, and such errors as he may find should be reported to the clerk, who according to the necessity of the case will cause the bill to be reprinted or instruct the member how to prepare an amendment to correct the bill when the House considers it.

(B) When the bill is read a second time, he should be present in senate to name the committee which he desires to consider it. After it is referred he should call upon the chairman of the committee and arrange a time for a hearing on his bill. He should also meet with the committee personally and explain his bill requesting that it be favorably reported. If the bill is one likely to draw opposition, he may expect that such opposition will wish to be heard.

(C) If the opponents have a hearing it would be well for him to be present and introduce them to the committee.

The chairman of the committee will cause printed invitations to be sent to any person suggested to him to be interested in the bill, of the place and time of the meeting, and by request of the author invite such persons to be present and be heard. If after introduction the author should find errors in his bill, or that it should be amended further to perfect it, he should carefully prepare such amendments and submit them to the committee for consideration, with the request that the committee recommend the amendments when the bill is reported.

(D) If the committee should reject the amendments, the member may offer them from the floor of the House when the bill is considered on its third reading. After a bill has passed one branch the member should arrange with a member of the other branch to take care of his bill there when introduced in that body by message. This will usually occur the following day—the same day if the bill has not been amended.

CONFUSING CLERK

SEC. 1803. It sometimes happens that in the midst of general confusion in the House the clerk is directed by the Speaker to call the roll, and he soon finds it impossible to hear responses. When this condition arises the clerk should not imperil the accuracy of the roll-call by continuing but should stop and address the Speaker, saying: Mr. Speaker: There is so much confusion it is impossible to hear the responses of members. The Speaker should then call the House to order and announce: **The public business will be suspended until the House is in order and ready to do business in an orderly manner.**

PAYMASTER

SEC. 1804. The clerks are the paymasters of their respective bodies. It is customary for the clerks to appoint one of their assistants to perform the duties of paymaster or

financial clerk who looks after the bills of the House and pays its members and employes. The officers and employes are paid twice a month; on the fifteenth and at the end of each month.

(A) All members receive their salary of two hundred dollars per month, once a month during the session. It is usually paid between the fifteenth and the end of the month, the time fixed at the discretion of the Auditor of State. The remainder of salary due and mileage is paid at the close of the session.

EXCUSES FOR ABSENCE

SEC. 1805. Excuses for absence, as distinguished from leaves of absence, may be granted by less than a quorum. The statutes provide that deductions may be made by the houses, but not by the chair, from the salaries of members who are absent without leave or sufficient excuse.

ABSENCE EXCUSED

(A) When members have absented themselves from the sittings of the House, they may upon their return request the House to grant leave of absence covering the time of their absence, and this may be done in the absence of a quorum. The reason for asking leaves of absence in these cases, is to prevent deduction from salary, covering the period of absence.

METHOD OF GRANTING LEAVE OF ABSENCE

SEC. 1806. Motions for leave of absence are usually unnecessary. The following is the usual practice in congress: Member: **"I request leave of absence for the day for Mr. B. on account of illness." Speaker: "Is there objection?" (Pausing for objection) "The chair hears none, it is so ordered."**

REQUESTS FOR LEAVE OF ABSENCE—WHEN ADMITTED

SEC. 1807. By usage, not by rule of the House, requests for leave of absence and reports from the committee on enrolled bills may be presented pending the announcement of the result of a vote on adjournment.

(A) When Speaker Blaine was in the chair, he permitted requests for leaves of absence to be made pending his announcement of the result of a vote on adjournment. Objection was made that the chair had no right to interject public business under such condition. The Speaker ruled: "The chair did not interject public business, he interjected what has always been deemed to be a matter of very high privilege, for the convenience of members, the asking of leave of absence. The motion to adjourn has been carried obviously by the sound, **but the rules provide that it is not a vote until it is declared by the chair that the motion is carried, and even upon a yea and nay vote,** and **when the chair holds in his hand the record of the tallyclerk showing it to be carried it has always been the usage of this House to ask leave of absence** for members of House. It is the right of members to object to leave of absence." Following the above decision someone objected that enrolled bills were also admitted. The Speaker continued: "If enrolled bills were lying before the chair and were properly signed and a motion to adjourn was made and agreed to on a yea and nay vote and the chair held the record of that fact in his hand before declaring the result of the vote, the chair would consider himself justified, not only by the convenience but also by immemorial usage, to accept the report.."

OATH ADMINISTERED BY MEMBERS

SEC. 1808. Section 62 of the General Code provides that the chairman or any member of a committee of the General Assembly, or of either House thereof, or of a sub-

committee may administer oaths to witnesses produced or appearing before such committee or such subcommittee.

TITLE

SEC. 1809. The extent to which the title of a bill can be used is thus stated by Chief Justice Marshall of the United States Supreme Court. "Neither party contends that title of an act control plain words in the body of the statute; and neither denies that, taken with other parts, it may assist in removing ambiguities. Where the intent is plain, nothing is left to construction."

FOUNDATION OF PARLIAMENTARY PRACTICE IN CONGRESS

SEC. 1810. The foundation of the parliamentary practice in both houses of Congress is Jefferson's Manual. It is to be noted, however, that the practice of the House has been so changed as to make many of the provisions in Jefferson's Manual entirely obsolete but the Senate still adheres closely to its provisions.

SUBSTITUTE

SEC. 1811. A substitute bill is one form of an amendment.

Any member who finds a draft of any bill unsatisfactory, may redraft the entire bill so long as he adheres to the subject matter set forth in the title.

A substitute, when offered, takes the place of the bill for which it is a substitute, and retains its title, name of author, number and stages of its progress.

The usual form used in offering a substitute follows: "Strike out all after the enacting clause and insert the following: (Here follows the subject-matter.)

PRESIDING OFFICER MAY NOT GRANT LEAVES OF ABSENCE

SEC. 1812. It is not within the authority of the Speaker of the House or President of the Senate to excuse members or give them leave of absence, that is a legislative function belonging to the House in which the member sits. In the Ohio Assembly it has been the practice for the presiding officer to excuse and give leave of absence to members, but this is a usurpation of the authority of the House. Less than a quorum may excuse for a day, but not for a longer time. A member desiring a leave of absence, or wishing to be excused for a day should at a convenient time when he can get recognition from the chair present his request in open House and the Speaker should then put his request for the determination of the House. Unless excused by the House a member would be subject to fine by the House for non-attendance. It frequently occurs in Congress when important matters arise that the House will pass a resolution or adopt an order revoking all leaves of absence and instruct the sergeant-at-arms to bring in all members.

REVOKING LEAVES OF ABSENCE

SEC. 1813. In Congress it is in order to offer a resolution revoking leaves of absence, during a call of the House. During a call of the House, Mr. Willis offered a resolution providing for the revocation of all leaves of absence and directing the sergeant-at-arms to bring in the absentees. Mr. Thomas B. Reed objected that the resolution was not in order under a call of the House. The Speaker overruled the question of order on the ground that it was a proceeding to bring in absent members, on which a quorum was not required, and was therefore in order.

WHERE TO ADMINISTER OATHS TO MEMBERS

SEC. 1814. On one occasion, Speaker Henderson requested a written opinion from the House parliamentarian and when submitted the Speaker presented same to the House saying he concurred in the reasoning and conclusion, the gist of which was: "That **the Speaker may not appoint a committee nor administer an oath, away from the House, even when the House is in session, except by consent of the House, for the reason that it is the transaction of business and must be done in the House while in session and be entered upon the Journal."**

CHALLENGING RIGHT OF MEMBER TO TAKE OATH

SEC. 1815. Members-elect in the alphabetical order of states presented themselves at the bar of the House to take the oath of office, when the state of Illinois was called, a member arose and as a question of privilege stated that on his own authority and responsibility, he objected to Mr. A., representative-elect, taking the oath, alleging a violation of the corrupt practice act.

Whereupon said Mr. A. was directed to stand aside temporarily. The remaining members-elect then took the oath. Thereupon a resolution was presented, providing that Mr. A. be permitted to take the oath, upon which the previous question was ordered. The resolution was adopted and the members took the oath. (Journal 1st Sess. 68th Cong. p. 733.)

(A) A member elected and returned is to every intent a member of the Assembly, except he may not vote until he is sworn. (Jefferson.)

WHILE PENDING

(B) The phrase "while pending" as used in this and other volumes usually means the time intervening between the moving and the putting of a question.

VALUE OF PRECEDENTS

SEC. 1816. Parliamentary precedents and Speaker's decisions furnish the best evidence of the practice and procedure of parliamentary bodies. The greatest and most helpful volumes that have been written on the subject are largely composed of precedents extracted from records. It is not unusual for the House of Commons of the English Parliament to adjourn its business for the purpose of searching the records, both ancient and modern, for precedents on some important subject.

Preserving the authority and binding force of parliamentary law is as much the duty of each member of the House as it is the duty of the chair.

INFLUENCE OF EARLY DECISIONS ON PRESENT DAY PRACTICE

SEC. 1817. In 1923. , an amendment in the nature of a substitute was offered, and a question of order was raised against the substitute. Speaker Henderson admitted the substitute and in his decision closed his remarks by saying: "The question of admitting such an amendment to a substitute was settled as long ago as 1836 by Mr. Speaker Polk. (H. J. Sess. 57th Cong., p. 103.)

SEC. 1818. All officers and employes of either House are under the specific direction of the heads of the several departments, but all under the general direction and supervision of the presiding officers of their respective Houses.

NOTIFYING (GOVERNOR) PRESIDENT OF INTENTION TO ADJOURN

SEC. 1819. Your committee to wait upon the President report that the committee appointed to join a like committee on the part of the senate to notify the President that the house has completed its work and is ready to

adjourn. The President notified the committee he had no further communication to make.

The foregoing resolution is explanatory of the action of all American legislative bodies before final adjournment. It is merely an act of courtesy and respect to the chief executive. It was the custom in Ohio until recent years when the legislature did not adjourn sine die and appears to have been lost sight of later. It is a matter of fairness to a coordinate branch of the legislature that it should be notified of the purpose of the other branch. It would seem disrespectful and cowardly not to notify the chief executive of a final adjournment of the legislative body.

PRESIDENT'S MESSAGE

SEC. 1820. All messages or memoranda from the President relative to bills are to be read to the House by the Speaker or clerk as soon as received and printed in the Journal, unless otherwise ordered by the House.

TIME OF SENDING MESSAGES

SEC. 1821. Under Parliamentary law it is not permissible for messages to be sent except when both Houses are in session, this is also the practice of Congress.

MESSAGES BETWEEN HOUSES

(A) All messages between the Houses are written and sent by the clerks under the direction of the President or Speaker and is a "standing order," done without motion or vote thereon.

FILING BILL AFTER FINAL PASSAGE

SEC. 1822. When one House has passed a bill or resolution of the other House without amendment, the parliamentary rule is to notify the other House of such action by message, but in this instance the bill having passed both Houses the bill is not returned to the originating House

but is filed with the enrollment committee or enrolling clerk of the other body in which it originated. (See Jefferson.)

LEGISLATIVE POWER OF EXECUTIVE DEFINED

SEC. 1823. In a remonstrance addressed to King Charles I, on December 16, 1641, the Parliament of England clearly and in unmistakable language defines legislative rights of the legislative body and denies the right of executive interference in its affairs. They declared: "That it is their ancient and undoubted right in agitation and debate (depending) in either of the Houses of Parliament, but by their information or agreement; and that your majesty ought not to propound any condition, provision, or limitation to any bill or act in debate or in preparation in either House of Parliament, or to manifest or declare your consent or dissent, approbation or dislike of the same, **before it be presented** to your majesty in due course of Parliament; and that every particular member of either House hath free liberty of speech to propound or debate any matter, according to the order and course of Parliament, and that your majesty ought not to conceive displeasure against any man for such opinions and propositions as shall be in such debate; it belonging to the several houses of Parliament respectively to judge and determine such errors and offenses, which in words or actions shall be committed by any of their members, in the handling or debating any matters there depending." It does not seem necessary to observe that the principle laid down in the foregoing resolution of Parliament relative to the interference in legislative matters by the sovereign is applicable to the legislative branch of our government. The legislative powers of the executive are fully defined in the Constitution and consist in recommendations by message for any act of legislation and the approval or disapproval of bills. Each Genaral Assembly should insist that it be left undisturbed from executive interference in the transaction of its business.

SPECIAL ORDERS

SEC. 1824. Special orders are most frequently made upon motion and vote of the House in the Ohio Assembly. In Congress they are made by unanimous consent, or suspension of the rules, or by vote of the House on a report from the committee on rules. Special orders reported by the committee on rules require only a majority vote for their adoption. Motions and resolutions making special orders require two-thirds vote for their adoption except as before stated those reported by the committee on rules.

REJECTION

SEC. 1825. A bill or joint resolution is practically rejected when it fails to receive a constitutional majority vote on passage. (A majority of those elected.)

HUGHES' PARLIAMENTARY GUIDE

SEC. 1826. House rule 107 of the House of Representatives provides that Hughes' American Parliamentary Guide, 1928 edition, shall govern in all cases not provided in the foregoing (House) rules. The rule of the Senate is in slightly different verbiage but substantially the same. Both rules mean merely that their own rules have precedence, but in any and all cases where such rules are silent and make no provision for procedure then the rules as set forth in Hughes' American Parliamentary Guide are in full force and just as binding on the body as their own rules. The Guide does not present pet theories or the opinion of its author but is strictly confined to and based on the practice of the greatest American law-making body, The House of Representatives, and the decisions of its eminent Speakers, Blaine, Reed, Cannon, Clark, Carlisle, Randall and others. Therefore, if you cannot agree with or accept the principles herein set down, you have no quarrel with the writer but your disagreement is with the written law and practice of

that body and the great parliamentarians who presided over its deliberations.

FORM OF CERTIFICATE TO BE ATTACHED TO BILLS PASSED OVER THE VETO OF THE GOVERNOR

SEC. 1827. When a bill is returned to either House with the disapproval of the Governor and is passed by both Houses by the constitutional majority notwithstanding the objections of the Governor, there should be two certificates, one for the Senate and one for the House on the back of the bill, which should be signed by the Speaker and clerk of the House and the President and clerk of the Senate substantially as follows:

FORM

(A) We do certify that the bill (Number and title) which was disapproved by the Governor and returned with his objections to the House of Representatives (or Senate) in which it originated, was passed, notwithstanding such objections, by the constitutional majority of three-fifths, on this (here give date) and the foregoing is the act so passed by the House.

Signed.....Speaker

Signed.....Clerk of the House

The same certificate as the above should follow and be signed by the President and the clerk of the Senate. It should be signed first by the officers of the body in which it originated.

PRESENTATION OF BILLS TO THE GOVERNOR

SEC. 1828. Under the present plan of presenting bills for the consideration of the executive ,the Assembly is not officially notified as to the time of filing. At present, bills are sent to the Governor by the message clerk of the Senate, who of course, gets a receipt for them, but the time they are received is not reported and therefore never appears in

the Journal. The members of right should know of this transaction, and for this reason the writer recommends the plan of Congress as follows:

(A) When bills have been properly authenticated, they should be taken to the Governor by the committee on enrollment or some member of such committee by it appointed for that purpose who upon presentation of bills and resolutions should at once report to the House of which he is a member the day and hour such bills were submitted to the executive. And the same should be entered upon the Journal in that House and at once messaged to the other House. Members would then know about the time to expect final action on their bills, also when the Governor notifies the clerk of either House that he has favorably acted upon bills. The clerk should at once communicate such notice to the body of which he is clerk, have same entered on the Journal and by message communicate such information to the other branch to be entered on the Journal. If a rule of this sort were in operation, members would have all necessary information without running to the office of the Governor for such information.

INTRODUCING BILLS BY REQUEST

SEC. 1829. Frequently members are handed bills by their constituents or other citizens with the request that they introduce them for the consideration of the Assembly. Such bills may be introduced by the member writing after his name in parenthesis the words **(by request).** Such bills as a rule are prepared by persons who are inexperienced in bill drafting and are usually not in proper form for presentation.

(A) Before introducing such bills, they should be carefully examined as to their form and whether in all respects they conform to the Assembly rules. It would prevent delay at the clerk's desk if such bills were submitted to the **clerk or speaker,** for examination before introduction.

PRESENTATION OF PETITIONS

SEC. 1830. From the organization of the first assembly until about 1908, petitions and memorials were introduced in both Houses from the floor by the members. This is still the practice in the Senate, but at the time the Hon: Edward Doty was clerk of the House, he adopted the present plan of filing such papers with the clerk by depositing them in a box at the right of the clerk's desk. (This plan has proven highly satisfactory to both officers and members of the House. It is more convenient, avoids confusion and expedites business. The adoption of this plan in New York, Maine, Pennsylvania, Illinois and the National Congress has proven so beneficial that it has been extended to the introduction of bills and committee reports in these bodies.) A member presenting a paper, report, memorial, or petition to either House should first ascertain approximately the number of signers on the petition, then fold the same in a convenient form to deposit in the petition box, or present from the floor in the Senate, then he should proceed to endorse same properly on the back thereof as follows: A brief statement of the contents, the name of the member presenting the same and the committee to which it is to be referred and sign his name.

FORM

(A) Mr. Rea presents the petition of John Doe, (the first name on the petition) and two hundred other citizens of Madison county, requesting the passage of H. B. No. 482.

To be referred to the committee on common schools.
Signed, Robert C. Rea.

(B) The clerk at the close of each day records petitions on the Journal in the House and then sends them to the proper committee. In the Senate they are recorded upon the Journal immediately when received and by the clerk sent to the committee.

STATE OFFICERS SHOULD BE NOTIFIED OF ORGANIZATION

SEC. 1831. When either branch of the Assembly is organized and ready to proceed to business, it has been the custom to notify the other branch of its organization, but strange as it may seem, it has not been the custom to notify the Governor of the personnel of such organization, but as a matter of business, as well as courtesy, this should be done, in order that the latter should be informed as to whose signature as attesting officer of the two branches credit is to be given.

(A) Neither should the names of the officers of the House and Senate be left to find their way to any of the state officers or departments by chance or accident, but all should receive official notice of the organization of each branch, either by separate or joint action. The notice should be sent as soon as the organization is perfected.

RECEIVING AND SENDING MESSAGES IN CONGRESS

SEC. 1832. The ceremony of receiving a messenger is as follows: The messenger is introduced by the Sergeant-at-arms at the bar of the House as follows: "Mr. Speaker, a message from the President" (or Senate as the case may be). Thereupon the messenger bows and addresses the speaker as "Mr. Speaker," the speaker with a slight inclination addresses the messenger as "Mr. Secretary." Thereupon the messenger delivers the message in a distinct voice, "I am directed by the President of the United States to deliver to the House a message in writing, and to announce his approval of sundry House Bills." Frequently messages merely announce the approval of bills. The same ceremony is observed when messages are sent from one House to the other. Messages between the Houses are carried by a subordinate designated by the clerk. It is customary in Congress to insert in the Journal the names of persons with their official title thus: "A message from the Governor,"

by his Secretary, Mr. Dunkle. "A message from the Senate," by its Journal clerk, Mr. Carhart.

OFFICERS WITHOUT POWER TO REJECT COMMUNICATIONS

(A) It is quite clear and firmly fixed in the mind of the writer that there is no authority granted in parliamentary law, statute or constitutional law directly or by inference to the officers of either body to reject a communication or other paper from the other house or one of its members or committees. If such is found objectionable the objection should be reported to the floor leader and when same is presented to the House, the objection may be made to the House and the question of rejection is put by the chair and decided by the House.

Of course a question of order could be raised and it would be the right of the speaker to rule the objectionable matter out of order. If the foregoing is not true then the House is at the mercy of its officers and they become masters and not servants of the House. It is an inherent right of the House to determine for itself all controverted questions that may arise, and particularly the business it will or will not consider. To illustrate, the House sends a message to the Senate. May its clerk, president or president pro tem. refuse for any reason to receive such message? No authority exists for such action. It is merely an assumption of authority.

The president of the Senate may present the same to the Senate with a statement giving a reason why such message should not be received and then put the question: 'Will the Senate receive the message?" and take a vote. The result of the vote should be messaged to the House if rejected and the reason for the rejection.

REQUEST FOR RETURN OF BILL FROM OTHER HOUSE

SEC. 1833. Where a bill is sent from one House to the other by mistake or its return is desired for reconsideration

or any other purpose, a motion should be made instructing the clerk to send a message to the other House requesting the return of such bill or other paper desired. It is customary for the receiving House to grant the request, but it is not compulsory. (See S. J. 1st Sess. 25th Cong., p. 375.)

(A) When a message of the foregoing nature is read in the receiving House, one of its members should at once move that the request of the other House be acceded to or rejected and the action of the body should be forthwith communicated by message to the body making the request.

SIGNING OF BILLS

SEC. 1834. The constitution of the state provides that the presiding officer of each House shall sign, publicly in the presence of the House over which he presides, while the same is in session and capable of transacting business (a quorum being present), all bills and joint resolutions passed by the General Assembly. (Sec. 17, Art. 11.)

(A) It is sometimes urged that this provision of the constitution is merely directory and not mandatory, however, most of the Ohio Assemblies in their practice have proceeded with the idea that it is mandatory and in most instances it is followed to the letter.

WHEN BILL MAY BE ENROLLED IN PRINTING OR BY HAND

SEC. 1835. By joint resolution in which the emergency for so doing shall be set forth in full, the General Assembly may order a bill enrolled in typewriting or by hand, but a bill so enrolled shall not be printed for the purpose of enrollment. Bills for typesetting and printing, but not paper, shall be paid from the appropriations for the expenses of the General Assembly upon vouchers approved by the presiding officers of the two Houses, each for his respective House. (Sec. 67, G. C.)

MAKING CORRECTION IN BILL

SEC. 1836. No member or officer is permitted to make even the most unimportant change in a bill without consent of the House, after such bill has received the sanction of the House. In one instance, at least in the National House where a member made a slight alteration to correct a clerical error, a committee was appointed to investigate and later reported "That it was highly censurable in any member or officer to make any change in a bill after the House had passed on it."

SESSION—MEANING OF

SEC. 1837. According to the Ohio statutes, a session of the Assembly embraces all the time from the convening of the Assembly to the final day of sine die adjournment.

REGULATING INTRODUCTION OF BILLS

SEC. 1838. Mr. Jefferson tells us that the House of Commons of the English Parliament, when a session is drawing to a close and the important public bills have been introduced, the House in order to prevent interruption of its business, by the further introduction of unimportant bills adopts a resolution that no new bills may be introduced after a specified time, except such as may come from the other House.

(A) The principle set forth above is a wholesome one.

(B) The parliamentary principle set forth in the foregoing section was recognized by the adoption of the Robert Taft Rules in the 85th General Assembly of Ohio, and the wholesomeness of the principle was fully proven.

TAFT RULES

SEC. 1839. **(Time limitation on introduction of bills.)**[1] After the last Monday in February, there shall be eliminated from the order of business the item "Introduction of bills—Counties to be called in alphabetical order," and any member desiring to introduce a bill after that date shall file the same with the clerk. The clerk shall turn over said proposed bill to the committee of reference, which shall consider the same and file a written report with the clerk, stating whether in its opinion there is any substantial reason why the said bill could not have been introduced prior to the last Monday in February, and whether there is any urgent necessity for its consideration. On or after the second legislative day after said bill is filed with the clerk (and reported by the reference committee) under the order of business, "Introduction of Resolutions" a motion may be introduced giving permission to introduce the bill, and thereupon the clerk shall read the written report of the reference committee. The motion to permit the introduction of the bill shall be considered by the House after the reading of said report and the said motion shall be adopted only if approved on a roll call by three-fifths of the members elected to the House. (House rule.)

(B) **(Time limitation on introduction of bills.)** After the last Monday in February no bills shall be introduced in either House, unless on a roll call permission to introduce the same be given by three-fifths of the members elected to the House in which it is desired to introduce the bill. Provided, that this rule shall not apply to any appropriation bill first approved for introduction by the Finance committee of the House in which it is introduced. (Joint rule.)

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[1] In many states, introduction is limited by the State Constitution, in others by rule or law.

BILLS RELATING TO SAME SUBJECT

SEC. 1840. There is no rule or custom which restrains the introduction of two or more bills on the same subject and containing similar provisions, but the Ohio House has endeavored to curtail this practice by referring all bills to a committee of reference after first reading for examination before printing and reference to committees.

SESSION OF PARLIAMENT

SEC. 1841. It is no session until Parliament is dissolved or prorogued. Every several session of Parliament is, in law, a separate Parliament. But if it be but **adjourned or continued, then there is no session,** consequently all things continue in the same state they were in before the adjournment or continuance. If a Parliament is and doth sit, and is dissolved without any act, there is no Parliament, but merely a convention. If there be divers sessions in one Parliament, then all is but one and the same day and all shall have relation to the first day of the first session; and the first day and the last day are but one Parliament. (Elsing.)

CONTEMPTS

Powers of Congress to Punish for Contempts

SEC. 1842. The following is in part an opinion by Judge Cranch which was supported by numerous decisions and discussions of authorities laying down the following principles: "The jurisdiction of the Senate in cases of contempt of its authority depends upon the same grounds and reasons upon which the acknowledged jurisdiction of other judicial tribunals rests, to-wit: the necessity of such a jurisdiction to enable the Senate to exercise its high constitutional functions—a necessity at least equal to that which supports the like jurisdiction which has been exercised by all judicial

tribunals and legislative assemblies in this country from its settlement and in England from time immemorial. * * * "

(A) The authorities we think show conclusively that the Senate of the United States has power to punish for contempt of its authority in cases of which it has jurisdiction, **that every court including the Senate and House of Representatives is the sole judge of its own contempts and in case of commitment for contempt in such case no other court can have a right to inquire directly into the correctness or propriety of the commitment, or to discharge the prisoner on habeas corpus, and that the warrant of commitment need not set forth the particular facts which constitute the alleged contempt.** (Hinds.)

CONTEMPT OF LEGISLATIVE BODY

(See Decision Ohio Supreme Court, Ex parte, Dalton, O S. Report 44, p. 142; see also General Code, Sec. 59.)

METHODS OF SUSPENDING BUSINESS

SEC. 1844. It will be observed that four methods are given in this volume for the purpose of permanently or temporarily closing a sitting of the House. The strongest of these methods is the motion to adjourn, when it is resolved in the affirmative the meeting is at an end until the next regular meeting or until the time specified in the adjournment. In the other motion the length of the intermission is usually specified. When adjournments are taken members are free and privileged to leave the hall, this is also true when recess is taken, but when they adjourn at pleasure or suspend sitting, members are to remain in the House or at least within easy calling distance.

MEANING AND HISTORY OF TERM PARLIAMENT

SEC. 1845. The word Parliament has its equivalent in the Italian word Parlemento. It came to us from Italy by way of France and England, being derived from the French word parler which means a talking or conferring together. Parlemento is a meeting of Florentine people on the piazza of the signory, but the term Parliament signifying a general assembly of state was first used under Louis VII of France about the twelfth century. (History of English Parliament.)

CONSIDERING MATTER REFERRED TO COMMITTEE

SEC. 1846. Frequently in Parliament important matters are referred to committee and later it is deemed advisable for the entire House to consider the subject. In which case they resolve themselves into a grand committee of the whole house on taxation or other committee and take up the desired subject as they would in ordinary committee of whole, without discharging the order of reference.

UNJUST COMPLAINT

SEC. 1847. Complaint is sometimes made that the House is negligent of its duties and loafs too much on the job, because of frequent recesses, sometimes covering several days. Persons unfamiliar with legislative work look upon these occasions as a useless waste of time, thinking that they should be engaged in making or killing laws. Even though there be no open meetings of the House this process is going on. We recall a very bitter attack being made upon the House by a school teacher because members were inattentive during debate in the House. The entire situation is clearly described by Alexander who says speaking of the National House, **"The House sits not for serious discussion, but to pass upon the conclusion of its committees, so that it is not far from the truth to say that Congress in session**

is Congress on public exhibition; whilst Congress in its committee rooms, is Congress at work."

AMENDMENTS SUGGESTED BY GOVERNOR

SEC. 1848. It is now pretty generally accepted that the power of disapproval of bills called veto is merely authority lodged in the governor to direct a reconsideration of the bill by the assembly. Because of this feeling it has been provided in the constitution of one or two states that the Governor may recommend amendments to a bill, which if made will prevent executive disapproval. Of course, it is not compulsory on the part of the assembly to accept such amendment. This constitutional parliamentary rule has much merit. In those states whose constitutions are silent on the subject it would seem that assemblies could adopt a joint rule authorizing such practice.

(A) It is not compulsory on the Governor's part to suggest amendments, nor the House to agree if suggested. The foregoing practice has much merit that should commend it to the thoughtful consideration of all legislative bodies. Means have been devised by the use of which the two Houses may reach agreement and the courtesy should be extended to the executive.

HOW CONGRESS PULLS ITSELF OUT OF PARLIAMENTARY ENTANGLEMENTS

SEC. 1849. Congress, like the Ohio Assembly, enrolls its bills in printing instead of in writing. At the latter part of the session, for convenience, it is usual for Congress to adopt a resolution like the following:

((A) "Resolved by the House of Representatives (the Senate concurring) That during the last six days of the present session of Congress the engrossing and enrolling of bills and resolutions by printing as approved by act of Congress March 2, 1895, may be suspended and said bills and joint resolutions may be written by hand or typewritten."

(B) The House, by suspension of rules sometimes waives the usual requirements as to the examination of enrolled bills. On March 3, 1855, Representative Houston for the committee on enrolled bills reported that it was an impossibility for the committee on enrolled bills to examine all the bills before it before the time should arrive for the adjournment of Congress. Thereupon, by suspension of the rules, it was

Ordered that leave be granted to the committee on enrolled bills to report without examination for the signature of the Speaker. The bills were then reported and signed by the Speaker.

In exceptional cases Congress has waived the strict requirements as to the enrollment of bills.

SUSPENDING ENROLLMENT RULE

SEC. 1850. In 1874, the Senate disagreed to a concurrent resolution of the House proposing to suspend the rule requiring bills to be enrolled on parchment and to allow certain House bills providing for a revision of the statutes to be presented to the President as engrossed in the House and amended in the Senate. The reason for this proposition was the great labor of enrolling by hand. The Senate disagreed to the resolution, the House insisted on the resolution and the matter was referred to a committee. The disagreement was settled by the adoption of a provision that the bills in question should be printed upon paper and certified by the joint committee on enrolled bills provided by the joint rules.

CALENDAR COMMITTEE [1]

SEC. 1851. This committee had its birth in the Ohio Assembly March 26, 1906. Its purpose is briefly stated

[1] Most of our state legislative bodies have committees charged with the same duties, but they are known by many different names, some call them rules, others "sifting" committees. In parliament this committee is known as the committee on the "Orders of the Day", but no matter what their name, their purpose seems to be to pick out and advance important business. The rules committees of the several states like Congress work through the entire session.

in the resolution creating it as follows: "The Speaker is hereby authorized to appoint a committee of five, of which he shall be one and chairman, and two shall be chosen from the minority and two from the majority members of the House; and said committee shall have power to arrange the calendar from day to day for the remainder of the session, so that the bills shall appear thereon for the consideration of the House with reference to their importance.

(A) From the foregoing resolution the foundation of the present practice in the Assembly has been evolved Some assemblies have created this committee with parliamentary regularity, while in others it has been created and operated in a very unparliamentary way and very carelessly which has resulted at times in very severe criticism.

(B) The writer is convinced that the plan of creation of committee Speaker Beetham adopted in the 84th Assembly is the best, that is to empower the committee on rules to arrange the business on the calendar in the closing days of the session. This committee whether called the rules or calendar committee, should prepare the calendar, at least one day in advance and report to the House as other committees for its approval or disapproval.

REPORTING BILLS FILED WITH GOVERNOR

SEC. 1852. On February 14, 1902, Mr. Wachter from the committee on enrolled bills reported that he had that day presented certain bills to the President for his approval. The Speaker, Mr. Henderson, explained the report as follows: "The chair will state for the information of the House that a new system has been inaugurated and is now carried out by the committee on enrolled bills, whereby a report is made by the committee, as to the time when a bill goes to the President, so that it will go on record and members can see when the time for the return of a bill from the President has elapsed." This is an old system, but has been out of use for some time. (This system could be adopted by the Ohio Assembly with gratifying results.)

WHEN MEMBER LOSES CONTROL OF BILL

SEC. 1853. After a bill has been introduced and read the first time it is no longer the property of the member but has passed into the possession of the House and any changes or further disposition of the bill can only take place with the consent of the House.

PUNISHING MEMBERS

SEC. 1854. In Parliament members who violate the rules of the House are **punished by suspension from the service of the House,** from one hour to days and even a month, according to the degree of offense. In some cases the Speaker **commits** a member to the **custody of the sergeant-at-arms** who is charged with the duty of keeping him out of the hall of the House and such member so committed is not to get beyond his immediate control, if need be, he locks him up.

BUSINESS REMAINS IN STATUS QUO

SEC. 1855. Sometimes parliament in having frequent long adjournments would come to a resolution that all legislative matter pending should continue in status quo, and on the next meeting business was continued as if there had been no interruption.

SUGGESTIONS TO CHAIRMEN AND MEMBERS OF COMMITTEES

SEC. 1856. In his speech accepting the office of Speaker of the 84th Assembly Mr. Beetham very clearly defined the duties and work of committees as follows:

"Everyone will agree that it is impossible for 125 members to meet together and discuss all measures introduced, and, in order that each may have his say, and that bills may be considered, errors found, corrections made, and proposals whipped into the best forms possible, the Assembly

is divided into various committees. It is my desire to impress upon the members of this House how important the committee work really is. It is not enough for a committee to agree amongst its members that the substance of a bill is commendable, and that it should therefore be recommended for passage. That, I say, is not enough. It is the duty of the committee, it is true, first to look to the substance of the bill and then look to the excellence of the form of the bill. See that the words are correctly spelled; that the sentences are grammatically constructed and that the measure is in harmony with existing legislation. Members of a committee should be ashamed of themselves if a bill be reported from their committee and recommended for passage when it is already the law of this state. Yet such things have been done in the Ohio Assembly. Then my recommendation is that every committee look first to the substance and then to the form, and then to the harmony of the measure. If this be done, the recommendation of that committee will soon be held in high esteem by the other members of this body. The best experience I have had in this General Assembly was that acquired while a member of the judiciary committee, and Judge Clark of Lebanon was its chairman. The judge was a man of wide experience, having served years as a common pleas judge, and he conducted the hearings before that committee with the same care, and with the same consideration as he had heard cases in the courts while he sat on the bench. He made the assignments when the measures were to be heard and these assignments were posted so that all interested were informed. The secretary was directed to notify the authors of the various bills and any others interested. Before that session ended, it was a common remark about this Assembly, when a bill was found on the calendar recommended for passage by the judiciary committee, 'That must be a good bill, if that committee recommended it.' That was a really splendid compliment to that committee. Bryce says in his Commonwealth that out of every 20 bills intro-

duced in the American Congress, 19 of them die in the committee. I trust that this House will take this matter as seriously. I believe that common honesty and plain speaking in America, will do more to remedy the present world's ills than all the patent legislation proposed. Let us be courageous in dealing with measures before our committees."

LEGISLATIVE COURTESY

SEC. 1857. In some of our state legislative bodies a very helpful and particularly courteous practice of extending the privilege of the floor of one House to the members of the other House exists. When important bills are being considered that originated and have passed the other House, the member moves, say in the House, that the privilege of the floor of the House in debate on the bill of the Senate No. .... be extended to Senator ....., a member of the present Assembly, or author of the bill.

PREVIOUS NOTICE OF AMENDMENTS

SEC. 1858. A member having important material amendments to offer to any bill on the calendar for third reading may avail himself of his rights under the rule, for **notice of motion.** He may give notice of motion to amend when the bill is considered. The notice and proposed amendments would be printed in the Journal for the information of the members. The foregoing action would prevent the cry for delay and time to consider amendments that usually follows when amendments are offered on the floor for final consideration.[1]

SEC. 1859. When a bill to which a notice of amendment is pending is taken up the members may then call up his amendment which would have precedence of any amendment offered from the floor. If more than one notice

[1] Amendments on third reading are not received in the U. S. Senate except by unanimous consent.

was pending such notices would have precedence in the order they were given.

(A) In the case of notice of a substitute, the member should move the printing of such substitute, because under the present practice the clerk does not allow substitutes to be printed in the Journal. Motions in the rule of precedence may not be applied to a notice of motion because it presents nothing for immediate consideration, but when called up for consideration it is subject to the same rules as other amendments.

FORM FOR NOTICE OF AMENDMENT

(B) I herewith give notice that when the House proceeds to the consideration of the bill of the Senate No. ....., Mr. ....., now on the calendar, I shall present the attached amendment (there should follow the amendment in full) or I desire to give notice that when the House considers on third reading the bill of the House No. ....., Mr. ....., I shall propose the attached substitute.

ACTION WHEN PARTS OF BILL ARE DISAPPROVED BY GOVERNOR

SEC. 1860. When the Governor disapproves sections or items in an appropriation, he notifies the originating House by message of all sections or items disapproved. The bill is filed in the office of the secretary of state with the items disapproved. These items can be passed over the objections of the Governor by the General Assembly , and the items thus passed are certified by the officers of the Assembly and then filed with the secretary of state.

CALLING EXTRAORDINARY SESSION

SEC. 1861. In calling an extraordinary session the governor issues his proclamation and may give it to the newspapers for publication as news. He then files a cer-

tified copy with the clerk of the Senate and House of Representatives. It is not necessary for him to notify each member individually that he has called an extra session. Filing with the clerks of each body is sufficient. It is the duty of the clerks to notify the members of their respective bodies that such call has been issued and is on file in their respective offices and such notice is considered as coming direct from the governor. However, the governor may, if he chooses, notify each member individually.

MEMBERS REPRIMANDED OR ADMONISHED

SEC. 1862. If some mode of punishment of members was not practiced by parliamentary bodies they would have no effective means of protecting themselves from the disturbances of unruly members.

(A) There are four ways employed for this purpose. In severity, they stand, expulsion, suspension, reprimand, admonition.

(B) Expulsion is accomplished by a vote of two-thirds of the members, while suspension takes place by order of the Speaker, supported by a majority of the House.

(C) When it has been determined to reprimand a member the sergeant-at-arms, bearing his mace, the emblem of authority, presents the offending member to the Speaker in the dais, when the Speaker publicly reprimands and the entire proceeding is entered on the Journal. In the case where the Speaker is directed to admonish he directs the member to appear before him unattended by the sergeant-at-arms, when he is admonished. The proceeding is also recorded in the Journal.

(D) Members absent at their homes have been arrested or ordered to return to receive a reprimand.

PROCEDURE IN PARLIAMENT

SEC. 1863. Parliament may be summoned by proclamation, to meet before the day to which it was prorogued. (Lex Parliamentaria.)

SEC. 1864. Elsing, an early parliamentary writer, says: "At the beginning of every Parliament some persons (a committee) have been appointed to consider of such laws as had continuance to the present session, whether they were fit to be continued or determined; as also of former statutes repealed or discontinued; whether fit to be revived, or what should be repealed."

READING BILLS IN PARLIAMENT

SEC. 1865. In the present practice of Parliament when the clerk reads the short title of a bill the order for its first or second reading has been complied with and attempts to force the full reading of the bill on third reading has been overruled by the Speaker.

INTERESTED PERSONS NOT MEMBERS HEARD

SEC. 1866. It is not an unusual practice in Parliament, when important public bills are being discussed for it to permit interested parties either personally or by counsel to appear before its bodies and be heard.

AMENDMENTS ON THIRD READING—PARLIAMENT

SEC. 1867. Under the ancient practice of parliament it is not in order to offer any but **immaterial verbal amendments on third reading,** but the practice of making the third reading stage the amendment stage is finding increasing favor in this country. It is therefore necessary that ample protection be afforded to avert surprises in the form of amendments at this stage. If on third reading any amendment that is offered is opposed or is met with determination it is good practice to postpone consideration until the next or a future day, and refer bill and amendment to the committee on rules or commit to committee pro forma.

SEC. 1868. It is irregular to discharge a member from service on a committee without giving **previous notice** of intention to make such motion. This is also

true of proposals to increase size of committees fixed by the House.

WITHDRAWING BILL AMENDED BY OTHER HOUSE

SEC. 1869. In Parliament when a bill has been returned from the Lords with unsatisfactory amendments the House has rejected the amendments and permitted the withdrawal of the bill or they sometimes lay aside or postpone indefinitely. In either of the cases mentioned a new bill on the same subject may be introduced in either House.

MOTIONS PRIVILEGED WHEN TAKING UP ORDERS OF THE DAY (CALENDAR)

SEC. 1870. The following motions are recognized as privileged at the beginning of the business of the day in the U. S. Senate.

(1) A motion to proceed to the consideration of an appropriation or revenue bill.

(2) A motion to proceed to the consideration of any other bill on the calendar, which motion is not amendable.

(3) A motion to informally pass or lay aside without prejudice.

(4) A motion to place such subject at the foot of the calendar.

All the foregoing motions are decided without debate and have precedence in the order named. (Practice of U. S. Senate.)

CHANGING NAME OF AUTHOR OF BILL

SEC. 1871. Frequently a member who is not the author of a bill becomes unusually interested in the perfection and passage of a bill introduced by another member. In instances of this kind it has been the practice of both Houses to reward such activities by giving them **recognition by attaching their names** as one of the

authors. This is frequently done when two members introduce bills on the same subject and the bills are joined, or but one of them is passed. In both of the foregoing cases the object sought can best be accomplished by following the **regular parliamentary method,** that is, Messrs. Sanborn, Baxter and Cole have introduced similar bills. The House passes the bill of Mr. Sanborn but the members desire to recognize both Mr. Baxter and Mr. Cole as having some part in the enactment of the law. Then offer the following motion **after the title is approved.**

FORM OF MOTION

SEC. 1872. Mr. Speaker: **I move that the bill of the House No......"stand" in the name of Messrs. Sanborn—Baxter—Cole.**

If this motion is agreed to the names of Messrs. Baxter and Cole will be inserted in the bill following the name of the author Mr. Sanborn. (The practice of Parliament brings a reduction of the names on the bill rather than an addition.

(A) The bill as originally printed has the name of the author and is followed by not more than twelve supporters and usually all are stricken off after passage but one, and the bill **"stands"** in the name of such member.

FIXED SALARY

SEC. 1873. It has been held in Congress that in the absence of a general law fixing a salary the amount fixed in the last appropriation bill is the legal salary.

OBSTRUCTING BUSINESS—FILIBUSTERING

SEC. 1874. Obstructive tactics in legislative bodies is a practice as old as legislative bodies. It is usually employed by minorities for the purpose of delaying business and to prevent majorities from accomplishing their purpose,

but it is more frequently resorted to for the purpose of forcing a majority to do the will of the minority and is frequently successful.

(A) In the early history of parliamentary bodies a very common means of obstructing business was for a member to gain possession of the floor in a parliamentary way, and then proceed to abuse his privilege by making a determined effort to delay and obstruct the business of the House, by talking until he would exhaust all his own resources and then proceed to read from papers, books, etc., for the purpose of holding the **floor and killing time.**

(B) Notable examples of the use of these tactics in the English Parliament were Parnell, Gladstone and Disraeli and in Congress Thomas B. Reed, Crisp, John Randolph and Gardiner. It is recorded of the latter that on one occasion he spoke twenty-four hours. Reed's tactics consisted not in lengthy speeches, but in demanding roll calls on every question submitted.

(C) In our American practice it is difficult to get a filibustering member off the floor, once he has gained possession of it, and particularly so, if the presiding officer prostitutes the dignity of his position and joins in the filibuster by lending encouragement and refusing to recognize members for points of order.

(D) Under the present rules of Parliament, successful filibustering by long speeches is next to impossible under the closure rule, elsewhere described in this volume. Under this rule the closure of debate may be demanded while the member is speaking.

(E) Nearly all American legislative bodies place a limitation on debate by rule, which varies from five to fifteen minutes, five generally preferred.

(F) Before the adoption of the closure rule in Parliament and the present previous question in Congress, both bodies had a simple but very effective means of forcing a "windy" speaker to his seat.

(G) A great English parliamentary writer declares "Speech not to convince, but to delay, is a recognized parliamentary offense, and subject to punishment. If there be any member of the House who insists on protracting debate when the majority of his associates demand the close of the debate, and such member is not to be put down by a sense of shame, or by the feeling of dissatisfaction among their fellow members, the House of Commons has a remedy, the power and the right to protest openly, loudly and effectively. This course is sanctioned by immemorial usage. In American parlance this merely means "Starting a rough-house."

(H) There are many recorded instances where this remedy has been effectively applied both in Parliament and Congress against notable characters to stop useless talking.

However, these outbursts of clamorous impatience are justifiable only after all other means have been tried and fail, and only as a last resort, then there should be no reluctance to do that which will advance the public business.

(I) Another very effective means to deal with filibustering is to employ what is called the "disappearing quorum." That is a sufficient number of members to leave the hall to break a quorum and then raise a point of order of no quorum. It has been held in the House that members are entitled to a quorum during debate.

(J) If the Speaker joins in the filibuster, charges could be preferred against him at a later date and a resolution of removal offered and adopted, or a resolution of public censure could be adopted against the president of the Senate.

DEALING WITH FILIBUSTERING OR OBSTINATE CHAIRMAN

SEC. 1875. When a presiding officer is obstinate and refused to perform his duties by putting and deciding a question, we have a precedent in the American House that

a member of the body may put the question for the selection of another presiding officer.

PRECEDENT

(A) In the National House it is provided that the clerk of the preceding House shall preside at the organization of a new House. At the organization of the 26th Congress the clerk refused to recognize members for any motion, except a motion to adjourn. A contention had arisen over seating the New Jersey delegation. In a vigorous speech John Quincy Adams condemned the action of the clerk and urged the House to take action to restore their rights as a legislative body.

(B) At the conclusion of Adams' speech, a member inquired, "Who will put our motion to the question?" "I will put the question," thundered Adams. Following this statement, John Rhett, a prominent member, moved that Adams take the chair and Rhett himself put the question. The motion carried and Adams was escorted to the chair and presided until a Speaker was chosen, the clerk being entirely ignored as the presiding officer. Usurpation of authority not given under the rules, by the clerk, is always speedily resented in Congress.

CHAPTER XLII

LEGISLATIVE PROCEDURE ILLUSTRATED

ILLUSTRATION OF THE USE OF MOTIONS AND AMENDMENTS

SEC. 1876. Mrs. Hyre: Mr. Speaker.

Speaker: The member from Cuyahoga, Mrs. Hyre.

Mrs. Hyre: Mr. Speaker, I ask unanimous consent to introduce a **resolution out of order,** for immediate consideration.

Mrs. Hanna: Mr. Speaker, will the member from Cuyahoga, Mrs. Hyre, yield to a question?[2]

Speaker: Will the member yield to a question?

Mrs. Hyre: With pleasure.

Speaker: The member yields.

Mrs. Hanna: If there be no objection to your request, will your resolution be considered at this time?

Mrs. Hyre: That is the purpose of my request, but as to the fact, that is a parliamentary question for the Speaker of the House to decide.

Mrs. Hanna: Mr. Speaker, I submit my question to the Speaker as a parliamentary inquiry.

Speaker: The member has plainly stated her purpose in the request she has made. She requests unanimous consent to introduce a resolution for immediate consideration. Unanimous consent to introduce suspends all rules, and therefore the right to introduce carries with it the right of

[1] The procedure herein described merely presents a hypothetical case, and is not to be considered as having taken place. It is doubtful if it ever would take place in all its detail in any legislative body. It is merely intended to illustrate the use of motions and general procedure.

[2] It should be noted that in asking questions of another member, the member must address the speaker, who asks the member who is speaking, if he will yield to a question, and unless he yields no question may be asked.

immediate and final consideration, whether named in the request or not. This practice has been fully established by eminent speakers of the National House.

RESOLUTION

H. R. 12. Mrs. Hyre: *Resolved,* That the Railway and Light Co., of the city of Columbus be, and is hereby authorized, and ordered to extend each of its car lines to the city limits, and elevate its car tracks on Third street, three inches between Whittier and Spring streets, and put in operation a ten minute schedule on Oak, Long, Broad and Livingston lines, and that same be completed within ninety days from this date.

Speaker: The question is on the adoption of the resolution

Mrs. Harding. Mr. Speaker, the rules require a resolution to lie over one day before being considered.

Speaker: That is true generally speaking but not in this case, the member comes too late with her objection; she should have objected to the introduction of the resolution. The member requested immediate consideration, which was not denied or objected to.

Mr. Kear: Mr. Speaker.

Speaker: The member from Wyandot, Mr. Kear.

Mr. Kear: I move the further consideration of the resolution be postponed.

Mrs. Harding: Mr. Speaker, question of order.

Speaker: The member will state her question of order.

Mrs. Harding: The House just now by unanimous consent permitted the introduction of the resolution for immediate consideration. It cannot be considered immediately if postponed.

Speaker: The question of order is not well taken and is overruled. The motions in the rule of precedence are included in the term of consideration.

Mr. Elsass: Mr. Speaker, I move we adjourn until tomorrow morning at 9 of the clock.

Mr. Crowe: Mr. Speaker, I move that we now adjourn.[1]

Speaker: The motion of the gentleman of Lawrence being unqualified takes precedence. The motion of the gentleman from Shelby is not in order because it fixes the time to which to adjourn and the House has fixed that hour by rule. The rules provide that only **the simple motion to adjourn is in order when a question is under consideration.** The question is: Will the House now adjourn? Those of you who favor adjournment say "Aye," those opposed say "No." I think the noes have it (pausing). The noes have it.

Mr. Cramer: Mr. Speaker, I move that the House adjourn to meet at 9:30 o'clock tomorrow morning.

Mr. Baum: Mr. Speaker, a question of order.

Speaker: The gentleman will state his question.

Mr. Baum: The motion is not in order. A question is now under consideration and this motion is not in order under our rules when a question is under consideration.

Speaker: The point of order is well taken and sustained. The motion will not be entertained.

Mr. Hall: I move to commit the resolution to the committee on Public Utilities.

Speaker: The question is shall the resolution be committed to the committee on Public Utilities? Those of you who favor commitment will say aye (pausing for vote). Those opposed will say no. I think the noes have it. The motion is lost.

Mr. Maddux: (Doubts the Speaker's decision and objects, saying:) "The ayes have it." If the Speaker hears, he should proceed to divide the House by a rising vote, if he does not hear, Mr. Maddux may demand a division.

Speaker: Those in favor will rise (after count). Those opposed will rise (after count). The resolution is in possession of the House for consideration, a majority voting in the affirmative.

The question is on the adoption of the resolution.

Mr. Pettit: Mr. Speaker, I request a division of the resolution.

Speaker: There seems to be four distinct propositions in the resolution and with the consent of the House, the chair will divide same into four parts as follows:

First division: The Railway, Power and Light Co. is hereby authorized and ordered to extend its car lines to the city limits.

Second division: The Railway, Power and Light Co. is authorized and ordered to elevate its car tracks three inches on Third street between Whittier and Spring streets.

Third division: That the Railway, Power and Light Co. be ordered to put in operation a ten minute schedule on Oak, Long, Broad and Livingston streets.

Fourth division: That the Railway, Power and Light Co. is hereby ordered to complete the improvements herein named within ninety days from this date.

Speaker: The question is on the first division of the resolution (stating it).

Speaker: Those of you who are of the opinion the first division should be agreed to say aye.

Those of a contrary opinion say no.

The ayes have it, the first division is agreed to.

The question now arises on the second division.

Mr. Kehrer: Mr. Speaker, I move to amend by striking out "3 inches" and inserting "4 inches."

Clerk: Mr. Speaker, this amendment does not conform to the rules. The gentleman uses numerals in the amendment instead of writing the full words.

Speaker: Will the gentleman withdraw his amendment for correction? As written it is out of order being a violation of the rules, **figures** are not permissible in bills or amendments, except for lines, sections and appropriations. (The member makes the correction and the House proceeds.) The question is on agreeing to the amendment of the gentleman from Crawford.

Miss Cramer: I move to indefinitely postpone the amendment.

Mr. Richards: Mr. Speaker, a question of order.

Chair: The member may state his question of order.

Mr. Richards: The motion to indefinitely postpone may not be applied to the amendment but must be moved on the entire resolution. I think, Mr. Speaker, the House should understand the effect of an affirmative vote on this question—

Mr. Bostwick: Mr. Speaker, a parliamentary inquiry. If the Speaker admits this motion what will be the parliamentary effect or situation?

Speaker: First, the Speaker will decide the question of order and then answer the parliamentary inquiry. The question of order is sustained, it is not in order to indefinitely postpone a motion to amend, if admitted the amendment and resolution would both be indefinitely postponed, the same as would be, in case the motion was properly made to postpone the resolution, the amendment would go with it. Another thing, the motion to amend has precedence of the motion to indefinitely postpone and if the amendment is agreed to there would not remain anything to indefinitely postpone, therefore the motion would fall.

Speaker: The question recurs on the amendment of the gentleman from Crawford.

Mr. Mooney: Mr. Speaker, I move we adjourn.

Speaker: Those in favor of adjourning will say "aye." Those opposed say "No". I think the noes have it and the motion is lost. The question is on agreeing to the amendment of the gentleman from Crawford.

Mr. Bittinger: Mr. Speaker, I move the House do adjourn.

Speaker: The gentleman is out of order. The motion to adjourn may not be repeated unless there has been intervening business and further the chair feels that the motion is **dilatory** inasmuch as the House only

a moment ago decided it would attend to business and not adjourn.

Mr. Roberts: I appeal from the decision of the chair.

Speaker: The question is "Shall the decision of the Speaker stand as the judgment of the House?"

Speaker: The question is "Shall the appeal of the gentleman, Mr. Roberts, be laid on the table?" Those who favor laying the appeal on the table will say "aye". Those opposed say "no". I think the ayes have it. The appeal is laid on the table and the **effect is to sustain the decision of the Speaker.** The motion to adjourn is out of order and the question recurs on the amendment of the gentleman from Crawford. Those of you who favor the amendment will say "aye" and those opposed will say "no". The motion to amend, I think is lost. The amendment is lost and the question recurs on the second division of the resolution.

Mr. Vail: Mr. Speaker, considerable time has elapsed since the reading of the division and I suggest that it would be helpful if the clerk would read the division again for the benefit of those of us who have poor memories.

Speaker: The clerk will read the second division of the resolution.

Clerk: (Reads.)

Speaker: The question is on the second division.

Mr. King: Mr. Speaker.

Speaker: The gentleman from Vinton, Mr. King.

Mr. King: I move that this division be committed to the committee on Cities.

Mr. Schweikert: Mr. Speaker.

Speaker: The gentleman from Fairfield.

Mr. Schweikert: I move to amend by adding at the end of the motion the words "with leave to report at any time."

Speaker: The amendment of the gentleman is not in order; if adopted it will have the effect of changing the rules, which provide when committee reports may be received and therefore would require a two-thirds vote to adopt the motion to commit, and in addition will open the question to general debate. It is not in order to change a question that would require a majority vote to adopt by amendment so as to require a two-thirds vote for adoption.

Mr. Pringle: Mr. Speaker.

Speaker: The gentleman from Cuyahoga, Mr. Pringle.

Mr. Pringle: I move to amend the amendment by striking out the words "at any time" and inserting the words "this day week."

Speaker: The gentleman from Cuyahoga, Mr. Pringle, moves to amend.

Clerk reads amendment.

Speaker: The question is on agreeing to the amendment (debate proceeds).

Mr. Agnew: Mr. Speaker, I suggest the absence of a quorum.

Speaker: (After counting House.) A quorum is not present and business will be suspended. Without a quorum the House is incompetent to transact business, but under the constitution we may do either of two things, the House may adjourn, or demand a call of the House and instruct the sergeant-at-arms to arrest and bring in all absentees. What is the pleasure of the House?

Mr. Hansen: Mr. Speaker.

Speaker: The gentleman from Lucas.

Mr. Hansen: I demand a call of the House.

Speaker: A call of the House has been demanded and is properly supported. The sergeant-at-arms will dispatch his messengers for absentees. The clerk will call the roll.

Mr. Weaver: Mr. Speaker.

Speaker: The member from Williams, Mr. Weaver.

Mr. Weaver: I move we now adjourn.

Speaker: The motion is out of order. The roll may not be interrupted by a motion. The clerk will proceed with the call.

Clerk: (After roll call.) Mr. Speaker, seventy-five members have answered present.

Speaker: A quorum is present.

Mr. Williamson: Mr. Speaker.

Speaker: The gentleman from Greene.

Mr. Williamson: I move that all absent members be fined as provided in the statutes and that the Speaker shall assess such fines.

Speaker: Those of you who are of the opinion the motion (stating it) should be agreed to, will say "aye". Those of a contrary opinion say "no". I think the ayes have it. The motion is agreed to and the Speaker will carry out the will of the House. The question is on the amendment of the gentleman from Cuyahoga, Mr. Pringle.

Mrs. Slagle: Mr. Speaker.

Speaker: The member from Mahoning.

Mrs. Slagle: I move to amend the amendment to the amendment by striking out "this day week" and inserting "tomorrow."

Speaker: The member's amendment is out of order. It is in the third degree and is not permissible. If the House votes down the pending amendment, then the member may offer her amendment to the main motion.

Mr. Porter: Mr. Speaker.

Speaker: The gentleman from Hamilton, Mr. Porter.

Mr. Porter: I desire to offer this substitute motion. Strike out all of the motion after word "that" and insert "the second division of the resolution be referred to the committee on Public Utilities, and that it be in-

structed to report same immediately following the reading of the Journal tomorrow."

Mr. Weir: Mr. Speaker, a parliamentary inquiry.

Speaker: The gentleman will state his query.

Mr. Weir: If this substitute is adopted it will change the order of business relative to committee reports and for this reason, I think it will require a two-thirds vote to finally adopt this substitute amendment.

Speaker: The gentleman's observations are correct, and he makes his observation at the proper time, that is before the vote is taken.

Mr. Nelson: Mr. Speaker.

Speaker: The gentleman from Fayette, Mr. Nelson.

Mr. Nelson: Is an amendment in order to the substitute?

Speaker: The chair thinks that both the original and the substitute may be perfected by amendments before the final adoption of either.

Mr. Nelson: Mr. Speaker, I wish to offer the following amendment to the substitute. Strike out all the words after "report" and insert "upon the first regular call of committees."

Speaker: We have before us a peculiar, but legitimate parliamentary situation which we think will finally adjust itself into an expression of the will of the House. The first question is on the amendment of the gentleman from Cuyahoga, Mr. Pringle. Those in favor of the amendment will say "aye". Those opposed will say "no". The amendment is almost unanimously carried. The question is now on the amendment of the gentleman from Fayette. Those in favor of the amendment will say "aye". Those opposed say "no". I think the amendment is lost. The amendment is disagreed to. The question now recurs on the original motion of the gentleman from Cuyahoga county, to which a substitute with an amendment is pending . Therefore the question to amend the substitute has precedence. Those of you

who favor the amendment to the substitute will say "aye", and those opposed say "no". I think the ayes have it. The amendment is adopted.

The question is now on the substitute of the gentleman from Hamilton, Mr. Porter, as amended. Those who favor the substitute will say "aye", (pausing) those opposed will say "no".

Speaker: I think the ayes have it. The substitute as amended is agreed to.

The question now recurs on the motion of the gentleman from Cuyahoga as amended by the substitute which is: That the second division be committed to the committee on Public Utilities with instructions to report on the first call of committees.

Mr. Bing: Mr. Speaker, does this motion as stated require a majority or a two-thirds vote?

Speaker: The motion as it now stands does not change the rules, the instruction is to report at a regular time under the rules, therefore it will require only a majority vote to commit. Those in favor of the motion to commit as amended will say "aye"; those opposed will say "no". I think the ayes have it. The resolution stands committed to the committee on Public Utilities.

Mr. Gradison: Mr. Speaker, did that vote send the entire resolution to the committee?

Speaker: The gentleman is correct. If you commit a part of the proposition it carries the entire proposition with it.

Mr. Jones, of Jackson: Mr. Speaker.

Speaker: The gentleman from Jackson.

Mr. Jones, of Jackson: I'm in a tangle. It was not our purpose to take the resolution from the consideration of the House but simply the second division.

Speaker: The chair is not responsible for mistakes of members and has no power to interpret the minds of members when they make motions. The clerk will report the next order of business.

Clerk: H. B. No. 29—Mr. Keifer. Relative to personal taxes.

Speaker: Third reading of the bill. The question is "Shall the bill pass?"

Mr. Foster: Mr. Speaker.

Speaker: The gentleman from Cuyahoga, Mr. Foster.

Mr. Foster: I move to reconsider the vote by which the resolution of the member from Cuyahoga, Mrs. Hyre, was sent to the committee on Public Utilities.

Speaker: The gentleman is out of order. The motion to reconsider may not be applied to a vote committing a proposition unless there was error in commitment.

Mr. Templin: Mr. Speaker.

Speaker: The gentleman from Clinton.

Mr. Templin: I desire unanimous consent to make a motion out of order.

Mr. Aumend: Mr. Speaker.

Speaker: The gentleman from Fulton.

Mr. Aumend: Will the gentleman yield to a question?

Speaker: Will the gentleman yield to a question?

Mr. Aumend: I will.

Speaker: The gentleman yields.

Mr. Aumend: What kind of motion does the gentleman intend to make?

Mr. Templin: To discharge committee of the resolution we just committed.

Mr. Aumend: I object.

Speaker: Objection being made, the member may not make his motion.

Mr. Frick: Mr. Speaker.

Speaker: The gentleman from Seneca.

Mr. Frick: I move to suspend the rules to enable me to make a motion to discharge the committee.

Speaker: The question is on suspending the rules to permit the gentleman from Seneca to make a motion, otherwise out of order. Those who favor the motion will say "aye", those opposed "no". I think the ayes have it. The motion having received an affirmative vote of two-thirds, the member may now make his motion.

Mr. Frick: I move that the committee on Public Utilities be discharged from further consideration of H. R. No. 12.

Speaker: (Stating question.) Those in favor of the motion will say "aye", those opposed say "no". I think the motion is agreed to. The motion is agreed to. The question is on agreeing to the second division of the resolution. Those of you who favor the second division will say "aye".

Mr. Creesy: I demand a yea and nay vote.

Speaker: The gentleman's demand comes too late, the affirmative of the question has been taken. Those of you opposed to the motion will say "no". I think the ayes have it. The second division is agreed to.

Mr. Smith: I move we now adjourn.

Speaker: The member from Columbiana moves we now adjourn. Those who favor adjournment say "aye", those opposed say "no". I think the motion is lost. The clerk will report the next division.

Mr. Guard: I move to amend by striking out "Spring street" and inserting "Naghten street".

Speaker: The question is on the amendment to the second division to strike out the words "Spring street" and insert the words "Naghten street". Those who favor the amendment wll say "aye". Those opposing say "no". I think the amendment is lost. The question now recurs on the second division.

Mr. Glenn: Mr. Speaker, I move that the further consideration of this division be postponed.

Mr. Blum: A parliamentary inquiry, Mr. Speaker.

Speaker: State your question.

Mr. Blum: If this motion prevails does it postpone the entire resolution?

Speaker: It does.

Mr. Glenn: Mr. Speaker, I desire to withdraw my motion.

Speaker: No amendment having been made to the motion, under the rule, Mr. Glenn exercises his right and withdraws his motion. The question now is upon the second division. Those of you in favor of the second division will say "aye", those opposed will say "no". I think the ayes have it, (pausing) the second division is agreed to.

Mr. Silbert: Mr. Speaker, I move that the vote by which the second division was adopted be now reconsidered.

Speaker: The question is on reconsidering the vote on the second division.

Mr. Kane: Mr. Speaker, I move that the motion to reconsider be laid on the table.

Speaker: The question is "Shall the motion to reconsider be laid on the table?"

Mr. McCune rises and proceeds in debate.

Mr. Mardis: Mr. Speaker.

Speaker: The member from Athens, Mr. Mardis, will state his point of order.

Mr. Mardis: The motion to lay on the table is not debatable.

Speaker: The question of order is well taken and is sustained, the gentleman from Jefferson is out of order. The question is "Shall the motion to reconsider be laid on the table?"

Mr. Johnson: Mr. Speaker, I understand that under our rules if this motion is laid on the table it will kill the resolution.

Speaker: The gentleman is out of order, this question is not debatable, the asking of a question or making a statement is debate. If a member has fear of the result, his remedy lies in voting down the motion.

Those of you who favor laying the motion to recon-

sider on the table will say "aye", those opposed will say "no". I think the noes have it. The motion is lost and the question recurs on the motion to reconsider the vote on the second division. Those who favor reconsidering the vote on the division will say "aye". Those opposed will say "no". I think the ayes have it. The motion is agreed to.

Mr. Dean: Mr. Speaker, I move the House recess until 1:30 the clock.

Speaker: The gentleman from Meigs moves the House do recess until 1:30 the clock. Those in favor of recess say "aye", those opposed "no". The motion is lost. The question recurs on agreeing to the second division.

Mr. Myers: I move to amend by striking out "Spring street" and inserting "Naghten street".

Mr. Baldwin: A question of order, Mr. Speaker.

Speaker: The gentleman from Medina will state his point of order.

Mr. Baldwin: The amendment is out of order. The House earlier in the day decided that "Spring street" should remain as a part of the resolution by rejecting an amendment to strike out.

Speaker: The question of order is well taken and sustained. The rule is that a matter once passed upon by the House and agreed to or rejected may not thereafter be stricken out or inserted. The gentleman may, however, offer his amendment to be inserted after the words "Spring street", or he may reconsider he vote striking out "Spring street". The question recurs on the second division.

Mr. Forney: Mr. Speaker, I move the previous question on this division and the resolution to its final rejection or adoption.

Speaker: Is the demand for the previous question seconded, or properly supported? (If five members join in the demand.) Speaker: The question is "Shall the main question be now put?"

Speaker: Those who favor ordering the previous question on this resolution say "aye". Those opposed say "no". I think the ayes have it. The previous question is ordered. The question is on the second division.

Mr. Hamrick: Mr. Speaker, I wish to offer an amendment which I am writing.

Speaker: The member from Gallia is out of order, the previous question has been ordered and the effect is to cut off all debate and amendment. Those of you who favor the second division will say "aye". Those of you opposed will say "no". I think the ayes have it. The second division is agreed to.

Mr. Gillogly: We are consuming much time with this resolution and I suggest that we consider the remaining divisions at the same time.

Speaker: Without objection, the chair will put the question on the remaining divisions and have same decided with one vote. There being no objection, the question is "That the Railway, Power and Light Co. be ordered to put in operation a ten minute schedule of cars on Oak, Long, Broad and Livingston streets and that the improvements herein proposed be completed within the next ninety days."

Mr. Ward: I move to strike out the last two lines of the last division.

Speaker: The gentleman's amendment is out of order, the previous question is operating.

Mr. Sheppard: I demand a call of the House.

Speaker: The call is properly supported by two members, but the demand comes too late, the previous question has been ordered, the demand would have been in order before the vote ordering the previous question, but may not be demanded at this time. The question is on the third and fourth divisions of the resolution. Those who favor these divisions will say "aye", those opposed will say "no". I think the ayes have it. Divisions three and four are

agreed to. The question is now on the resolution as a whole.

Mr. Bing: I move to lay the resolution on the table.

Speaker: The question is "Shall the resolution be laid on the table?" Those in favor of the motion say "aye", those opposed say "no". The ayes have it.

Mr. Headington: Mr. Speaker, I move to reconsider the vote laying the resolution on the table.

Mr. Burk: Mr. Speaker, a point of order.

Speaker: State your question of order.

Mr. Burk: The rules and practice provide that the motion to reconsider may not be applied to the affirmative vote to lay on the table.

Speaker: The question of order presents a question about which there have been conflicting rulings in our National House, but it seems that the most carefully considered rulings by the most eminent Speakers, point to the final conclusion that this vote should not be reconsidered, the point of order is sustained.

Mr. Krickenberger: I appeal from the decision of the chair.

Speaker: The gentleman from Darke appeals from the decision of the chair. The question is "Shall the decision of the Speaker stand as the judgment of the House?"

Mr. Roberts: I demand a yea and nay vote.

Speaker: (After satisfying himself the demand is properly made states question.) The clerk will call the roll, those of you who agree with the Speaker will vote yes as your names are called, those who disagree with his ruling will vote no, when your names are called. The clerk will call the roll. After roll call—

Speaker: A majority having voted to sustain the decision of the Speaker, the motion is out of order. The clerk will report the next order of business.

Mr. Ray: Mr. Speaker, I move that we now adjourn.

Speaker: The question is "Shall the House now adjourn?" (After putting question if decided affirmatively.)

Speaker: The House stands adjourned until the hour of our next regular meeting under the rules.

CHAPTER XLIII

DISCUSSION OF STANDING PARLIAMENTARY RULES CONTAINED IN THE CONSTITUTION

INTRODUCTION

SEC. 1877. The discussion of parliamentary rules in the Ohio Constitution contained in this chapter are in no way to be construed as judicial opinions on the subject. However, all of them except that on the duties of the president of the Senate were examined and okehed by a former distinguished and progressive member of the Ohio supreme court as well as other good lawyers. For this reason we have felt no reluctance in inserting them here, we are fully advised that many lawyers may disagree with our conclusions notwithstanding our conclusions in most instances are founded on decisions of our courts. (The author.)

THREE READINGS OF BILLS

SEC. 1878. **Every bill shall be fully and distinctly read on three different days, unless in case of urgency, three-fourths of the House in which it shall be pending, shall dispense with the rule.** (Art. II, Sec. 16.)[1] An analysis of the foregoing rule, shows that it provides four things (which the Ohio Supreme Court says are

[1] At least one state in the Union has awakened to the absurdity of the constitutional rule, requiring all bills to be read in full on three separate days and have eliminated this antiquated practice from its constitution. Its new constitutional provision is sensible and should attract favorable attention of the other states. The Nebraska constitution provides "Every bill and concurrent (joint) resolution shall be read by title when introduced and a printed copy thereof, provided for the use of each member, and the bill and all amendments thereto shall be printed and read at large before the vote is taken upon the final passage." It would have been still better if the words "read at large" were eliminated. This requirement is simply a time consumer and serves no other good purpose in this day of printing presses. A member who will not read the printed bill on his desk will not listen or give attention to the roar or hum of a reading clerk.

merely directory) that each House shall do in passing bills:

(1) **Every bill shall be fully and distinctly read.**

(2) Every bill shall be fully and distinctly read three times.

(3) **Every bill shall be fully and distinctly read once on three different days.**

(4) **It provides** that in cases of **urgency, not part, but all of the foregoing rule may be dispensed with.**

In applying this constitutional rule in legislative practice, it is important to fully understand the meaning of the term **"dispense"** and the extent of its intended application, to-wit: **Does it merely dispense with the reading of bills on different days and permit three readings on the same day? Or does it also entirely dispense with the three readings fully and distinctly?** Mr. Webster defines the word **"dispense"** as follows: "To permit the neglect or omission of, as a form, a ceremony, an oath, to suspend the operation of, as a law, hence to give up, do without, to part with." That eminent lawyer and famous Speaker of the National House of Representatives, Thomas B. Reed, in defining the equivalent parliamentary term **"suspend",** said: ("The very purpose of a suspension of a rule is to do away with the rule, so the House may **act as freely as it pleases."** It is not provided in this rule that a certain clause or part of the rule be dispensed with, but the entire rule is to be set aside. Therefore, the writer thinks, that in cases of urgency the dispensing with the rule as permitted in the constitution, **dispenses as well with the three readings of the bill as any other requirement** of the rule.

(A) This rule in the constitution was adopted from the practice of the English parliament and was then two centuries old in that body. With the modern printing press we now have, a rule of this kind in the legislative procedure of America was wholly unnecessary as the real purpose of the three readings was to acquaint the

members with the subject matter of the bills. All bills are now printed and placed on the member's desk, and the necessity of reading bills to acquaint them with its contents, it would seem, no longer exists and is it not reasonable to presume that the power of dispensing with the rule, was given for this very reason? The makers of the constitution knowing these facts, wisely, we think, provided a means to set aside the laborious, monotonous and time-consuming practice of reading bills three times by dispensing with such reading. If our legislative assemblies observed this rule to the very letter and never dispensed with it there would be little accomplished but the reading of our bills and instead of sine die adjournment in three or four months they would continue through six or eight months and then they would not finish their business. We are of opinion that the makers of the constitution did not intend to fasten on the legislative body an ironclad rule, the strict observance of which would impede the expeditious transaction of business, they therefore, as if by second thought, provided a means of escape from the strict requirement of the rule by giving authority to set aside the rule and inasmuch as the reading of bills is one of the important requirements; we believe the intention was to dispense with these readings entirely. This rule with a slight change was a part of the Constitution of 1802. The rule of 1802 provided it could be dispensed with if three-fourths of the House **"deemed it expedient."** These latter words were omitted in the 1851 Constitution. The question as to whether the three readings of the bill may be dispensed with, or are bills to be read three times when the rule is dispensed with has never been, so far as we can find, directly presented to the Ohio court, but this section was considered by the Ohio Supreme Court and the opinion written by Justice Thurman. This opinion has formed the basis of other opinions of this court and has been liberally cited by most of the American courts where the state consti-

tutions are substantially the same as ours. In Vol. 3, 482-3, Ohio Rep., in his opinion Justice Thurman says: "It is nowhere stated in the Journal that any reading of a bill was full and distinct, although the constitution requires that every reading shall be so. But surely this omission does not vitiate every act that has been passed." Everybody, I suppose, would admit the reading being stated, the fullness and distinctness thereof may be presumed. If so, why may not the reading and on three different days be presumed, when to do so contradicts nothing in the Journal. But for argument's sake, let it be admitted that the bill was read but once in the Senate is the act for that reason void? In 1836, the court again reviewed this section but examined another requirement of it. In this opinion, written by Judge Swan, he approves the opinion of Justice Thurman as follows:

(B) "The court held in the case of Miller and Gibson v. the State, 3 Ohio St. Rep. 475, that the above provisions of the above section (Art. II, Sec. 16) relating to the distinctness required in reading a bill and the number of times a bill shall be read, were, as they in fact import, **intended as permanent rules for the proceedings of the Houses.** They are directory only, **and are to be enforced by the Houses, and not by the judicial interposition.** The further provisions that no bill shall contain more than one subject, which shall be **clearly expressed in its title,** is also made a permanent rule in the introduction and passage of bills through the Houses.

(C) **The subject of the bill is required to be clearly expressed in the title for the purpose of advising members of its subject, when voting, in cases in which the reading has been dispensed with by a three-fourths vote."** (6 O. S. Rep. 179.) **It seems that in this last sentence Judge Swan has fully and completely answered our query. May either House under the constitutional rule entirely dispense with the three readings of a bill in urgent cases. He says that the reason for expressing the subject clearly in titles is to protect members, when**

the rule requiring bills to be read three times is dispensed with and bills are not read. Judge Swan was evidently thinking of the time when the Houses would take advantage of its constitutional right to dispense with the reading of a bill to facilitate the expeditious passage of an urgent act.

(D) In view of the very careful wording of the constitutional rule and its interpretation by the Ohio Court, we are convinced that each House is bound to read all bills three times fully and distinctly, unless in its own judgment by a three-fourths vote it dispense with any and all readings of a bill. In other words, the writer is of opinion that if a member of either House should arise therein and present his desires in this form: "Mr. Speaker, I ask unanimous [1] consent to dispense with the House and constitutional rules relative to reading bills, to permit me to introduce a bill for immediate and final consideration," that if no objection was made that the bill could be introduced and one reading for the information of the House would be sufficient and the bill could then without further reading be placed upon the engrossment and passage without further motion or action of the House to satisfy the constitutional rule.

(E) The present cumbersome practice of the House is to suspend the constitutional rule for each reading and the reading is considered to be completed by reading the bill by title. This practice is a time consuming one and is we think wholly unnecessary for the reason if the rule is dispensed with once it remains inoperative against the bill for that day.

Judge Thurman further says relative to reading bills: "It is contended that this section (Art. II, Sec. 16) of the constitution was disregarded by the Assembly in passing the act under consideration, in that the bill was not read on three different days, or even three different times, although such readings were not dispensed with by a three-fourths

[1] If the member prefers instead of asking unanimous consent, he can procure the same result by moving to suspend the assembly and constitutional rules.

vote and hence it is argued the fact is void." (3 O. S. Rep. 475.) In this case the court held the act to be a valid one.

In reading the rules of Parliament adopted in 1919, we are led to the conclusion that both the House of Commons and the Lords no longer hold strictly to the old rule that bills must be read three times, in fact they are frequently passed through the three stages without being read extenso. The important thing now seems to be **the printing of the bills.** Also bills may now be introduced without leave from the House so to do. Examine the wording of the rule of Commons which reads in part, Bills may be presented at the table (in other words to the clerk) compare this language with that of our National House which reads: Bills may be introduced by filing with the clerk. The English rule further provides that upon presentation the clerk shall read the bill by title, which shall be its first reading. The name of the member introducing the bill is endorsed on the back and may be supported by not more than twelve (12) other members whose names also appear on the bill. When the order for the second or third reading of a bill is read, it is usual for a motion to be made that the bill be read the second or third time **now** (as the case may be). If an amendment is offered to omit the word **now** and insert another time and is negatived, and the word **now** remains in the bill, the rule reads the Speaker must forthwith declare the bill read the second or third time (as the case may be). Thus it will be seen that while the bill passes through the several stages of reading, the actual reading extenso does not take place. After second reading a bill stands committed without motion to that effect. The Speaker selecting the committee, but in so doing he is controlled by the rules.

See decisions of California supreme court, chapter on Court Decisions, this volume.

AUTHENTICATION OF BILLS

SEC. 1879. **The presiding officer of each House shall sign, publicly in the presence of the House over which he presides, while the same is in session and capable of transacting business, all bills and joint resolutions passed by the General Assembly.** (Art. II, Sec. 17.)

(A) The Debates of the Constitutional Convention of 1851 (which adopted the foregoing mandatory rule for the guidance of the Assembly) throws but little light upon the meaning, intent and purpose of this legislative requirement.

We do find, however, that there was a substantial change from the provision found in the first, or the constitution of 1802, which reads: **"Every bill having passed both Houses shall be signed by the Speakers of their respective Houses."**

(B) It appears from the Debates and Journals that the foregoing provision of the constitution was overlooked, for a time, by the Convention of 1851. The foregoing provision of the Constitution was omitted in the first report of the legislative committee which had charge of all matters pertaining to the General Assembly. At the close of the debate on the report of the legislative committee, Mr. Sawyer (a former member of the House of Representatives), chairman of the legislative committee in the Convention, offered from the floor an amendment to the report proposing substantially the provision of the then existing Constitution, noted above. The amendment was agreed to as introduced, and the entire report was recommitted to the legislative committee. When reported a second time, this provision was included, but the committee had for reasons not shown in the Journal, inserted into Mr. Sawyer's amendment some very "sharp teeth" to-wit: The act of signing must be done **"publicly in the presence of the House while the same is in session and capable of transacting business."**

(C) This clause **"capable of transacting business"** means nothing at all, if it does not mean that **bills shall be signed in the presence of a quorum.** The constitution provides when the House may do business in Art. II, Sec. 6, in this language: "A majority of all the members elected to each House shall be a quorum to do business." According to this provision **less than a quorum is not "capable of doing business" and to sign a bill in the absence of a quorum would be to disregard** this mandatory requirement. It further provides that the act of signing shall be done "publicly and in the presence of the House." It must be conceded that the House is not constituted unless a quorum is present. What can be the purpose of this requirement that the act of signing bills must be done publicly and in the presence of the House?

(D) It certainly will not be contended that the purpose of such public act is to give opportunity **to the public generally to witness this official act of the Assembly.** The Convention certainly had in mind the correction of some **legislative abuse then prevalent** in the legislative bodies, which permitted bills to be signed at any time or place, that would suit the convenience of the presiding officers and without the **consent or knowledge of the members that such final act was taking place.** Does it require a stretch of the imagination to agree with the **Supreme Court of Wyoming** in its analysis of this provision? That it is for the purpose of giving members an opportunity to object to the authentication and permit the House to revoke its prior determination in respect to the bill, if a majority should arrive at the conclusion that the bill as it stands to be signed, **does not represent the final and deliberate judgment of the body.** (12 Wyo., p. 270.) If bills were signed in the absence of a quorum, of course the action here outlined would be impossible. Is it not fair to conclude, then, that the very purpose of providing that the act of signing must be in the presence of the House, was for the purpose of stop-

ping the final act, if the House desired to act further on the bill?

(E) The Wyoming Court further says **"That the signing of bills is the act of the House itself** although the signature appended is that of the presiding officer, since the latter in that matter represents the body whose officer he is. (12 Wyo., p. 270.) Ruling on the acts of the Speaker, Speaker Reed said: "In the end it is a power exercised by the House through its **properly constituted officers."** If the interpretation of this court and Mr. Reed is correct **that it is the House that signs the bill then we submit that if the House is not satisfied with the bill to be signed it has the resulting power to stop this final action by ordering the presiding officer to withhold its (the House's) signature and give opportunity to the House to make the bill satisfactory,** or if they should so desire defeat the bill at this final stage.

(F) The Supreme Court of Ohio has not gone so far as the Wyoming Court in interpreting this section, but it has said: "The attestation of the presiding officers of the General Assembly is a solemn declaration of a **coordinate branch** of the state government." "It is fair to construe this statement of the court as meaning that the signing of the presiding officer is a solemn declaration of that branch of the legislature in which it takes place, **not the officer who does the signing.** The U. S. Supreme Court has held that the signing of bills by the presiding officers is the attestation of the two Houses. If so, then the Ohio Court and the U. S. Supreme Court stand in agreement or affirm the Wyoming Court that the House itself signs the bill. If it is the House that acts, then the House has the right and power to regulate its own act so long as it keeps within the Constitution. It is not a rare or unusual thing in our national Congress for the House and Senate to instruct their presiding officers to erase their signatures from bills after they have been signed, and very often rescind the act of signing.

(G) If the right to erase and rescind exists, then certainly the power to prevent the act in the first place is lodged in the **bodies.** But it will no doubt be contended that the Constitution just as strongly provides that the presiding officers shall sign all bills passed by both Houses. This being true, the question that naturally arises is, **"When has a bill passed both Houses? When is it ready for signature?** Is it when it has been read three times in each House and the vote taken on passage? We think not, for were this true, much important work that is frequently done by way of perfecting bills, after the vote on passage would thereby be precluded. A bill, we think, is finally passed to be signed by the presiding officers when both Houses have had opportunity and have given final conclusive consideration to such bill (and the House, not the presiding officer, is the sole judge of when their action is final and conclusive) and they are willing for such to receive the solemn attestation which makes it a valid act to go to the people, and not until then is it ready for signature.

(H) The act of signing is not commanded to take place until the lawmaking body is satisfied with its work and is ready for signature. So when a bill is presented for signature, the presiding officer would assume grave responsibility to sign such bill, if the House either directly or indirectly, signified to such officer that it was opposed and did not desire such signing. That distinguished American and long-time servant of the people in the legislative halls of Congress, James G. Blaine, when he was Speaker of the National House ruled on the question, "When is a bill passed?" He said: "When a bill is passed the record of the legislative action is not complete, until a motion to reconsider has been made and that motion is laid on the table, when the action of the House is thus consummated, the action is final."

(I) Speaker Thomas B. Reed affirmed this ruling in the following language: "The vote of the House upon any

proposition is not final or conclusive upon the House itself until there has been opportunity to reconsider."

GOVERNOR'S POWER TO NEGATIVE

SEC. 1880. Every bill passed by the General Assembly shall, before it becomes a law, be presented to the Governor for his approval. If he approves he shall sign it and thereupon it shall be filed with the Secretary of State. If he does not approve it, he shall return it with his objections in writing to the House in which it was originated, which shall enter the objections at large on its Journal, and may then reconsider the vote on its passage.

(A) If three-fifths of the members elected to that House vote to repass the bill, it shall be sent with the objections of the Governor, to the other House, which may also reconsider the vote on its passage. If three-fifths of the members elected to that House vote to repass it, it shall become a law, notwithstanding the objections of the Governor, except that in no case shall a bill be repassed by a smaller vote that is required by the Constitution on its original passage. In all such cases the vote of each House shall be determined by yeas and nays and the names of the members voting for and against the bill shall be entered on the Journal. If a bill shall not be returned by the Governor within ten days, Sundays excepted, after being presented to him, it shall become a law in like manner as if he had signed it, unless the General Assembly by adjournment prevents its return; in which case, it shall become a law, unless, within ten days after such adjournment it shall be filed by him, with his objections in writing in the office of the secretary of state. The Governor may disapprove any item or items in any bill making an appropriation of money, and the item or items so disapproved, shall be void unless repassed in the manner herein prescribed for the repassage of bills. (Art. II, Sec. 16.)

(B) The foregoing provision of the Constitution was as seriously considered as any proposal that was before the

Convention of 1912. Anyone who will read the debates on this subject will learn to their entire satisfaction that the convention was opposed to, and did not intend to give the Chief Executive an absolute veto power, but merely a limited power to force further consideration by the Assembly.

(C) Substantially the same proposition was considered by the Convention of 1851, and defeated by that body. We think that Mr. Dorsey of that Convention in his remarks on this question expressed fully the sentiment of a majority of that Convention as well as the sentiment that seemed to pervade the Convention of 1912. He said: "I do not favor the veto simply because the Governor by this negative would be able to force a reconsideration of important matter on the General Assembly. No, it is not that. It was the knowledge which existed among members of the Legislature that if the subjects on which they were called to deliberate were not carefully considered, weighed and deliberately acted upon, there was a power which would present reasons for their **reconsideration,** spread them forth throughout the state and cause them to be held up before the minds of the people, at the same time that it called for a reconsideration by themselves—and it is this primary action—this primary effect—inducing calm, cool and earnest deliberation on the subject that was to be brought before them, previous to the vote being given, which was going to have a more beneficial effect and produce better results than the mere act of **forcing reconsideration."**

(D) Stating it concisely, the real purpose of giving a limited veto to the Governor was to discourage hasty, imprudent and illy considered legislation, and to defer the taking effect of such law, and to force a reconsideration with the help of the Governor's suggestions. In the Convention of 1912, when they were considering substantially this same provision it was persistently pointed

out by the Hon. Edward Doty, a former member and clerk of the House, that this provision gave to the Governor an **absolute veto,** over at least fifty per cent of the work of the General Assembly.

(E) During the course of debate, Mr. Doty made this very significant query: "Don't you think if we have the veto power, there ought to be a provision in it that shall make it impossible for the Governor to veto without review by the Legislature?"

In this question Mr. Doty was asking if it would not be advisable to prevent the use of the veto after the General Assembly had adjourned sine die. Mr. Doty's question was not clearly understood and he said: "I will make myself clear by an illustration: "The General Assembly adjourns today at noon, sine die. Up to noon today and in the last three days they have made fifteen new laws. The Governor has ten days from today at noon to approve or veto fifteen laws

(F) "The legislature having adjourned sine die, will never have a chance to review the Govenor's veto." The Convention considered at length the Doty suggestion, but was inclined to the opinion that it should not be made a part of the organic law, but it should be left to the Assembly to protect itself against the action of the Governor.

The suggestion of Mr. Johnson seemed to find favor in the Convention, and the writer has on several occasions recommended that the thought of Mr. Johnson should be incorporated in the joint rules. He said in reply to Mr. Doty: "The whole thing can be handled by the Assembly adjourning for a few days, so that the Governor can report his action on bills." Further along in his remarks, he said: "The legislature has the remedy in its hands by refusing to pass any laws during the last ten days of the session." From the debates of the Convention we are convinced that the weak spot in this constitutional provision was left open with the expectation that the legislature itself would by rule, lock the door.

RIGHT OF PROTEST

SEC. 1880a. **Any member of either House shall have the right to protest and the reasons therefor, shall without alteration, commitment or delay be entered upon the Journal.** (Art. II, Sec. 10, O. C.)

EFFECT OF PROTEST AGAINST PROCEEDINGS

(A) In the case of legislative action taken before the Supreme Court of Michigan, in which a protest was entered in the Journal, the court in its opinion said: "The constitutional right of any member of either House of the legislature to dissent from any protest against any act, proceeding, or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered upon the Journal is a **mere privilege, having no force of legislative action, or as a statement of fact contradicting the legislative Journals."** It certainly was not intended that the protest of a member should have greater weight against legislative action than his vote would have. **The Senate on the following morning had the power to correct and to expunge such portions of the Journal as they deemed improperly included. The minority could not by simply filing a protest, nullify the approval of the Journal.** The protest was laid upon the table and printed in the Journal. It is there, not by virtue of any action of the legislature, but by reason of the constitutional provision extending members that privilege. It has no more force than a report, or a preamble, and resolution offered and laid on the table although signed by two-thirds of the members of the Senate, and printed in the Journals. The facts set forth in the report or preamble and resolution do not effect legislative action, nor can they be used to contradict the Journal. The vote had laying the report upon the table would be the best test of legislative finding and not the statement of facts set forth in the resolution. (Michigan Reports, Vol. 89, page 577.)

MICHIGAN COURT DECISION RELATING TO PROTEST

(B) Another important decision on this constitutional provision comes from the Supreme Court of Michigan in April, 1893, in a case of mandamus against the officers of the House and Senate to compel them to enter a protest on the Journal. The case as presented to the court is as follows: "On the 15th day of February, 1893, in the Senate, a Senator asked leave to present a protest against certain proceedings of the State, and to have the same spread upon the Journal, but the President of the Senate ruled that the protest offered was out of order as reflecting on the honor of the Senate. The decision of the President was appealed on the ground that the ruling was "contrary to the constitutional guaranty." Upon vote taken the ruling of the President was sustained.

On February 9, 1893, during a session of the House of Representatives, a member presented a protest against the passage of a certain resolution; the Speaker declared the protest to be out of order as reflecting on the House of Representatives and refused to receive same or to have it printed in the Journal. The decision of the Speaker was appealed from on the ground that the ruling was "contrary to the constitutional guaranty." Upon a yea and nay vote the decision of the Speaker was sustained. Later, on the third day of March, the member again offered his protest and the Speaker repeated his ruling and the same was not received. Thereupon the member requested the clerk to receive the protest and print same in the Journal, but the clerk, relying upon the decision of the Speaker, refused to receive the protest. When this case was brought up in the Supreme Court a motion to dismiss the proceedings was made and sustained.

To make the decision of the court clear it should be understood that the mandamus proceedings were brought against the Speaker and Clerk of the House and the President and Secretary of the Senate.

In sustaining the motion to dismiss the court commented

on the duties of the officers in relation to keeping the Journal.

DEFINITION OF PROTEST

SEC. 1881. Commenting on the foregoing decision of the Speaker the compiler says: "Webster says: 'A "protest" is a solemn declaration of opinion.' Undoubtedly the framers of the constitution when they so freely granted every member the right to protest of record, intended just that and nothing more."

The syllabus of the case is as follows:

(1) A writ of mandamus will not issue unless it clearly appears that the person to whom it is directed has the absolute power to execute it.

(2) The duty of keeping a Journal is by the constitution imposed upon the **Senate** and **House of Representatives,** and not upon the President and Secretary of the Senate and the Speaker and Clerk of the House.

(3) The duty of keeping a Journal imposedly by the rules upon the Secretary and Clerk is not a delegation of the control of the Journal to either of them, and they can only enter upon it such matter as the Senate and House determine shall be placed thereon.

DUTY OF KEEPING JOURNAL

(4) The duty of receiving the dissent of a member from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public and of entering the reason of such dissent upon the Journal under section 10, Art. 4, of the Constitution, is imposed upon the Senate and House of Representatives, and if these bodies refuse to perform such duty, neither the President of the Senate nor the Speaker of the House has the power without concurrence of the body over which he presides to execute the order if made." (Michigan Reports, Vol. 95, p. 314.) It should be observed that this opinion does not touch

upon the constitutional right of a member to protest nor does it define a protest further than to approve the definition of Webster and the decision of the Speaker.

PROTESTS CANNOT IMPEACH THE VERITY OF THE JOURNAL

(A) A case was brought in the Supreme Court of Michigan in which it was set out that certain acts of the body were done in the absence of a quorum, at the time a protest was signed by 16 members of the Senate and was placed on the Journal calling attention to the absence of a quorum; later a senator made affidavit that he was present at the time and a quorum was not present, which was filed with the court. The court in its opinion in this case said:

This protest and the affidavit cannot avail as against the Journal. At best, it is not of as much strength as parol evidence. The protest itself is but an assertion of the person making it, not under the solemnity of an oath, and the affidavits are **ex parte** statements under oath, without any cross examination. It must be conceded that neither Senator Taylor (the member making the affidavit) alone, nor all the protesting senators together would under the well-settled law of every state in the American Union be permitted to appear in court and give evidence to the same effect as this protest against the truth of the Journal entries. If this be true, what effect will the law give to a naked protest, even though the same be spread upon the Journal? The answer is obvious, **the protests and affidavits can have no effect whatever,** and can no more be considered as impeaching the verity of the Journals than would parol or other proof outside of such Journals. The right to protest and to spread the same on the Journal is given by the constitution to every member; but such protest cannot be permitted to **impeach the Journal.** The Journal is not impeached by this protest, and cannot be by any evidence of any kind whatsoever, outside of such Journals.

Lawyer, in his Annotated Reports, Vol. 15, has the following to say of the foregoing case:

"The constitutional right of any member of the legislature to have a protest entered on the Journal cannot be enforced by mandamus either against the clerical or the presiding officer of the House to which he belongs." In a footnote Mr. Lawyer adds: "The interest in this case is greater than the difficulty of the question decided, since the futility of granting the application for a mandamus was too plain to make the decision doubtful. The question what remedy has a member of a legislature for a denial of his constitutional right to protest remains unanswered."

PROTESTS

(B) The following important decisions relative to the constitutional right of members to protest are found in the records of the General Assembly of Michigan.

RIGHT OF PROTEST—QUESTION OF PRIVILEGE

(C) According to congressional practice a protest against the action of the House or Senate is not properly a question of privilege. Questions of privilege are of the highest order and supersedes all others. By our Constitution it is the right of any member of either House to have placed in the Journal his protest as to any proceeding or resolution but he must offer it at the proper time. But an appeal from the decision of the chair to receive for entry on the Journal a protest offered at the proper time is undoubtedly a privileged question. (Decision of President of Senate, 1858, Michigan Manual 1905, page 101.)

PROTEST MUST BE CONFINED TO ACTION OBJECTED TO

(D) A paper is not confined to a discussion of the action objected to. It is proper to rule out of order a protest which contains reflections on the House. (Decision of President of Senate, Michigan Manual 102.)

In 1891 the President of the Michigan Senate ruled out of order a protest saying: "The constitutional provision relative to individual protests cannot be held to require the Senate to enter on its Journals insulting and contemptuous matter under **order of protest,** and the Senate may insist that the protest contain nothing but the member's dissent, and the bare statement of his reasons therefor." (A protest against the action of the House to be such a paper must be entered on the Journal under the provision of the constitution and be in language **which does not impute improper motives to the members in taking the action.)**

MINORITY PROTEST

(E) In 1893, a member of the minority presented as a protest a signed statement of the entire minority. The Speaker ruled the **intended protest** or statement out of order saying a member under the constitution may exercise his right to protest against any proceeding of the House, but **the constitution does not contemplate collective protests. A protest which makes a personal attack on the minority, instead of expressing the objections of the protestant is not in order. A protest which reflects upon the House in any proceeding had by the body is not in order. A protest must be consistent with the facts as shown by the Journal.** (M. M. page 107.)

OHIO SPEAKERS RULE OUT PROTESTS

(F) On March 20, 1850, Mr. Gilman on behalf of himself and others presented a protest against the action of the House in the passage of a resolution giving the usual per diem and mileage to members whose seats were contested, but who were seated by the House. The protest was received and read, after which the question of order was raised as follows: "It is not in order to speak of the act of this House as a 'bold piece of robbery' nor to use any such language in reference to the past action

of this House." The Speaker (Mr. Hawkins acting) sustained the point of order saying: "That although members have the right to enter their dissent from the action of a majority with the reasons therefor upon the Journal, yet the House has at the same time a right to prevent obscene, impertinent or insulting language from going on the Journal in the form of a protest." (H. J. 1850, p. 810.)

On three different occasions Mr. Speaker Hopple in the 82nd Assembly ruled out protests, on the ground that as drawn they did not come within the privilege guaranteed under the Constitution. In 1886 President of the Senate General Robert Kennedy ruled out a protest for substantially the same reason given by Mr. Hawkins.

WHAT CONSTITUTES A HOUSE?

SEC. 1882. The constitution of the state provides how the constitutional rules governing the assembly may be suspended as follows: **"Every bill shall be fully and distinctly read on three different days, unless in case of urgency three-fourths of the House in which it shall be pending, shall dispense with the rule."** Const. Art. II, Sec. 16. In nearly every session of the Assembly the question arises:

WHAT DOES THREE-FOURTHS OF HOUSE MEAN?

SEC. 1883. Does it mean of those present or does it mean those elected to each House? The Speakers of the National House have been uniform in their rulings on this proposition. One of the more recent rulings in Congress on this subject is by Speaker Reed as follows: "The question is one that has been so often decided that it seems hardly necessary to dwell upon it." The provision of the Constitution says: "Two-thirds of both Houses." What constitutes a House? A quorum of the membership, a majority, one-half and one more. That is all that is necessary to constitute a House, to do all the business that comes before the House. Among the business

that comes before the House is the consideration of a bill which has been vetoed by the President and another is a proposed amendment to the Constitution and the practice is uniform in both cases that if a quorum of the House is present the House is constituted and two-thirds of those voting are sufficient in order to accomplish the object."

Practically the same ruling was made in the Senate by Mr. Breckenridge and Mr. B. F. Wade. (Hinds, p. 1010, Vol. 5.) This same question was ruled upon in the Ohio House in 1896, by Speaker pro tem. Charles Bosler, of Dayton, and his decision was sustained by unanimous vote of the House.

(A) The decision follows in full with the proceedings thereon: "On April 22, 1896, Mr. Richardson, on leave introduced H. B. No. 967; after the bill was read the first time, Mr. Richardson moved the suspension of the constitutional rules to read the bill the second time. The yeas and nays were demanded, taken, and resulted—yeas 62, nays 16. The Speaker, Mr. Bosler in the chair, declared the motion carried. Mr. Landis raised the point of order that the motion was not agreed to for the reason the Constitution, Art. 11, Sec. 16, provides for a three-fourths vote of all the members elected to the House. The Speaker ruled the point of order not well taken and said: 'Upon this motion, the yeas and nays were taken, resulting yeas 62, nays 16. Art 11, Section 16, reads: Every bill shall be fully and distinctly read on three different days, unless in case of urgency three-fourths of the House in which it shall be pending shall dispense with this rule. The only question that can be raised as to the number of votes required to dispense with the rule, is the exact meaning of the word House, as here applied.' "

(B) Legislative bodies, almost without exception, adopt the rule that a majority of all the members elected to each House shall be a quorum to do business. The Constitution of our own state in Art. 11, Sec. 6, provides

that a majority of all the members elected to the House shall be a quorum to do business.

(C) Undoubtedly, where a quorum is present, the quorum constitutes the House and where a certain percentage of votes is required to carry a question, that percentage is reckoned on the number of votes cast, a quorum being present, unless the special rule regulating that vote expressly provides otherwise.

(D) Reference to the different sections of Article 11 of the Constitution proves that this was meant by the framers of that Constitution to be the rule, and where they mean the percentage of votes to be counted upon all the members elected to the House, that is distinctly stated in the rules.

(E) Art.11, Sec. 9 of the Constitution provides that no law should be passed by either House without the concurrence of a majority of all the members elected thereto.

(F) Again, Art. 11, Sec. 23 provides that the House of Representatives shall have the power of impeachment, but a majority of all the members elected must concur therein.

(G) Again, Art. 11, Sec. 29, provides that "No money shall be paid on any claim, the subject matter of which shall not have been provided for by preexisting law, unless such compensation or claim be allowed by two-thirds of all the members elected to each branch of the General Assembly.

(H) This House of Representatives of the Seventy-second General Assembly comprised 112 members. A majority, therefore, is 57. Upon the motion under consideration 81 votes were cast. A quorum, therefore, was present, and that quorum constituted the House. Upon the motion 62 voted aye. Three-fourths, therefore, voting aye, the motion undoubtedly was carried. (See House Journal, 1896, p. 940, and appendix, p. 51.)

WHAT CONSTITUTES A HOUSE?

SEC. 1884. On the question of what constitutes a house, Speaker Cannon ruled, "It has been held, and the present occupant of the chair has held two or three times that the house consists of a quorum of the members elected and qualified; excepting those who have died or resigned, or have been expelled from the house." (3rd. Sess. 58th Cong. Rec. p. 602.)

CONSTITUTIONAL AMENDMENTS

SEC. 1885. The Constitution in Sec. 1, Art. XVI, explains the manner of submitting amendments to the people by the General Assembly. In adopting amendments to submit to the people there are some very important requirements that fall to the clerk to carry out, and unless these requirements are fulfilled by the clerk of the Senate and House the efforts of the Assembly to submit an amendment will fail. The important requirement referred to is the proper authentication of the adoption of the resolution of proposed amendments.

In the session of 1919 a classification amendment to the Constitution was adopted by the Assembly, it was improperly enrolled but signed in the usual manner. When the error was discovered, the matter was submitted to Hon. John G. Price, Attorney General, who after examining the records of both House rendered the following opinion: "It appears from the statement of facts that the joint resolution proposing an amendment to the Constitution providing for the classification of property for the purpose of taxation was proposed by the Senate and after being duly agreed to, was entered on the Journals of both Houses of the Assembly. That both Journals are in accord as to the terms or contents of the proposed amendments and that which purports to be, but is not, a true and correct copy of the proposed amendment was prepared and authenticated by the presiding officers of both Houses and filed with the secretary of state. * * * "What is the best evidence of the proposed amendment, the Journals

or the enrolled and authenticated copy?" * * * Here is quoted Sec. 1, Art. XVI. It will be observed that after an amendment has been proposed and agreed to by three-fifths of the members elected to each House, such proposed amendment shall be entered on the Journals with the yeas and nays.

JOURNALS ARE BEST EVIDENCE

(A) "It may pertinently be said that the Constitution does not require that either the Senate or House when proposing an amendment to the Constitution under Sec. 1, Art. XVI shall make the proposal in any particular form. The form would appear to be immaterial. The important facts to be ascertained are whether either branch of the assembly has proposed an amendment to the Constitution which has been agreed to by three-fifths of the members elected to each House, and if so, what the proposed amendment really is. As before stated, the Journals are the best evidence of their existence."

(B) In this same connection, Secretary of State Harvey Smith gave out this statement: "Under the mandatory provisions of the Constitution the secretary of state can submit to the people no proposed amendment except that entered on the Journals." According to the foregoing opinions it is very necessary that the clerk exercise great care in handling proposed constitutional amendments. He should know when such amendments are to be considered and be prepared to enter them on the Journal just before the vote is taken and follow the resolution with the vote thereon as soon as taken, in this manner mistakes may be avoided and constitutional requirements complied with.

ADJOURNMENTS BY ONE OR BOTH HOUSES

SEC. 1886. The Constitution of Ohio provides: "Neither House shall, without the consent of the other adjourn for more than two days, Sundays excluded; nor at any other place than that in which the two Houses shall be in session. (Art. 11, Sec. 14.)

(A) The method employed by nearly all past General Assemblies for accomplishing adjournments, has been by joint resolution. In most instances, both Houses would adjourn before the resolution providing the adjournment was effective, thus nullifying the provisions of the resolution and violating the constitutional provisions as well as their oath of office, for the reason joint resolutions must be printed and enrolled and then signed by the presiding officers, before they become effective, and it was not unusual for such resolutions to be signed by the presiding officers many days after actual adjournment had been taken. Adjournments by joint resolutions are also expensive to the state in money and unnecessary labor required in their preparation and adoption. Early in the session of the Eighty-fourth General Assembly, President Pro Tem. Senator Frank Whittemore introduced into the Senate the method employed in our National Congress to effect the adjournment of either or both houses under this constitutional provision. The new method produces the same result as the joint resolution, but is simpler, and a more practical method, and is accomplished without loss of time or expense. The new method introduced by Senator Whittemore is **merely the introduction of a simple resolution in one of the bodies adjourning that body and requesting the consent of the other body to such adjournment and giving consent for the other House to adjourn,** thus satisfying the constitution. The following is the proper form of resolution to be used. If in the Senate:

ASSEMBLY RESOLUTION

(B) Resolved by the Senate **(the House concurring):** That the Senate will adjourn, when it adjourns Thursday, March 10, 1921, until Monday, March 14, 1921, as five o'clock p. m. and the consent of the Senate is herewith given to the adjournment of the House of Representatives as herein indicated.

(C) The foregoing resolution is a simple Senate resolution except the resolving clause, which in this resolution is the **important part to be noted.** It might very properly be called **an assembly resolution,** inasmuch as **concurrent action** is necessary to make it **effective.** Its advantages are: It need not be printed, enrolled or signed, it does not require a yea and nay vote and is effective as soon as adopted by both Houses. Its continued use is recommended. When this resolution is received and read the question immediately rises: "Will the House consent to the adjournment provided in the resolution?"

YEA AND NAY VOTE

SEC. 1887. The requirements of the constitution relative to taking the vote of the body by yeas and nays, is not nearly so restrictive as is the unnecessary joint rule of the assembly itself.

The most important of these constitutional requirements is the one found in Art. 11, Sec. 9, as follows:

"At the **desire of any two members,** the **yeas and nays** shall be entered upon the Journal;" and, "on the passage of every bill in either House, the vote shall be taken by **yeas and nays,** and entered on the Journal;" and "No law shall be passed without the concurrence of a majority of all the members elected thereto." (Art. 11, Sec. 9.)

SEC. 1888. Emergency laws upon a **yea and nay vote** must receive the vote of two-thirds of all the members elected to each branch of the General Assembly. The emergency section shall be passed upon **a yea and nay vote,** upon a separate roll call thereon." (Art. 11, Sec. 1 D.)

SEC. 1889. In relation to passing bill over objection of Governor, the constitution provides "In all such cases the vote of each House shall be determined by **yeas and**

nays and the names of the members voting for and against the bill shall be entered upon the Journal."

"Either branch of the General Assembly may propose Amendments to the Constitution, such proposed amendments shall be entered on the Journal **with the yeas and nays."**

(A) Upon all **nominations made by the Governor** the question shall be taken by yeas and nays and entered upon the Journal of the Senate. In the foregoing we present all questions upon which the Constitution requires a yea and nay vote. All other questions that may arise are to be decided in the manner provided by the rules of the Assembly. That is, the method of voting may be determined by demand of members, and the Assembly is protected against parliamentary abuses by the section that provides that any two members may **demand a yea and nay vote.** This provision is elastic and easy to enforce. It would seem that the rules of the Constitution cover all important questions. It would appear unnecessary for the Assembly itself to hamper the expeditious transaction of business by **forcing roll calls** on other questions not included in the constitutional requirement. **By rule of the Assembly roll calls** are necessary on **joint resolutions; conference committee reports, amendments of the other House, no matter how trivial they may be.**

(B) These questions upon which the joint rules require roll call votes, are passed upon by voice or division vote in the two largest legislative bodies in the world, English Parliament and the American Congress. In early years the business of legislative bodies was much impeded because the requirement for three readings of a bill, was extended to include amendments. Later, the true nature of amendments was revealed, until today nobody believes or practices the three readings of amendments, and a large number of Supreme courts, including Ohio, have decided that the three readings are

complete when confined to the original bill and the constitutional rule is satisfied. Also many of the supreme courts have held that the requirement for a **yea and nay vote** on passage is satisfied, **complied with fully,** when this process is followed as directed after third reading.

(C) Justice Thurman, of Ohio Supreme Court in the case of a substitute, held such **substitute was an amendment,** and held the constitutional provision relative to reading **is not applicable to amendments.** Analogous to this is the reasoning of many state courts that the requirement of a yea and nay vote is not elastic enough to reach amendments of any kind, whether made by the House or conference committee or other House and one court has held that it does not reach the repassage after reconsideration of a former vote. The Supreme Court of Indiana seems to reason well on this provision, it says "It cannot be assumed, that the amendment of the Senate to a House bill converted the House bill into a Senate bill **(a new bill).**

Such construction would result in the necessity of the whole **series of readings being commenced anew every time an amendment was accepted."**

(D) The supreme court of Nebraska, falling in line with the other courts on this question, says, "The constitutional provision (under consideration) refers only to the **vote on passage of bills.** There are numerous other votes necessary during the progress of a bill to its third reading to which it has no reference whatever. These are left to the control of the House under **natural parliamentary rules,** except only, that by another provision of the constitution **any two** members may require the yeas and nays entered on the Journal, whereby the vote may be preserved and known."

(E) The Kansas supreme court passed upon this question where one House agreed to the amendments of the other by voice vote only and held the law to be

valid. The court's reasoning is not published, but the court reporter in a note following the printed decision gives a clear parliamentary statement of the case and his arguments are sound. He says, "The final passage of a bill within the fair intendment of the constitution is passage upon the vote taken after the three readings required by the constitution."

(F) Most of the amendments made by the Senate to House bills are mere clerical corrections and do not demand that deliberation originally and properly given to the measure. But suppose entirely new provisions be substituted, or new sections be added by the other House by way of amendment. **Is it the same bill? If it is not the same bill, then it must be considered as a new bill of the House amending it, and take its regular course as such and receives its three several readings in the other House,** but this is never done and is never claimed to be necessary. Why? Because it is not a new bill, but it is the same bill which was duly considered, read three times and duly passed. It has **only been amended** by the other House, and the question upon its return is not **"Shall the bill pass?"** as when first considered and put on passage, but the question always is **"Will the House or Senate** (as the came may be) **concur in (agree to) the House or Senate amendments?" This may be determined by voice vote, division, or yeas and nays, if properly demanded.** The **yeas and nays are not required but may be demanded.** (For other decisions, see: 12 Kan., 384; 36 Fla., 358; 9 Nebraska, 490; 4 Nebraska, 503; 141 Ala., 126; 135 N. C., 62; 129 Fla., 196; 63 C. C. A., 254.)

(G) In view of the foregoing, we believe that Ohio and perhaps other legislative bodies are wasting much valuable time on unnecessary roll calls and that any Assembly rule that stands in the way of a **reduction of wholly unnecessary roll calls should be repealed.** Why a roll call on a joint resolution for an adjournment over

the week end, or to appoint a committee to wait upon the Governor and inform him we are in session, or to have a joint session of the two Houses, or when the Senate strikes out a comma and inserts a semicolon or changes the word or to nor, or makes a slight immaterial change of any kind, as is done under the present practice and rule[1]?

CONSTITUTIONAL REQUIREMENT IN PASSING BILL OVER THE GOVERNOR'S DISAPPROVAL

SEC. 1890. The Constitution of Ohio provides: "Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor for his approval, if he approves it, he shall sign it and thereupon it shall be filed with the secretary of state. If he does not approve it, he shall return it with his objections in writing to the house in which it originated, **which shall enter the objections at large on its journal, and may then reconsider the vote on its passage. If three-fifths of the members elected to that house vote to repass the bill,** etc." Let us now examine this important constitutional provision having in view only a correct compliance with its provisions.

It should be noted that in this constitutional provision are two mandatory clauses, first, the objection of the governor must be entered in the journal, which is accomplished when the objections are received and read. The other a three-fifths vote of those elected to the house is necessary on repassage to make the bill effective. The matter of repassing, notwithstanding the objections of the governor is optional. After having entered the objections on the journal the house may reconsider its former vote on passage, that is, annul, abrogate its former action. Why? So that the question of passage may again be presented to the house. Without

[1] The assembly joint rule covering this subject was somewhat modified in e last session.

this optional clause in the constitution, the house might on occasion be much embarrassed because under its rules the time for admitting the motion to reconsider may have expired and such action being necessary to vote again on the passage of the bill, it was wisely inserted in the constitution so that regardless of rules or the parliamentary situation the house could reconsider its vote on passage. Mind you, it does not provide that the house merely vote on the bill a second time and if three-fifths of those elected vote for repassage it shall become a law, notwithstanding the objections of the governor, but it provides the proper and correct parliamentary course to follow, that is the reconsideration of the first vote on passage and when the first vote is annulled, then what? The house may by a three-fifths vote repass the bill.

The constitution has first rank and notwithstanding our parliamentary rules provide that the House regardless of any parliamentary situation may reconsider its former vote. Why was this parliamentary term reconsider inserted here? Any parliamentarian knows that after the final act of passing a bill further action cannot be had without first either directly or indirectly, at least, reconsidering the former vote of passage. Therefore, lest we be handicapped by our own rules the constitutional right to reconsider is provided. The purpose of reconsideration is to annul a former action and bring the question before the house again for another vote on the question. Having reconsidered and nullified the former vote the house may then proceed to repass the bill, which repassage requires a three-fifths vote. The constitutional requirement is not that the house vote a second time to pass the bill, but repassage is necessary after the former vote on passage is abrogated by reconsideration.

In the present practice of the Ohio assembly (1928) the bill is never repassed but is always passed a second time by the required constitutional vote. Reconsideration of the former vote for repassage never takes place. The

constitutional provision provides a correct parliamentary course to proceed upon to secure another vote on the question "Shall the bill pass?" We do not wish to convey the thought that a direct motion to reconsider must be made, but it would be the proper procedure, to again vote on the question: "Shall the bill pass?"

It is, however, our contention that reconsideration must be had and this may be accomplished by a single process by the proper putting of the question to be voted upon thus: **"Will the house on reconsideration agree to pass the bill notwithstanding the objections of the governor?"** In this question the house reconsiders and passes the bill with one and the same vote. It may be argued that our contention that reconsideration must take place is a mere technicality, even so, why take a chance on what the courts may determine, when the sure way is so plain and easy?

Speaker John Jones held early in the practice of congress that the vote on the question "shall the bill pass, notwithstanding the objections of the president?"[1] could not be reconsidered and this decision stood for sixty-six years and was then affirmed by Speaker Champ Clark. Cushing, whom Charles Sumner declared was America's greatest parliamentarian, says: "The votes on this question may not be reconsidered." In the last session of the Ohio Assembly, Speaker Gray of the House, decided the vote was subject to reconsideration, basing his decision on the earlier erroneous proceedings of the house. The writer is inclined to follow the decisions of eminent speakers of the National House and still believes the vote on the question "Shall the bill pass notwithstanding the objections of the governor?" is not subject to reconsideration, because in fact it would be a second reconsideration.

[1] The federal and state constitutional provisions on this question are substantially the same.

RELATION OF THE LIEUTENANT GOVERNOR TO THE OHIO SENATE—RIGHT TO CAST HIS CONSTITUTIONAL CASTING VOTE

SEC. 1891. The Constitution-makers of 1850-51 in section 1 of Article III created the office of Lieutenant Governor, an office unknown in the state previous to that time. In prescribing the duties of such officer they make him a constituent part of the Senate—its President.

Under the Constitution of 1802, the Senate elected its own presiding officer—a Speaker—from its own membership, just as the House does at present.

The Constitution of Ohio in Article XI provides for the division of the state into senatorial and representative districts for members of the General Assembly to be elected from the several districts provided. Then they evolve a novel plan for the election of another member-at-large of the Senate by the entire state.

They simply create the office of Lieutenant Governor and provide for the election of such officer. Then among his more important duties they make him a part of the Senate and clothe him with presidential powers, with a limited voting right. The members elected to the Senate from the several districts were to form the body of the Senate. The member elected-at-large was to preside over their deliberations.

What particular difference is here made between the members of the body generally and the presiding officer? In one instance it is provided that members generally shall represent limited districts; in another we find a modification of the foregoing rule in which it is indirectly provided that one member shall be elected-at-large by the entire state, who shall preside over the Senate, with voting privilege limited to a "casting vote."

My dictionary defines the word "Member" as "an essential part of anything." If that definition is correct then the President of the Senate is a member of the Senate, elected-at-large. We do not believe it will be denied that

he is a constituent, important part of that body. Without him there can be no perfect constitutional Senate.

Sections 16 and 17 of Article III provide the duties of the Lieutenant Governor, and among these he is to be the President of the Senate.

Section 16 of Article III to which we are specifically directing our inquiry provides as follows: "The Lieutenant Governor shall be President of the Senate; but he **shall** vote **only** when the Senate is equally divided. (When there is an equal or tie vote, the President shall give his "casting vote.")

It is evident in that provision that the Constitution-makers understood that the conferring of presidential powers on the Lieutenant Governor in the Senate carried with it the right to vote on all questions, as did the Speaker of the Senate under the old Constitution of 1802, else they would have stopped with the statement "Shall be President of the Senate." A full voting right not being in harmony with their views, they added the clause "But shall vote only when the Senate is equally divided," making the Lieutenant Governor a constituent part of the Senate with limited voting right.

In making the Lieutenant Governor a constituent part of the Senate with voting rights even though limited to a "casting vote" implies in itself membership in that body.

In examining Section 16 of Article III, it should be noted that there is no restriction or limitation as to any particular kind of an equal division that must exist before the President may exercise his constitutional "casting vote". It is evident that the Constitution-makers did not intend to limit his "casting vote" to minor questions or withhold it on important questions—such as the passage of a bill. The only exception made as to his vote is, the "Senate shall be equally divided." If it had been intended to prevent his vote being cast on a bill there would have been a good place to have added the exception "In case of the passage of a law." This

they did not do and it seems a reasonable conclusion that no exceptions were intended other than named. Therefore, **we think the President of the Senate is clothed with the right to vote on all questions where the Senate is equally divided.**

In the Constitutional Convention when this subject was debated, one member in explaining how the provision would work, gave this illustration. In case of an equal division of the Senate in the election of a United States Senator, (at the time elected by the General Assembly) the President could settle the matter with his vote. (No objection to this observation was recorded.)

It is argued by competent authority that this provision does not extend to the question on the passage of a bill because section 9 of Article II provides that "No law shall be passed, except by the concurrence of a majority of the members elected to each House" and the President is not considered a member. Is it not true that the President is elected by all the state to serve in the Senate? But, they answer, he is not a member. When the Constitution-makers created the office of Lieutenant Governor and provided for his election as an important part of the Senate, with limited powers in that body, that provision is sufficient to clothe him with membership when not otherwise denied him in the Constitution.

However, the courts have long since held in their interpretation of law and constitutional provisions that general provisions of the Constitution are modified by specific provisions.

Section 9 of Article II, prescribes a general rule for the guidance of the General Assembly. Section 16 of Article III furnishes a clear case of a specific provision, modifying section 9 of Article II. So we are forced to the conclusion that there is no conflict between these constitutional legislative rules. Under either section the President of the Senate may properly exercise his constitutional right to give a "casting vote." In case of an equal division

he shall vote. It does not appear to be a discretionary matter.

In view of the foregoing stated facts it seems to be beyond successful negative challenge that the Lieutenant Governor is a constitutional representative-at-large representing the entire state, not a senatorial district. By the Constitution his representative duties are assigned to the Senate, its presiding officer, with limited voting right.

Another perplexing question that frequently arises in the Senate under this provision is "Is the matter of a casting vote discretionary with the President?" We think not. The courts have constantly adhered to the sensible conclusion "That where a duty is imposed by law or the Constitution that duty is mandatory." The language of the Constitution is "He shall vote when the Senate is equally divided."

Section 1 of Article III of the Constitution is to be disposed of under the rule of the court that general provisions are modified by specific provisions. Section 1, Article III is a general provision modified by section 16 of Article III which distinctly makes the Lieutenant Governor a part of the Senate.

SEC. 1891-a. The casting vote of the Vice President of the United States in the Senate, says Mr. Hinds, extends to all matters where an equal division occurs. What reason is to be found in our constitution to say that the casting vote of the president of the senate is restricted to matters of procedure? His casting vote in these matters is guaranteed under parliamentary law and no constitutional provision was necessary to assure such right.

CHAPTER XLIV

SUPREME COURT DECISIONS ON PARLIAMENTARY CONSTITUTIONAL RULES

REASON FOR GOOD TITLE

SEC. 1892. The supreme court of Ohio speaking of the constitutional rule providing the subject shall be expressed in the title says: "The subject of the bill is required to be expressed in the title, for the **purpose of advising members of its subject, when voting, in cases in which the reading has been dispensed with by a three-fourths vote."** (Ohio 45, 258.)

PURPOSE OF SIGNATURE OF PRESIDING OFFICERS

SEC. 1893. The supreme court of Kansas says: "The signatures of the presiding officers do not constitute any portion of the law. The only office that the signatures of the presiding officers is intended to perform, is to furnish evidence of the passage and validity of the bill. Such signatures are only portions of the many evidences of the due passage of a bill." (17 Kan. 78.)

ENROLLMENT

SEC. 1894. An enrolled bill is not that considered and adopted by the concurring action of the two houses, but is a substituted printed duplicate copy to take place of the original, and becomes the final expression of the legislative will.

(A) Its accuracy is secured by the examination, comparison and report of a committee in each house and then each House ratifies that it accepts and adopts the

enrolled bill as the embodiment of its own action, and the correct expression of its will. Ratification is the act of the House and its presiding officer in attesting such acts on behalf of its authority. * * * Each body gives its direct and positive sanction to the enrolled bill as its act, when the presiding officer signs; and he is but its agent acting in its stead when he does so. In other words, this is the consummation of legislative action which is incomplete and inoperative without it. (81 N. Car. 419; 26 Nev. 98.)

SIGNATURES OF PRESIDING OFFICERS TO ENROLLED BILL

SEC. 1895. In our opinion, says the Kentucky State Supreme Court, quoting the Supreme Court of North Carolina: "The signatures of the presiding officers of the two Houses under and by force of the words in our Constitution, are an essential prerequisite to the existence of a statute—the finishing and perfecting act of legislation—**and must be affixed during a session of the General Assembly.**

LIEUTENANT GOVERNOR REFUSES TO SIGN BILL

SEC. 1896. In a case in Kansas, where the Lieutenant Governor did not sign an enrolled bill, the court held the law was a valid enactment. (The passage of the bill, however, was certified by the secretary of the Senate.) In this case the presiding officer refused absolutely to perform his duty and then hid to keep out of the way of a mandamus proceeding. In its opinion the court says: "Does the failure of the presiding officer of the Senate to sign the bill invalidate everything connected therewith? If it does, then the presiding officer of the Senate has more power to veto bills than the Governor, or any other officer or person of the state. The legislature may pass a bill over the veto of the Governor, but if the plaintiff in error is correct, they

cannot pass a bill over the veto (so to speak) of the Lieutenant Governor, so as to make the bill become a valid law. The Lieutenant Governor is President of the Senate; he holds his office independent of the legislature; they have no power to remove him from office, except by the slow and tedious proceeding of impeachment; they have no power to compel him to sign a bill except by the equally slow and tedious proceeding of mandamus, and this can only be done in the courts, and if the plaintiff in error is correct they have no power to make a valid law except with the aid of his signature, so long as he is acting presiding officer of the Senate. In its final conclusion the court holds the act to be valid." (17 Kan. 75-76.)

WHEN RESOLUTIONS ARE LAW

SEC. 1897. The supreme court of Illinois in passing upon the question of whether a joint resolution had the force and effect of law said: "Any resolution, bill or proceeding given the form of law is an act. The Constitution declares that the enacting style of the laws of this state shall be 'Be it enacted by the people of the state of Illinois represented in the General Assembly.' Where enacting words are prescribed, nothing can be law which is not introduced by these very words, even though others, which are equivalent, are at the same time used. To have the force of law it must be read on three different days in each House." (In fact must follow the course provided in the Constitution for enacting laws.)

EFFECT OF AMENDING TITLE

SEC. 1898. The validity of an act is not affected by the title being amended during the progress of enactment. (119 Mo., 593.)

BILLS PASSED OVER VETO NOT SIGNED

SEC. 1899. It has been held by several of our state courts that where a bill is passed notwithstanding the objections of the Governor, it need not be again signed by the presiding officers of the two Houses. Such passage makes it **ipso facto a law.** (11 Ind. 426, 449.)

AUTHENTICATION AFTER PASSING OVER VETO

SEC. 1900. When a bill has been passed by both Houses of the General Assembly, and duly signed by the presiding officers thereof, is vetoed by the governor, and is afterward reconsidered and passed over the objections of the governor, in accordance with the Constitution, it becomes a valid law, without being attested a second time by the presiding officers. (Ind. 11, p. 449.)

EVIDENCE OF PASSAGE OF ACT OVER VETO

SEC. 1901. The Journals of the two Houses of the General Assembly, upon which the Governor's objection to a bill is required to be entered and which show its passage notwithstanding such objections, are proper evidence of the proper passage of such bill over the veto and need not be again attested by the presiding officers. (11 Ind., p. 449.)

INDIRECT SUSPENSION OF CONSTITUTIONAL RULE

(Court Decision)

SEC. 1902. **It is not necessary to dispense with the constitutional rule in any formal manner. All that is required is that the House in some unequivocal manner manifest its purpose to dispense with the rule (which may be done at its pleasure by a two-thirds vote). A motion that a bill be read a third time on the same day after it was read a second time, or, a motion that the bill be placed on final passage on second reading, would unquestionably operate as a suspension of the rule**

against third reading on the same day. (38 Min. p. 143.) In this case the court continued: "It will be presumed, that the motion for the second reading was adopted by the requisite two-thirds vote and that the House deemed it a proper case to dispense with the rule and proceed with the second reading in regular order. (32 Ark. 496-516.) There can be no doubt the House intended to dispense with the rule which would forbid a third reading of a bill or vote upon the bill upon the sixty-seventh legislative day, and that it manifested such intent. It would be difficult to give reasons which would **convince a mind unaccustomed to legal quiddities,** that those who in effect voted to put the bill upon its final passage, on the sixty-seventh day, and who, when the bill was put upon its final passage, could all the time have been withholding their consent to dispensing with the rule against third reading on that day. We are of opinion that when the House by a vote sufficient for all purposes, adopted a motion the necessary effect of which was to order a third reading of a bill and place it on its final passage and then pass the bill by a two-thirds vote of the members, the House manifested a purpose to dispense with the constitutional rule forbidding the third reading of a bill on that day. (Min. 130, pp. 432-3.) (The Judge who wrote the foregoing opinion was beyond doubt acquainted with parliamentary procedure.)

GOVERNOR MAY NOT RECALL BILL FROM SECRETARY OF STATE

SEC. 1903. Where the Governor deposits a bill in the office of the secretary of state with his approval endorsed on it and signed by him, it passes beyond his control and he has no power thereafter to take the bill from the secretary and veto it, and return it accompanied by his veto. (210 Ill., 488.)

YEA AND NAY VOTE ON RECONSIDERATION

SEC. 1904. The supreme court of Colorado has decided that the constitutional requirement that the vote on the

passage of a bill must be taken on third reading by yeas and nays does not apply to a motion to reconsider action taken on the passage of a bill. (33 Colo., 193.)

IN RELATION TO YEA AND NAY VOTE ON AMENDMENTS OF THE OTHER HOUSE AND CONFERENCE REPORTS

SEC. 1905. It has been uniformly held by the supreme courts of those states that have considered the question, that the constitutional provision that a yea and nay vote must be taken on the final passage of a bill does not extend to and include amendments of the other House or conference committee reports; but that the constitutional requirement is fully satisfied by a yea and nay vote on final passage after third reading. In this connection, the supreme court of Indiana says: "It cannot be assumed that the amendment of the House converted the original (Senate bill) into a new bill. Indeed such construction results in the necessity of the whole series of readings being commenced anew every time an amendment is made. We incline to the opinion that the mere concurrence (voice) in the amendments was sufficient without any further proceedings by the Senate."

IN RELATION TO YEA AND NAY VOTE ON AMENDMENTS OF OTHER HOUSE

SEC. 1906. In a case before the Kansas Supreme Court where a conference report was agreed to (viva voce) the court without giving its reasons declared the law to be a valid act, but the reporter of that court in a note following the decision, gives we think, a clear parliamentary statement of the case and reasons well. He says: "The final passage of a bill within the fair intendment of the constitution is the passage upon the vote taken upon and after three readings required by the constitution. Most of the amendments made by the Senate to House bills and by House to Senate bills are mere clerical corrections, and do not demand that deliberation, originally and properly given to the measure.

But suppose entirely new provisions be submitted, or new sections be added by the other House by way of amendment. Is it the same bill. If it is not the same bill then it must be considered as a new bill of the House amending it and take its regular course as such, and receive its three several readings in the other House. But this is never done, is never claimed necessary. Why? Because it is not a new bill, but the same bill which was duly considered, read three times and duly passed, it has only been 'amended' by the other House and the question on its return is not 'Shall the bill pass?' as when first considered and put on its final passage, but the question is 'Will the House (if a House bill) concur in the Senate amendments?' and this may be determined by acclamation (viva voce) or by a yea and nay vote as shall be proper in any given case. The vote by yeas and nays is not required, but, if the amendment be material, if it be a radical change in the bill, the yeas and nays may be demanded and called under the constitutional rules." (12 Kan., 384.) (For other court decisions see 36 Fla., 358; Neb. 490; 4 Neb., 503; 141 Ala., 126; 135 N. C., 62; 129 Fla., 196; 63 C. C. A., 354.)

CONCURRING IN AMENDMENTS OF OTHER HOUSE

SEC. 1907. In deciding a case where amendments of the other House were not concurred in by yea and nay vote the Supreme Court of Nebraska decided as follows: "It is disclosed that the bill in question originated in the Senate where it was passed by the constitutional majority, the yeas and nays being duly called and entered on the Journal. In the House the bill was amended and then duly passed. Upon its return to the Senate all that the Journal discloses with respect to it is that the amendments of the House were agreed to, but by what majority, or in what manner the vote was taken, the Journal of the Senate is silent. It is contended that the Constitution required the observance of the same formality in the vote by which the amendments of the

House were concurred in as was required on the final passage of the bill before it left the Senate, and that the Journal of that House should show an observance of this requirement. The Constitution declares that on the passage of every bill in either House the vote shall be taken by yeas and nays and entered on the Journal and no law shall be passed in either House without the concurrence of all the members elected thereto. This provision is clearly mandatory. But it will be observed that the provision of the constitution above quoted **refers only to the vote on the final passage of the bills.** There are numerous other votes necessary during the progress of a bill to its third reading to which it has no sort of reference whatever. **These are left to the control of the House under its natural parliamentary rules** except only that by another provision of the same section of the Constitution, any three members of the Senate and five of the House may require the vote may be preserved and known." The court then cites a case found in 11 Ind. 424, and says: "This seems to be a case directly in point. It was held that where a Senate bill had been amended in the House and returned, **if the Journal only showed the amendments to have been concurred in, it was sufficient.** The provision of the constitution of Indiana, then under consideration, is substantially like our own, and we accept this construction as being a sound exposition of its true meaning and of the extent of its scope and effect upon legislative action."

AMENDMENTS—EFFECT OF ON BILL

SEC. 1908. When a bill is referred to a committee it is within the discretion and power of such committee to report it back with or without amendment. The amendments reported may be so numerous as to require or suggest that the committee report an amendatory or substitute bill. If in so doing they do not so far depart from the bill referred as to offend the constitutional pro-

vision. Such reported bill will take the place of the one referred, **and will not be remitted to the status of a new bill, introduced for the first time.** This is only amendment, which is always allowable at that stage of the bill. (54 Ala., p. 613.)

FINAL PASSAGE

SEC. 1909. **What we understand as final passage of a bill is the vote on its passage in either House of the General Assembly after it has received three readings on three different days in that House.** (54 Ala., p. 613.)

The supreme court of Arkansas considering a case where the house receded from its amendments without a yea and nay record vote, held the law to be valid and the constitutional requirement that a yea and nay vote should be taken on passage was complied with and then adds this statement: **"The Constitution provides that each House shall have the power to determine the rules of its own proceedings." Now just at what point the strict mandatory provision of the Constitution relative to a yea and nay vote on passage may cease to be applicable in any given case for reasons of systematic and convenient procedure, and at what point the parliamentary rules each House is empowered to make by constitutional provision, may begin to be applied, is often a question of much difficulty of solution and something doubtless may be properly left to the wisdom and sound discretion of the law-making department to determine such a question as it may arise in each case.** (61 Ark., p. 238.)

(A) In another case in the Arkansas court, reported on a bill that had passed the House and was sent to the Senate, where it was read twice and the House at this point recalled the bill, reconsidered and returned it to the Senate where it was then read a third time and passed. It was contended that the bill after its return should have been read three times before passage in the Senate. The court opinion says: "The court is of opinion that the reading of this bill

in both branches of the General Assembly was had in substantial compliance with the constitutional provision. (35 Ark., 244.)

SUBSTITUTE BILL

SEC. 1910. A bill called Senate Bill 99, was introduced into the Senate and an exactly similar bill was introduced in the House The house bill had its three readings and was passed. Senate Bill 99 was read twice in the Senate. On second reading the Senate substituted House Bill 151 for the Senate bill and under the name of House Bill 161 it was read the third time and passed. The titles of the two bills were the same, the bodies of the bills the same literally. For the purpose of the requirements that a bill should be read three times we may say that these bills are one because they have the same title and the same enacting clause. The purpose of this provision of the Constitution is to inform legislators and to prevent hasty legislation. The two readings of the Senate bill in the Senate and the third reading of the substituted house bill did this as effectively as if the house bill had not been substituted for the senate bill, and the senate bill had been retained and read the third time and passed. Shall we give this provision so rigid a construction as to go beyond its purpose and defeat legislation? There is nothing so special in a constitutional provision as to justify this.

(A) Will it be suggested that this was another bill, a substitute not Senate Bill 99, and this substitute should have been read three times? I answer that we can hardly call it a substitute, because it is identical in matter with the senate bill. But suppose even that the bills are not so identical in matter, still the substitute bill, if so germane to the original bill as to be a proper substitute would not have to go back and be read three times. A substitute is an amendment. (69 W. Va. p. 482.) Here the court quotes the case of Miller and Gibson vs. State, 3 O. S. 475 and continues: "I believe it is not and cannot be claimed that the bill after passage by the Senate had to go back for concurrence of the

House on the substitute, for the reason that the substituted bill was not variant from, but identical in title and enacting clause with House Bill 151. An immaterial amendment need not in any way affect the substance. (4 Lea Tann. 608.)

(B) In the case under consideration there is no difference between the two bills save in name and number. Name and number are no part of the real bill, merely designations for convenience, and cease on passage and do not appear on the published act. The act is valid and constitutionally passed. (69 W. Va. p. 481.) In the foregoing case there is a well considered dissenting opinion. (See Tenn. 112, p. 552.)

A bill for the purpose of the three readings is not a mere piece of paper, but it is its contents that must be read. The contents is what is meant by the word bill in the Constitution.

EFFECT OF SUBSTITUTING SENATE FOR HOUSE BILL

SEC. 1911. When the Senate and the House Bill are the same in tenor and substance in their caption and body and the House bill duly passed by the House has been transmitted to the Senate after the senate bill has duly passed its two readings and thereupon the house bill is duly substituted for the senate bill and read and passed in the Senate. The law is constitutionally enacted and the constitutional requirements relative to three readings are complied with. (112 Tenn. p. 532.)

SEC. 1912. If an error occurs in the number of a bill in transmitting it to the other house it does not vitiate the act. (6 Lea Tenn. 549.)

ENTERED UPON THE JOURNAL

SEC. 1913. The term entered upon the Journal as applied to provisions relative to a proposed constitutional amendment means that the amendment shall be spread at length on the Journal and the yeas and nays set out therein

in full and at length. (69 Cal. 479.) Continuing, the court says: "The evident intent of the Constitution is that the proposed amendment should be entered at length on the Journal, or at least, so entered as to leave no reasonable doubt as to its intent."

(A) Entries may be made in the Journal by the clerk after the adjournment but such right should be established by rule. After the official Journal is filed with the secretary of state, the clerk cannot direct entries to be made, since his official connection with the Journal has terminated. (85 Amer. St. Rep. 42; 126 Ala. 425.)

(B) The supreme court of Kentucky in 1892 decided that a yea and nay vote on amendments of the other house was necessary, because this vote represented the final vote on passage referred to in the constitution. If this be the final vote then the vote taken on passage after third reading is a waste of time. (There cannot be two final passages of a bill.) (93 Ky., p. 537.)

URGENCY FOR SUSPENDING RULES

SEC. 1914. What constitutes a case of "urgency" for suspending the constitutional rules is a matter of legislative discretion. (4 Nebr. 503.)

AMENDING TITLE

SEC. 1915. The validity of an act is not affected by the fact that the title was amended during the progress of its enactment. (119 Mo., p. 593.)

EFFECT OF SUBSTITUTE

SEC. 1916. In the Tennessee legislature, a bill was introduced concurrently in both houses. The bill passed the Senate first in accordance with the constitutional provision, having been read a first and second and third time on separate days and then was sent to the House. In the meantime, the bill introduced in the House was on the same subject

and for the same identical purpose, had likewise passed its first and second readings on two separate days. When the house bill came up for third reading and passage the senate bill was substituted for the house bill and then passed. This completed the action of the two bodies up to passage. The case was taken to court on the ground that the senate bill was not read three times on separate days in the House. In deciding the case, the court said: "The house and senate bill were the same in tenor and substance in their caption and body and when the senate bill was substituted for the house bill and finally read and passed in the House, the law was constitutionally enacted and the constitutional requirements for three readings on separate days complied with." (152 Tenn. 187.)

SEC. 1917. The supreme court of Alabama says: The constitution is not a grant of power to the legislature but a limitation upon its powers. (Ala. 154, p. 249.)

CONSTITUTIONAL CONSTRUCTION OF WORD HOUSE

SEC. 1918. The word house in the constitution is used in varying senses and refers to three entities. The place of legislative session; the total elected membership of the one or other branch of that department; and the body whether upper or lower; constituted to perform legislative functions. (Ala. 154, p. 250.)

JOURNALS

SEC. 1919. In describing the various bills read and passed it is only necessary that the Journal indicate by appropriate terms or description, the general nature of the measure, so as to identify it as having been proceeded with in compliance with the constitutional requirements. (77 Ill., 11.)

CONCURRENT PASSAGE OF TWO DISTINCT LEGISLATIVE BILLS DOES NOT INVALIDATE THEM

SEC. 1920. While the passage of a bill in either house upon a second reading concurrently with another bill relating to a different subject, would be contrary to good parliamentary procedure and should not be done, if objection is made, yet this alone will not authorize the courts to hold such passage to be nugatory so as to invalidate the act. (122 Tenn., p. 481.)

PASSING BILLS UNDER SUSPENSION OF RULES

SEC. 1921. **The legislature may initiate and finally pass a bill in one legislative day under suspension of rules.** (58 Fla., p. 94.)

SUFFICIENT TITLE

SEC. 1922. If the subjects embraced in the act, but not specified in the title, have congruity or natural connection with the subject stated in the title, or are cognate or germane thereto, the requirement of the constitution, that "No law shall embrace more than one subject, which shall be clearly expressed in the title, is satisfied." (109 Va., p. 11.)

ENTRIES IN JOURNAL

SEC. 1923. The constitution does require that every bill shall be read three times in each branch of the general assembly before it shall be passed into law, but the constitution does not say that these several readings shall be entered on the Journal. Some acts performed in the passage of laws are required to be entered in the Journal in order to make them valid, and among these are the entries of the yeas and nays on the final passage of every bill. But when the constitution is silent as to whether a particular act which is required to be performed shall be entered on the Journals it is then left to the discretion of either house to enter it or not and the silence of the Journal on the subject is not evi-

dence that the act was not done. In such a case we must presume it was done unless the Journal affirmatively shows that the act was not done. (25 Ill., p. 183.)

(A) It is not necessary that the Journals should state that a bill was read three times before being put upon its final passage. This is presumed to have been done unless the Journal affirmatively shows that it was not done. (25 Ill. p. 182.)

READING BILLS

SEC. 1924. Under the constitutional provision requiring bills to be read on three different days in each house it was held by the supreme court of Arkansas that a bill could be read the first time by the receiving house and the same day it was read a third time and passed by the sending house. (40 Ark. p. 200.) The opinion of the W. Va. court is in harmony with this decision, it was held there, that five days were necessary to constitutionally pass a bill through the two houses unless the rules were dispensed with.

EXTENT OF AMENDMENT

SEC. 1925. A pending bill may be perfected in any manner consistent with the original object as expressed in the title, by amendment, or by substitution therefor if the substitute is for the same purpose as the original bill, and not for another or different purpose. (60 Mich. p. 373.)

WHEN EXISTING LAW IS REPEALED

SEC. 1926. An existing law, insofar as its provisions are inconsistent with or covered by a subsequent act of the legislature on the same subject, is repealed by the later act. (59 Mich. p. 104.) If this be true a statutory law, surely it will apply to parliamentary law.

SUBSTITUTE FROM CONFERENCE COMMITTEE

SEC. 1927. When a bill having passed regularly by both Houses was referred to a committee of conference

upon a difference between the two houses as to certain amendments to whom was referred Senate Bill No. 10 with House amendments, beg leave to report the accompanying bill in lieu of said bill and amendments. (Here follows reasons for reporting the substitute.) The committee report was concurred in and later signed. The court says: "The bill was passed after redrafting."

(A) It was argued that under the foregoing conditions the bill should have been read three times and the vote taken on passage.

The court held the act was constitutionally passed and a valid law. They had authority to make such changes as would reconcile differences between the two houses. It was not necessary that the substitute bill should be read three times again and passed after the committee reported. (91 Tenn. 7 Pickle p. 597.) To the foregoing opinion of the court there was one dissenting justice who held that because of the wording of the report it was a new bill.

BURDEN OF PROOF

SEC. 1928. The burden of proof that a law was not passed in accordance with the constitutional requirements, is on the person alleging invalidity. (35 N. C. p. 62.)

VOTE OF CONCURRENCE

SEC. 1929. When after passage of a bill by one house and its report to the other, the latter passes it with amendments germane to its general subject, either to the body of the bill or to its title, it is not necessary that the House wherein the bill originated shall do more than concur by voice vote in the amendments made. (36 Fla. p. 358.)

FINAL ACTION ON PASSAGE TAKEN ON AMENDMENTS OF OTHER HOUSE

SEC. 1930. The Kentucky Supreme Court decided with a dissenting opinion. (93 Ky. p. 357.) That the

final vote on a bill is taken on the amendments of the other House.

RECONSIDERATION

SEC. 1931. A suit was brought in the Colorado Supreme Court to test the constitutionality of a legislative act on the ground that a vote on reconsideration was taken without a yea and nay vote. Of course the court very promptly decided that such vote was wholly unnecessary. (33 Col., p. 193.)

SEC. 1932. The speaker laid before the House a house bill with Senate amendments. A motion was made that the Senate amendments be concurred in. A point of order was raised that the amendments under the rule must first be considered in the committee of the whole House. The Speaker overruled the point of order and said: "This is merely a difference in amount, a question that has already been considered in the committee of the whole. It is not a new proposition, and it has been held not to send it to the committee of the whole. (Jour. 2 Sess. 54th Cong., p. 121.) (See H. R. 4363 for Senate amendments above referred to.)

VALIDITY OF ACTS—HOW DETERMINED

SEC. 1933. A majority of all the members elected to either branch of the General Assembly must concur in the final passage of a bill or the act has no force. The yeas and nays taken on the passage of a bill and entered on the Journal is the only test of its validity. (Ill. 14, page 297.)

EFFECT OF RECEDING—(COURT OPINION)

SEC. 1934. In a case brought before the New York Court of Appeals in which it was alleged that certain requirements of the Constitution were not complied with, it was contended that when the Senate receded

from certain amendments it should have been by a yea and nay vote and the bill after receding should have been read again a third time. In its opinion the court said: "While this law did not require for its passage the presence of three-fifths to form a quorum, it required, like other laws, that the question on its final passage should be taken by yeas and nays and that they should be duly entered on the Journals. It has never been the practice of the presiding officers to certify that these directions of the Constitution were complied with. The presumption is that they were and in our judgment it is not admissible to prove to the contrary in any case." * * * (New Y. Reports, Vol. 8, page 327.)

EFFECT OF RECEDING FROM AMENDMENTS—(COURT OPINION)

SEC. 1935. In reviewing the procedure of receding the New York court says: "But assuming that we may look beyond the act as published by authority into the journals of the legislature, it will be seen that there is no foundation for the charge that the legislature failed to comply with the directions of the constitution. In looking into the Senate Journal it appears that the bill in question originated in that body and on its final passage the yeas and nays were taken and entered in the Journal, the Assembly (House of Representatives) returned the bill to the Senate with divers amendments. The Senate had these amendments under consideration and proposed certain amendments thereto, and then agreed to the amendments as amended by a majority, the yeas and nays being taken and entered in the Journal. The amendments thus amended were returned by the Senate to the House. The latter body now concurred in the amendments of the Senate and a conference committee was appointed which recommended that the Senate should recede from two of its amendments and that the House should adopt the residue. This was

agreed to by the House by a yea and nay vote which was entered on the Journal. The Senate receded from the two amendments as recommended by the conference committee without a yea and nay vote and without entering the names of those voting in the Journal. The omission to call the yeas and nays on receding from these two amendments and recording the names of those voting, is the only fact objected to as a departure from the constitution. (8 N. Y. Rep., page 327.) **We think the requirements of the constitution was fully satisfied by the Senate on the final passage of the bill before it was sent to the House,** and on final passage (adoption) of the amendments. The course and practice of the legislature did not require that the whole bill should be again read, on receding from the two amendments recommended to be abandoned by the conference committee. There is nothing in the Constitution which requires the yeas and nays to be taken in receding from an amendment which the Senate had once adopted by the requisite vote and in the prescribed form. In point of fact, every part of the law as it stands has received the requisite majority in both Houses, the yeas and nays were taken on its final passage and entered on the Journals. The law therefore was passed without violating any of the forms of the Constitution.

Again the provision of the Constitution requiring the question upon final passage of a bill to be taken immediately upon its last reading and the yeas and nays to be entered on the Journal is only directory to the legislature. There is no clause declaring the act to be void if this direction be not followed. It does not stand on the same footing with the requirement of a certain number to form a quorum or to pass a bill. In the latter case there is a defect of power if the requisite number be not present and voting. The supreme court declared that a provision for recording the yeas and nays in the

charter of a municipal corporation was directory and not imperative." (8 N. Y. Rep., page 237.)

RECALL OF BILL FROM GOVERNOR

SEC. 1936. The New York Court of Appeals, in a case brought by the Attorney General to test the validity of a law which had been passed, sent to the Governor and afterward recalled by the Senate and amended in which amendment the **House refused to concur,** laid down the following important rule of legislative action which we think is in harmony with general parliamentary law.

(A) When a bill has passed both branches of the legislature and has been signed by the appropriate officers and sent to the Governor for his approval and signature it has passed beyond the control of either House, and cannot **be recalled except by joint action of the two Houses.** (N. Y. Reports 33, page 269.)

RECALL OF ONE HOUSE ALONE NULLIFIES BILL

SEC. 1937. When a bill thus passed by the two Houses, signed by the Speakers and sent to the Governor for his signature, is recalled by the action of the House alone and the Governor complies with the request and sends back the **bill any action which such House may have in respect thereto is a nullity.** (33 N. Y. Rep., page 269.)

ACTION OF ONE HOUSE ALONE IN AMENDING ENROLLED BILL NOT SUFFICIENT

SEC. 1938. Such bill as passed by the joint action of the two Houses, signed by their Speakers, approved by the Governor and deposited in the office of the Secretary of State, becomes the law of the state, notwithstanding any action **either House alone may take in respect thereto.** (N. Y. 33, page 269.) It should be

observed that in this decision of the New York court, it does not deny the right of both Houses by concurrent action to recall a bill from the Governor and again consider it, but by inference at least, admits the right of the legislative body so to do, examine these words, "notwithstanding any action **either House alone may take."**

TWO-THIRDS VOTE DEFINED BY COURT

SEC. 1939. The Supreme Court of Missouri in 1936, in a decision relative to a two-thirds vote as required by the constitution for the adoption of constitutional amendments established this rule: "An amendment which is ratified by two-thirds of a quorum—that is, two-thirds of a majority of all elected, is ratified by two-thirds of that House within the meaning of the constitution." The foregoing is the syllabus of the court decision. The following briefly presents the reasoning of the court by which the conclusion was reached. "In the 7th section of the third article of the constitution the word House is mentioned as consisting of all the members elected. A majority of each house shall constitute a quorum to do business. The word House is frequently used in the same article as 'Each House shall appoint its own officers, etc.' 'Neither House shall without the consent of the other adjourn for more than two days at any one time, etc.' To cite further instances would be useless. The word House then as used in the constitution may then be either the whole number elected to that House or a majority of its members.

"The most common meaning of the word then being a number of members sufficient to constitute a quorum to do business, it is our opinion that 15 members of the Senate having voted for this amendment and only seven against it, two being absent, it was passed by the required two-thirds vote." (Mo. 4, page 308.)

CONCURRENCE IN AMENDMENTS

SEC. 1940. In the New Hampshire legislature a bill was passed and sent to the Senate, then amended and returned to the House for concurrence, the record did not show that the House at any time concurred in the amendment. This discrepancy was called to the attention of the Governor who requested an opinion from the state supreme court on the validity of the act. In its opinion rendered to the governor the court says: "It appears from an inspection of the Journal that the act, as it now stands, contains a provision added as an amendment in the Senate to the bill after it passed the House. We are unable to discover anything in the Journals which shows, or from which we are at liberty to infer that the house concurred in the amendment. We cannot regard the report of the committee on engrossed bills (enrolled bills) and the acceptance of the report as evidence to that effect. The well known and long established course of legislative procedure required that the amended bill should be sent back to the House with notice of amendment, and that the House should take direct and formal action on the question of concurring in it.

"Instead of notice to the House that the Senate had amended the bill in which the House was asked to concur, the House was simply informed that the Senate passed the bill. The amended bill according to the Journals was never submitted to the House, nor in possession of the House. * * * It appears from the Journals that the act as it was passed by the Senate and stands engrossed (enrolled) did not receive the assent of the House of Representatives as is required by the constitution. Consequently the whole act nor any part of it was passed with the concurrence of both houses of the legislature as required by the constitution. Our conclusion is that the act is not valid or binding as a law of the state." (N. H., pages 582-83.)

RIGHT TO CORRECT JOURNAL

SEC. 1941. In a case involving the legality of a law which had passed because the Journals did not show certain constitutional requirements performed, being the three readings of the bill, filed in the Supreme Court of Illinois and at the time the legislature was holding a second session, the House proceeded regularly to correct the Journal to show that the bill was read three times as was shown by the clerk's original copy. In this case the court said: "While the absence of the facts in the Journals may rebut the presumptions raised by the signature of the proper officers, and the publication of the act as a law, still we cannot doubt the power of the same legislature, at the same or a subsequent session to correct its own Journal, by amendments which show the true facts as they actually occurred, when they are satisfied that by neglect or design the truth has been omitted or suppressed." (17th Ill. 153.)

(A) A case was presented to the Supreme Court of Illinois in which it was shown that the Journal did not disclose that a bill had been read three times according to the constitutional requirements, the court decided: "The Constitution does require that every bill shall be read three times in each branch of the General Assembly before it shall be passed into law, but the Constitution does not say that the three several readings shall be entered on the Journals. Some acts performed in the passage of law are required by the Constitution to be entered on the Journals in order to make them valid and among these are the entry of the yeas and nays on the final passage of every bill, and as heretofore held, where the Journals do not show this the act does not become a law. But when the Constitution is silent as to whether a particular act which is required to be performed shall be entered on the Journals, it is then left to the discretion of either House to enter it, or not. And the silence of the Journal on the subject ought not to be held to afford evidence that the fact was not done. In such case we pre-

sume this was done. We think this act was properly passed." Ill. Reports 25, p. 183.)

EXTENT OF LEGISLATIVE POWER—SUSPENSION OF CONSTITUTIONAL RULE

SEC. 1942. The following case of legislative procedure was taken to the Supreme Court of California and decided as follows:

The Case

SEC. 1943. The complaint avers that the bill was not read on **three different days before its passage in the Senate.** But the complainant also shows that before its passage in the Senate a resolution was there adopted by a two-thirds vote, by which it was resolved that said bill and a number of other bills present cases of urgency as that term is used in the constitution and the provision that bills shall be read on three several days in each House is hereby dispensed with and it is ordered, etc. The only objection to the dispensing resolution is that it included other bills as well as the one now in question. **But the constitution does not undertake to provide the form, or to set limitations to the manner in which the dispensing power shall be exercised. The words are simply "Unless, in a case of urgency, two-thirds of the House, by a yea and nay vote dispense with this provision."** It merely provides that a bill shall be read on three different days in each House, unless such House, by a two-thirds vote, shall in some appropriate form, dispense with that necessity. This was done in the case at bar with respect to the bill in question—the bill being expressly named in the resolution. The main virtue of the provision is evidently the requirement of a **two-thirds vote.** The constitution does not either expressly or by necessary implication **prohibit the Senate from exercising its dispensing power with respect to two or more bills by one declaration of its purpose;** and the unquestioned rule of American states is that the **legisla-**

ture may exercise all legislative power not prohibited to it by the constitution. (100 Calif., pp. 419-20-21-22.)

CONSISTENCY OF VOTES OF MEMBERS

SEC. 1944. The fact that several members who voted to declare a bill a case of urgency and afterward voted against the bill on its final passage, is immaterial, and cannot be considered as indicating that such members may have voted in the first instance through improper motives. (100 Cal., p. 420.)

MOTIVES OF LEGISLATORS

SEC. 1945. The motives which induce legislative action is not a subject of judicial inquiry, and the legislative act cannot be declared unconstitutional because in the opinion of a court, it was or might have been the result of improper consideration. (100 Cal., p. 420.)

READING AMENDMENTS

SEC. 1946. A bill is required by the Constitution to be read three times in each House but this requirement does not apply to amendment and alterations made in the passage of a bill or contained in the report of a committee of conference. (S. C. 33, p. 152.)

RULES

SEC. 1947. **The rules of a legislative body are within its own control and may be suspended at its pleasure.** (33 S. C. Rep., 152.)

BILLS NOT READ THREE TIMES AFTER AMENDMENT

SEC. 1948. Under the provision of the Constitution which requires that every bill shall be read on three several days in each House, it is not required that the bill shall be read on three several days after an amendment thereto. (7 Pacific Rep., p. 142.)

DISPENSING WITH THREE READINGS—(COURT DECISION)

SEC. 1949. In another case the California Supreme Court in relation to the reading of bills rendered in part this opinion: **It is also claimed that the clause "unless in case of urgency, two-thirds of the House where such bill is pending shall dispense with this provision" relates only to the reading of bills on separate days, and not to the manner of reading. But the obligation imposed to read on three several days is one, and it cannot be doubted that the power to dispense may be employed with reference to each and every portion of this obligation. The section as distinctly requires all bills to be read as it requires them to be read on separate days.** (54 Cal. Rep., p. 115.)

CORRECTING ERROR IN ENROLLMENT AFTER ADJOURNMENT

SEC. 1950. A bill regularly passed by both branches of the legislature, but in its enrollment two provisions reported by a conference committee and incorporated in the bill by way of amendment were omitted. In this form it was approved by the Governor. The next day the Assembly adjourned, and the omission being discovered, a correct enrollment was then made, and the bill was then signed by the President of the Senate and the Speaker of the House and was again laid before the Governor, who approved it four days after the adjournment.

In this case it was held by the Arkansas court, that the first presentation being of no effect, this last action was a compliance with the Constitution requiring the presentment to and approval of bills by the Governor and notwithstanding it all took place after adjournment. (49 Ark., 325; 5 S. W., 297.)

ACTION WHEN GOVERNOR SIGNS BILL BY MISTAKE

SEC. 1951. An act was signed by the Governor by mistake and a message was delivered to the House of Representatives by his private secretary announcing his approval, and this was done not by special direction of the Governor, but according to usual routine of business because he had found it on the Governor's table with his signature attached. The Governor when the discovery was made sent a message stating the facts to the Speaker of the House, which was read, the House returned the bill to the Governor, who later returned same with his signature erased and his objections thereto. Held that the act never became a law. (19 Ill., 283.)

READING SUBSTITUTE AMENDMENTS THREE TIMES NOT REQUIRED

SEC. 1952. When it appears that a bill was amended by striking out all after the enacting clause and inserting a "new bill" it cannot be presumed that the matter inserted was upon a different subject from that which was stricken out, especially when the matter inserted is consistent with the title borne by the bill before such amendment. This is the more obvious since the constitution provides that no bill shall contain more than one subject which shall be clearly expressed in the title. Nor does the fact that the inserted matter is called a "new bill" provide that it was not an amendment. Therefore, Art. 11, Sec. 16 of the Constitution declaring that every bill shall be read on three different days does not apply, **as said provision is not applicable to amendments.** (3 Ohio St. 475.)

EFFECT OF RECONSIDERATION

SEC. 1953. A bill after having gone to a conference, was reconsidered and passed by the House after which a motion to reconsider was made and tabled. The bill with others passed on that day was by mistake of the

Clerk sent to the Governor, who, believing it had been passed, indorsed his approval thereon and sent the same to the Secretary of State. The House immediately discovered the error, secured the return of the bill after which the **Governor erased his signature,** whereupon the House ordered the motion to reconsider taken from the table, and that its action in passing the bill be reconsidered and the bill be indefinitely postponed, after which the legislature adjourned without taking further action on the bill. The Court of Connecticut held that the bill did not become a law. (79 Conn. 141.)

COMPUTING TEN DAYS ALLOWED GOVERNOR

SEC. 1954. In computing ten days allowed to the Governor within which to veto a bill, **the first day** should be **excluded,** and the **last day included.** (71 Mo. 392, Missouri Supreme Court.)

SPECIAL SESSION

SEC. 1955. **The business to be transacted at a special session of the legislature should be specifically named in the executive proclamation but not described in detail, and the legislature cannot go beyond the business specially named but within such limits may act freely in whole or part, or not at all.** (Decision of Supreme Court of Colorado, 19 Col., 333.)

SIGNING BILLS IN PRESENCE OF HOUSE

SEC. 1956. In a case affecting the signing of bills before the Wyoming Supreme Court, it says: "The evident purpose of this constitutional provision and its requirements may be said to furnish some cogent reasons for holding it to be mandatory. It is obviously intended that the final act before the bill goes to the Governor shall be done publicly and not privately; and that the House shall be apprised of the fact that a certain

measure receives the authenticating signature of its presiding officer. **Hence, should there be a valid objection, either because of mistakes or otherwise, an opportunity would be offered for its presentation. In a certain sense the act of signing is an act of the body itself, although the signature appended is that of the officer,** since the latter in that matter represents the body whose presiding officer he is, and no objection is interposed to his performance of the required act. Under this provision of the Constitution the presiding officer may not lawfully append his signature to the bill during a recess or adjournment of the body. He may not do so after it has adjourned finally and its labors have terminated. (12 Wyo., 270.)

(A) The foregoing decision of the Wyoming Court appeals to the writer as being sound reasoning. If the purpose of the requirement that the bills must be signed in the presence of the House is not to give notice to the members that the final act or authentication is about to be made, and if there be reason why the presiding officer should not sign, members would have opportunity to present objections and instruct such officer not to sign, what then is the reason for such requirement?

SUSPENDING CONSTITUTIONAL RULE

SEC. 1957. Again in its decision the Supreme Court of Nebraska says: "It is urged also against the validity of this act that it was read twice in the Senate on the same day in disregard of the constitutional requirement which provides that 'Every bill shall be fully and distinctly read three different days, unless in case of urgency three-fourths of the House in which it is pending shall dispense with the rule. On this point the Journal of the Senate shows that the rule was suspended by a vote of three-fourths of the members; and while it is silent as to the reason for suspension, the presumption is that it was a case of urgency within the constitution. Whether any given state of circumstances pre-

sented a case of urgency **authorizing a suspension of the rules is not a question for the courts to determine, but is one left to the sole judgment and discretion of that branch of the legislature in which the bill is pending.'** To my mind it is clear that this particular command of the Constitution, that every bill shall be fully read on three different days in each House, unless in case of urgency the rule is dispensed with by a three-fourths majority is just as imperative and its observance quite as essential to the validity of any act as any other provision of the fundamental law. But inasmuch as it is required as it is in respect to bills on their final passage, that each House shall place upon its Journal and preserve the evidence of its having obeyed the rule, it will be presumed that they did so, unless the contrary clearly appear." (4 Nebr., 506-7.)

RECALL OF BILL FROM GOVERNOR

SEC. 1958. The Supreme Court of Colorado says: "We discover nothing in the Constitution that forbids the legislature's requesting, by joint or concurrent resolution of both Houses, the return of a bill in the hands of the Governor for his approval, or which directs or controls the action of his excellency in response to such request. Neither do we find any provision in Constitution or statutes which inhibits a reconsideration and amendment, if in accordance with the parliamentary practice adopted by the respective Houses of a bill returned." (9 Colo., 630.)

FAILURE OF GOVERNOR TO RETURN BILL TO ASSEMBLY

SEC. 1959. When a member of the General Assembly, who has introduced a bill, or those interested in the passage of a bill, withdraws it from the Governor immediately after its delivery to him, upon his indication of some objection to bill and it is never returned to him, it does not become a law upon his failure to return it to the

General Assembly within ten days and it is not to be regarded as having been presented to him within the meaning of the Constitution. (92 Ky., 216.)

DIRECTORY PROVISIONS OF CONSTITUTION

SEC. 1960. The Supreme Court of Ohio has at various times held that the following constitutional provisions relative to legislative action are merely directory to the legislature and not mandatory:

Reading bills on three different days. (3 Ohio, 475.)

That no bills shall contain more than one subject which shall be clearly expressed in its title. (6 Ohio, 177.)

The clause which provides that the section or sections amended shall be repealed. (15 Ohio, 573.)

Similar constitutional provisions are held directory in California, Maryland and Mississippi but are recognized and enforced as mandatory in Alabama, Georgia, Indiana, Iowa, Kentucky, Michigan, Louisiana, Minnesota, Missouri, New Jersey, New York, Texas Wisconsin and Nevada. (32 Ohio 463-4.)

THREE READINGS OF AMENDMENTS NOT REQUIRED

SEC 1961. In the case of Miller and Gibson v. The State of Ohio in which the court was asked to nullify an act of the Assembly because a substitute was reported from committee for a bill with this language, "Strike out all after the enacting clause and substitute a new bill." In writing the opinion of the court Judge Thurman said: "For argument's sake, let it be admitted that the bill as amended was read but once in the Senate. Is the act for that reason void?" That counting the two readings before the amendment and the final reading the bill was read three times is conceded, for the three readings are shown by the Journal and it is also conceded, that in general **that three readings of an amendment are not necessary.** But inasmuch as the amendment in this case

is styled in the Journal a **"new bill"** it is said that three readings were necessary. Why necessary? The amendment was none the less an amendment because of the name given it. It is not unusual in parliamentary proceedings to amend a bill by striking out all after the enacting clause and inserting a new bill. When the subject or proposition of a bill is thereby wholly changed, it would seem to be proper to read the amended bill three times and on different days, but where there is no such vital alteration, three readings of amendments are not required. (3 O. S. Rep., 482.) See decisions of Colo. and Neb. Supreme Courts, 4 Neb., 506-7; Colo., 54, 115-100-419, 20-21-22.)

MANDATORY PARLIAMENTARY RULES IN OHIO CONSTITUTION

SEC. 1962. Chief Justice Nichols, himself a former officer of the General Assembly, writing the opinion of the court in the civil service case has the following to say relative to the parliamentary rules written into the constitution. Failure to follow these mandatory provisions must invalidate acts so passed, the provisions clearly mandatory are those to the effect that no law shall be passed without the concurrence of a majority of all the members elected to each House of the General Assembly; that the presiding officer of each House shall sign all bills, publicly in the presence of the House over which he presides, while the same is in session and capable of doing business; that each House shall keep a Journal and that on the passage of a bill the vote shall be taken by yeas and nays and entered thereon; and that every bill, before it becomes a law shall be presented to the Governor for his approval." (93 O. S. Rep., 252.)

AMENDING TITLE WITHOUT CONCURRENCE

SEC. 1963. A change in the mere title of a bill after it passes one House and before it passes the other does not void the enactment although the bill is not sent back to the

first House as in the case of amendments to the body which is necessary. (74 Ill., 361.)

WHEN ENROLLED BILLS MAY BE IMPEACHED

SEC. 1964. A duly enrolled bill although publicly signed by the presiding officer of each House, in the presence of the House, over which he presides, while the same was in session and capable of doing business, and afterward approved by the Governor and filed with the Secretary of State may be impeached on the ground that it has not received a constitutional majority of the members-elect of both branches of the General Assembly, and upon this question the legislative Journals must provide the appropriate as well as the conclusive evidence. (Decision of Supreme Court, O. S. R., Vol. 93, p. 502.)

EFFECT OF ATTESTATION BY PRESIDING OFFICERS

SEC. 1965. Such enrolled bills, so authenticated, is conclusive upon the courts as to the contents thereof, since the attestation of the presiding officers of the General Assembly is a solemn declaration of a co-ordinate branch of the state government that the bill as enrolled was duly enacted by the legislature. (Decision of Supreme Court O. S. R., Vol. 93, p. 502.)

WHEN LAWS TAKE EFFECT

SEC. 1966. All laws, except for tax levies, appropriations and emergency laws, go into effect ninety days after filing with the secretary of state, regardless of date of approval by the Governor. (93 O. S. 502.)

WHEN EMERGENCY AND OTHER LAWS TAKE EFFECT

SEC. 1967. Laws providing for tax levies, appropriations for current expenses for the state government and

state institutions and emergency laws as defined in Section 1d, Art. II, of the Constitution, go into immediate effect when approved by the Governor. (Supreme Court decision, O. S. R., Vol. 93, p. 514.)

DELEGATION OF LEGISLATIVE POWERS

SEC. 1968. Where a power is quasi-legislative, quasi-administrative, or so mixed in its nature that it may be regarded as a combination of all of them, the legislature may in the first instance, characterize such power and confer it either upon existing agency of the government or an agency especially created for that purpose.

EMERGENCY LAWS, FAILURE TO RECEIVE TWO-THIRDS VOTE—EFFECT OF

SEC. 1969. An act of the General Assembly purporting to be an emergency act but which fails to receive the two-thirds majority in one branch of the Assembly as required by the Constitution for an emergency act, becomes at the end of the ninety-day referendum period a valid act of the General Assembly, if otherwise constitutional. 92 O. S. p. 216.

SUSPENSION OF RULES—(O. S. C. DECISION)

SEC. 1970. The council of Xenia, O., had two ordinances reported from a committee, which they passed under suspension of rules.

(A) Sec. 98 of the Ohio Municipal Code provides: "All by-laws, resolutions and ordinances of a general or permanent nature, shall be fully and distinctly read on three different days, unless three-fourths of all the members elected shall dispense with the rule." This is substantially the constitutional rule governing the reading of bills in the Ohio General Assembly.

(B) The foregoing municipal rule was suspended by unanimous consent and two ordinances were passed under

the operation of one suspension by the council. The case reached the Supreme Court. In its consideration of the case the court took note of the failure of council to suspend the rule to pass the second ordinance and says: "Does one vote to suspend the rules, suspend them indefinitely? Can they be suspended for an entire session of council and measures of every character be passed at once? This we think would be entirely too liberal. The rule must therefore be dispensed with as to the particular ordinance." In Ohio it has been the constant practice in both Houses of the Assembly to dispense with the constitutional rule and then read all bills on the calendar a second time by title under the one suspension. Under the foregoing decision of the Ohio court it is doubtful if the Assembly practice on second reading satisfies the constitutional requirements or is within the decision of the court.

CHAPTER XLV

OHIO GENERAL ASSEMBLY

LEGISLATIVE AUTHORITY

SEC. 1971. The constitution of Ohio declares the **legislative power** of the state **to be vested in the General Assembly,** but reserves certain powers for the **people under the initiative and referendum** and in addition **clothes the chief executive with certain legislative powers.** The General Assembly of Ohio is therefore composed of the Governor, Senate and House of Representatives. (See Art. II, Section 1, Const.)

INITIATIVE AND REFERENDUM

(A) The legislative power of the state shall be vested in a general assembly consisting of a senate and the house of representatives but the people reserve to themselves the power to propose to the general assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, section of any law or any item in any law appropriating money passed by the general assembly, except as hereinafter provided; and independent of the general assembly to propose amendments to the constitution and to adopt or reject the same at the polls. The limitation expressed in the constitution, on the power of the general assembly to enact laws, shall be deemed limitations on the power of the people to enact laws. (Adopted Sept. 3, 1912. Const., Art. II, Sec. 1.)

APPORTIONMENT OF MEMBERS OF ASSEMBLY

(B) The apportionment of this state for members of the General Assembly shall be made every ten years, after the year one thousand eight hundred and fifty-one in the following manner: The whole population of the state, as ascertained by the federal census, or in such other mode as the General Assembly may direct, shall be divided by the number "one hundred," and the quotient shall be the ratio of representation in the House of Representatives, for ten years next preceding such apportionment. (Const., Sec. 1, Art. XI.)

EACH COUNTY TO HAVE ONE REPRESENTATIVE

(C) Every county having a population equal to one-half of said ratio, shall be entitled to one representative; every county containing said ratio, and three-fourths over shall be entitled to two representatives; every county containing three times said ratio, shall be entitled to three representatives; and so on, requiring after the first two, an entire ratio for each additional representative. Provided, however, that each county shall have one representative. (As amended November 3, 1903. Const., Art. XI, Sec. 2.)

ADDITIONAL REPRESENTATIVES

(D) When any county shall have a fraction above the ratio, so large, that being multiplied by five, the result will be equal to one or more ratios, additional representatives shall be apportioned for such ratios among the several sessions of the decennial period, in the following manner: If there be only one ratio, a representative shall be allotted to the fifth session of the decennial period; if there are two ratios, a representative shall be allotted to the fourth and third sessions, respectively; if three, to the third, second and first sessions, respectively; if four, to the fourth, third, second, and first sessions, respectively.

WHEN COUNTIES ARE JOINED

(E) Any county forming with another county or counties, a representative district, during one decennial period, if it have acquired sufficient population at the next decennial period, shall be entitled to a separate representation, if there shall be left, in the district from which it shall have been separated, a population sufficient for a representative; but no change shall be made, except in the regular decennial period for the apportionment of representatives. (Const., Art. XI, Sec. 4.)

FORMING DISTRICTS

(F) If in fixing any subsequent ratio, a county, previously entitled to separate representation, shall have less than the number required by the new ratio for a representative, such county shall be attached to the county adjoining it, having the least number of inhabitants; and the representation of the district, so formed, shall be determined as herein provided. (Const., Art. XI, Sec. 5.)

RATIO FOR SENATOR

(G) The ratio for senator shall forever, hereafter be ascertained by dividing the whole population of the state by the number of thirty-five. (Const., Art. XI, Sec. 6.)

ELECTION OF MEMBERS

SEC. 1972. Senators and representatives shall be elected biennially by the electors of the respective counties or districts, on the first Tuesday after the first Monday in November; their term of office shall commence on the first day of January next thereafter, and continue two years. (As amended October 13, 1885. Const., Art. 2, Section 2.)

REGULAR SESSION

SEC. 1973. All regular sessions of the General Assembly shall commence on the first Monday of January, bien-

nially. The first session, under this constitution, shall commence on the first Monday of January, one thousand eight hundred and fifty-two. (Const., Art. 2, Sec. 25.)

POWERS—ATTENDANCE—QUORUM

SEC. 1974. Each House shall be judge of the election, returns and qualifications of its own members; **a majority of all the members elected to each House shall be a quorum to do business**[1]**; but a less number may adjourn from day to day, and compel the attendance of absent members, in such manner,** and under such penalties, as shall be prescribed by law. (Const., Art. 2, Sec. 6.)

ORGANIZING HOUSE

SEC. 1975. The mode of organizing the House of Representatives at the commencement of each regular session, shall be prescribed by law. (Const., Art. 2, Sec. 7.)

POWERS GRANTED ASSEMBLY

SEC. 1976. Each House, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct; and with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all the powers, necessary to provide for its safety and the undisturbed transaction of its business, and to obtain, through committees or otherwise information affecting legislative action under consideration or in contemplation, or with reference to any alleged breach of its privilege or misconduct of its members, and to that end enforce the attendance and testimony of witnesses, and the production of books and papers. (Const., Art. 2, Sec. 8.)

[1] It is this constitutional provision that deprives the Speaker of the right under parliamentary law, to adjourn the House in the absence of a quorum. This constitutional provision establishes the right of the House to *adjourn itself in case of the absence of a quorum.*

JOURNAL—MAJORITY TO PASS BILL—YEA AND NAY VOTE

SEC. 1977. Each house shall keep a correct Journal of its proceedings, which shall be published. At the desire of any two members, the yeas and nays shall be entered upon the Journal; and, on the passage of every bill, in either House, the vote shall be taken by yeas and nays, and entered upon the Journal; and no law shall be passed in either House without the concurrence of a majority of all the members elected thereto. (Const., Art. 2, Sec. 9.)

RIGHT OF PROTEST

SEC. 1978. Any member of either House shall have the right to protest against any act, or resolution thereof; and such protest, and the reasons therefor, shall without alteration, commitment, or delay be entered upon the Journal. (Const., Art. 2, Sec. 10.)

FILLING VACANCIES

SEC. 1979. All vacancies which may happen in either House, shall for the unexpired term, be filled by election, as shall be directed by law.

EXEMPTION FROM ARREST

SEC. 1980. Senators and Representatives, during the session of the General Assembly, and in going to and returning from the same, shall be privileged from arrest, in all cases, except treason, felony or breach of the peace; and for any speech, or debate, in either house, they shall not be questioned elsewhere. (Const., Art. 2, Sec. 12.)

PROCEEDINGS OF ASSEMBLY PUBLIC

SEC. 1981. The proceedings of both houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy.

ADJOURNMENT MORE THAN TWO DAYS

SEC. 1982. Neither house shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that in which the two houses shall be in session. (Const., Art. 2, Sec. 14.)

SEC. 1983. **Bills may originate in either house;** but may be altered, amended or rejected in the other. (Const., Art. 2, Sec. 15.)

ASSEMBLY MAY SUSPEND LAWS

SEC. 1984. No power of suspending laws shall ever be exercised, except by the General Assembly. (Const., Art. 1, Sec. 15.)

TRIAL OF CONTESTED ELECTION

SEC. 1985. The General Assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted. (Const., Art. II, Sec. 21.)

HOW MONEY IS DRAWN FROM TREASURY

SEC. 1986. No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years. (Const., Art. II, Sec. 22.)

EXTRAORDINARY SESSION OF ASSEMBLY

SEC. 1987. The governor on extraordinary occasions may convene the General Assembly by proclamation and shall state in the proclamation the purpose for which such special session is called, and no other business shall be transacted at such special session except that named in the proclamation, or in any subsequent public proclamation or message to the General Assembly issued by the governor during said special session, but the General Assembly may provide for the ex-

penses of the session and other matter incidental thereto. (Art. III, Sec. 8.)

JOINT SESSIONS OF TWO HOUSES

(Law)

SEC. 1988. Whenever the two branches of the General Assembly shall convene for any purpose required by the constitution or laws of the state, such convention shall be held in the hall of the House of Representatives, unless otherwise ordered by a joint resolution of the two branches, and the president of the Senate shall preside. During all such conventions each branch shall be held to be in session as a separate branch of the General Assembly, and be governed by its own rules; and except in voting at elections, where each member is entitled to a separate vote, shall act as such and no question shall be considered as carried otherwise than by the concurrent action of both branches; provided, that either branch may, by a vote of a majority of all its members, **dissolve** from such convention by withdrawing therefrom; and such convention may, by the concurrent vote of the two branches, take a recess, or adjourn to a time certain; but such recess or adjournment of the convention shall not be held to be an adjournment or recess of either branch nor to prevent either from proceeding with its usual business during such recess or adjournment of the convention. (O. G. C., Sec. 48.)

HOURS FOR ASSEMBLY MEETINGS

SEC. 1989. Both the House and Senate meet regularly on each legislative day, at the hour provided by the rules which for many years has been, on Tuesday, Wednesday and Thursday at 1:30 P. M. On Monday at 5 P. M. and on Friday at 11 A. M. The reason for not having morning meetings is, the committees may not meet while the House is sitting, and the morning hours and evenings are set aside for committees.

Every member is assigned to one or more committees. It is apparent that a member cannot sit in committee and attend sessions of the House at the same time. So it is necessary to divide the legislative working days to give the committees opportunity to consider legislative business. Even with this arrangement committees are handicapped for time and frequently through their chairman request the Speaker for early week-end adjournments to give them additional time. It is unusual for either House to meet on Saturday.

CONTEMPT OF LEGISLATIVE BODY

SEC. 1990. Power of Committees.—Commitment to jail by either House for contempt. (See Decision of Ohio Supreme Court, Ex parte, Dalton, O. S. Report 44, p. 142; see also General Code, Sec. 59.)

SALARY OF MEMBERS—PAYMENT OF

SEC. 1991. Every member of the General Assembly shall receive as compensation a salary[1] of one thousand dollars a year during his term of office. Such salary for such term shall be paid in the following manner:—two hundred dollars in monthly installments during the first session of such term and the balance of such salary for such term at the end of such session.

MILEAGE AND FINES

SEC. 1992. **Each member shall receive the legal rate of railroad transportation each way for mileage once a week during the session from and to his place of residence, by the most direct route of public travel to and from the seat of government, to be paid at the end of each regular or special session. If a member is absent without leave, or is not excused on his return, there shall be deducted from his compensation the sum of ten dollars for each day's absence.** (General Code.)

[1] For salary or rather per diem of officers of both houses see General Code, Sec. 51, or Session Laws 108, Part II.

CHAPTER XLVI

PRECEDENTS AND DECISIONS OF OHIO GENERAL ASSEMBLIES

VOTE REQUIRED TO PASS APPROPRIATION BILL

SEC. 1993. In 1865 a bill appropriating money for additional compensation for officers of state was passed by a majority vote. The Speaker, Mr. Hubbell, declared the bill passed. A question of order was raised by Mr. George L. Converse that the bill required a two-thirds vote. The Speaker ruled the question not well taken because the bill had received the constitutional majority. On appeal the house sustained the judgment of the Speaker.

INSTRUCTIONS TO COMMITTEES

SEC. 1994. The Ohio House journal of 1862 discloses a very good and proper practice that of offering resolutions instructing committees having bills under consideration to amend such bills in certain specified particulars before reporting them to the house.

METHODS OF DISPOSING OF AMENDMENTS OF OTHER HOUSE

SEC. 1995. On March 26, 1926, Mr. Burton, of Ohio, on behalf of the committee on rules, offered the following resolution: [1]

"Resolved, That the bill of the house, No. 9,341 making appropriations for executive officers, etc., etc., with amendments of the senate be taken from the speaker's table; that

[1] Procedure in National House.

the amendments thereto be disagreed to; that a conference be requested with the senate on the disagreeing votes of the two houses thereon, and that the managers on the part of the house be given specific authority to agree to the amendment of the senate numbered 19, with or without an amendment.

A division of the resolution was demanded and the speaker divided same in two parts, after which it was agreed to.

When the second division was considered an amendment was offered to instruct the house managers to agree to senate amendment 18, upon which instruction the previous question was ordered to prevent further amendment. Then the question was put, "Will the house instruct the managers to agree to senate amendment numbered 18?" The motion was agreed to. Thereupon, the speaker announced the managers on the part of the house.

DEMANDING YEA AND NAY VOTE

SEC. 1996. It is the general practice, and recognized as the right of any member, to immediately following the announcement of the result of a viva voce vote demand the vote be taken by yeas and nays.

RECORDING VOTE OUT OF REGULAR ORDER

SEC. 1997. It appears from the journals of the early Ohio assemblies following the adoption of the Constitution of 1851, that a member who failed for any reason to cast his vote when the roll was called for that purpose could not thereafter have his vote recorded without consent of the House. The present practice in the Ohio house of a member having his vote recorded as a matter of personal privilege is without foundation in parliamentary practice, for the reason no question of personal privilege is involved. If a member does not vote at the proper time no one is to blame but himself. It is, however, the right of the house to allow him to record his vote out of regular course but the question

of allowing such vote should be put to the house if objected to. Of course if no one objects the member has unanimous consent to record his vote out of order. The very undesirable practice in voting out of order except in cases of error would soon be broken up if members were attentive and would object.

(A) In the early practice frequently a yea and nay vote was taken on a request to record a vote and it was not infrequent for the house to deny the member the request.

INSTRUCTING SPEAKER TO WITHHOLD SIGNATURE TO A BILL

SEC. 1998. In the first session of the 55th Ohio General Assembly meeting in 1862, a war resolution relative to prisoners confined at Camp Chase was adopted. The resolution was bitterly opposed before and after its adoption. A motion was presented to reconsider the vote and the clerk directed to request its return from the senate. Meanwhile the senate refused to return same and instead adopted the resolution and sent it to its enrollment committee. The resolution was properly enrolled and reported to the house for the signature of the speaker. Various attempts were made to prevent him from signing the resolution but he always declared he had a ministerial constitutional duty to perform. Finally this resolution was offered: That the speaker is hereby directed not to sign S. J. R. No. 69. The resolution was adopted and the following day the speaker signed the resolution. At the time he signed it a resolution was pending to expel him as a member of the house, which if agreed to would have vacated the speaker's chair.

However, the house was not to be outgeneraled and as soon as the speaker announced he had signed the resolution, a resolution was presented instructing the clerk to retain custody of the resolution and not return it to the senate, also to erase the speaker's signature from the resolution. In this particular case the speaker assumed to be the master of the house and not its servant, which he is. (The con-

stitutional mandate for the speaker to sign is at the convenience of the house, that is when its deliberations have been finally and conclusively ended, when finally passed or adopted. In recent years the house has several times instructed its speaker not to sign certain bills and in each instance the speaker has followed the desire of the house.)

SUSPENDING CONSTITUTIONAL RULES

SEC. 1999. On April 10, 1856, the Ohio house placed itself on record as to the proper interpretation of the constitutional rules relative to suspending the constitutional rules as follows:

"Resolved, That it is the sense of this house that three-fourths of the members present are competent to suspend the constitutional rule to permit a bill to be read more than once on the same day." (H. J. 1856, p. 543.) This resolution is merely declaratory of decisions on this particular subject, but would have been more accurate if it had added, a quorum being present, three-fourths of those present in the absence of a quorum may not suspend the constitutional rules.

ACTION OF OHIO SENATE ON HOUSE AMENDMENTS

SEC. 2000. On April 16, 1862, the Ohio senate sent the following message to the house: The senate refuses to concur in the first and fourth amendments of the house but concur in the second amendment and have amended the third amendment by striking out the word "fifteen" and inserting the word "ten", in which the concurrence of the house is requested.

(This message is correct because it clearly sets forth the action of the senate and the action of the senate was wholly within its parliamentary right.)

PROTEST RULED OUT OF ORDER

SEC. 2001. On April 16, 1870, a protest signed by 38 members was presented in the house for entry on the jour-

nal. Objection was made on the ground that it contained language impugning the motives of the house and language disrespectful toward the majority. The speaker sustained the objection and said "While the right of any member or any number of members to protest is undoubted yet under color of protest no member can introduce a paper containing language disrespectful to the house or charging them with fraud, or impugning the motives of the house, nor any language, because written, that a member would not be entitled to use standing in his place on the floor of the house." (O. H. J. 1870, p. 889.) This decision was sustained by the house.

RELATION OF MOTION TO ADJOURN AND PERSONAL PRIVILEGE

SEC. 2002. The motion to adjourn takes precedence of a question of personal privilege and an appeal from the decision of the chair is not in order pending a motion to adjourn. (H. J. 1862, p. 400.)

UNANIMOUS CONSENT IN OHIO ASSEMBLY

SEC. 2003. The parliamentary device, unanimous consent, has been recognized from almost the beginning of the Ohio assembly and its use has been very extensive even to the adoption of resolutions, and the suspension of the constitutional rules. The latter may be said to have been a common practice.

ENTERTAINING DOUBLE MOTION

SEC. 2004. On March 31, 1862, a motion was offered to reconsider and pending that motion the same member moved that the clerk request the return of the bill from the senate. Objection was made that the speaker could not entertain two motions at one time. Speaker Hubbell overruled the objection and said "The motions are in order, the latter motion is incidental to the motion to reconsider and for the time being supersedes the motion to reconsider."

DISPOSAL OF AMENDMENTS OF OTHER HOUSE

SEC. 2005. On December 16, 1862, the house received from the senate this message: "The senate has agreed to the first, second, third, fourth, fifth and seventh amendments of the house to S. B. No. 88 and disagreed to the ninth, eleventh and twelfth amendments of the house to said bill and to the sixth, eighteenth and tenth with amendments in which the concurrence of the house is requested." The house disposed of this message of the senate by receding from its disagreement in some cases and insisting on its amendments in other cases and then agreed to the senate amendments. This message clearly sets forth the action of the senate and was well within its parliamentary rights in disposing of house amendments as it did. (See H. J. 1862, p 104.)

REVIVAL OF LAWS—CONSTITUTIONAL PROVISION

SEC. 2006. In the Ohio house in 1854 there seemed to exist a very vague and disputable understanding of the exact meaning of Sec. 16, Art. 2 of the constitution. So a resolution was introduced instructing the judiciary committee to report to the house its construction of this constitutional provision. The committee reported as follows:

"The section referred to us provides that no law shall be revived or amended, unless the new act contains the entire act revived, or the section or sections amended.

"Your standing committee is of the unanimous opinion that the construction placed upon this provision by the judiciary committees in both the house and senate in the last session is correct. It is difficult to select language of clearer import in reference to the revival of laws than that used in the constitution which is susceptible of but one construction that no law which has been repealed by the legislature, or expired by its own limitation, or otherwise, can be revived, unless the act sought to be revived be set out, word for word, in the new act. Whenever any section or

sections of any existing law are sought to be amended it is necessary that the amendatory act should set out and contain the entire section or sections as they are intended to read after the amendment or amendments are made and the committee are of the opinion that no amendment of a law can be made by merely referring in the new act to that portion of the existing law sought to be amended, as was the custom under the old constitution.

"The aforesaid provision in the new constitution having been inserted for the purpose of avoiding obscurity in the laws growing out of the practice under the old constitution of repealing and reviving, amending and re-amending laws by mere reference to the same, or parts thereof, so that it became necessary in the course of a few years to read a multiplicity of acts in order to ascertain the law on the subject, which could then only be arrived at with certainty by a careful examination of several statutes, and perhaps not at all, owing to obscurity necessarily involved by such a system of legislation. Your committee refer for illustration to the several amendatory acts of last winter which will explain by example better than it can be done by words, the views of the committee."

(Signed by Members Judiciary Committee.)

The report was adopted.

UNANIMOUS CONSENT OR SUSPENSION OF RULES TO TAKE FROM TABLE

SEC. 2007. It is quite evident that in the practice of the Ohio General Assembly the motion to take from the table has had no recognition under the rules. Of course its use has always been permitted under a suspension of the rules. In the journal of 1871, p. 659, we find the following procedure recorded, which is self-explanatory.

"Mr. Sayler asked unanimous consent to make a motion to take from the table H. B. No. 496.

"Objection was made.

"Mr. Sayler then moved to suspend the rules to permit him to make the motion to take from the table.

"Pending which the house adjourned."

The following day on reconvening the question on suspension was put and agreed to and the motion to take from the table was offered and agreed to.

SPEAKER MAY VOTE TO SUSTAIN HIS DECISION

SEC. 2008. On March 1, 1870, an appeal was taken from the decision of the speaker, a yea and nay vote was demanded and resulted—yeas 48, nays 48, the speaker voting in the regular order to sustain his decision. A question of order was raised that it was not the right of the speaker to vote to sustain his own judgment. There being no rule of house on the subject, but having adopted Cushing in all matters not provided for, the speaker read from Cushing as follows: "In all cases the presiding officer may decide the question on an equal (tie) vote." His decision was sustained.

In the national house in a similar case, Mr. Reed voted to produce an equal vote and ruled that the equal vote sustained his decision that it required a majority to annul his decision.

PAIRING

SEC. 2009. In the earlier Ohio assemblies the practice of pairing was recognized and practiced. They had no rule relating to pairing of votes but derived their authority for such practice from the world's greatest parliamentary bodies, the Parliament of England and the Congress of the United States.

PAIRING IN OHIO HOUSE AND SENATE

SEC. 2010. Pairing in the Ohio House and Senate was recognized and practiced in the House as late as 1871.

SECOND RECONSIDERATION

SEC. 2011. On May 8, 1868, the president of the senate, on a question of order ruled: "The vote on the passage of a bill having been once reconsidered cannot again be reconsidered." (S. J. 1868, p. 781.)

MOTION TO RECONSIDER AND LAY MOTION ON TABLE

SEC. 2012. In the session of the Ohio General Assembly in 1860, a very common motion in use in the house was the double motion made by one member to reconsider and lay the motion to reconsider on the table. In fact if the motion to reconsider was not offered in the form above, it rarely or never was permitted to be put to the question before a motion was made to lay it on the table. When the double motion was offered the question was put on both motions at the same time and in the words of the mover. It does not appear that the effect of the motion was clearly understood. We have not found where objection against its use was ever made.

VOTE REQUIRED TO PASS APPROPRIATION BILL

SEC. 2013. In 1862, a bill appropriating money for additional compensation for state officers received a majority vote and the speaker declared the bill had received the constitutional majority and was passed. Objection was made that a two-thirds vote was necessary. The speaker overruled the objection because the bill had received the constitutional majority. On appeal the decision of the speaker was sustained.

SPEAKER'S TABLE

SEC. 2014. Pairing in the Ohio House and Senate of business of house. All communications from any branch of government and messages of the senate go to the speaker's table. The business on the speaker's table is

usually handed down or brought to the attention of the house in Ohio at the discretion of the speaker, but usually he does this immediately following the reading and approval of the journal. The business on the speaker's table may be reached at any time by unanimous consent to proceed to the consideration of business on the speaker's table. If the request is unobjected to the speaker should at once present to the house any business that is on his table.

CHAPTER XLVII

FORMS, RULES AND COMMUNICATIONS

RESOLUTIONS

SEC. 2015. Resolutions as used in the practice of the Ohio General Assembly are of two kinds: House or Senate and Joint Resolutions. The former needing only adoption in the body in which they are introduced and the latter by both the Senate and House to make them effective.

(A) **When Considered**—House or Senate Resolutions, pertaining to the day on which they are offered are usually considered at once and a yea and nay vote is not required. Resolutions that would cause debate and not affecting the business of the day lie over under the rules one day before being considered, providing the rules are not suspended. Joint Resolutions lie over one day before being considered unless otherwise ordered by the House.

(B) Joint Resolutions are not read three times as are bills, but usually they are referred to appropriate committees for consideration and recommendation.

(C) **Printing of** — Joint Resolutions are printed under the rules.

(D) Money cannot be appropriated from the general funds of the state by resolution. After money has been appropriated by law, and set aside for a fixed purpose, it may then be expended by resolution.

(E) **Example of** — For example, the General Assembly by law appropriates $10,000 for contingent expenses of the House, to draw from this fund, it is necessary for the House to adopt a resolution setting forth to whom the money is to be paid and for what purpose.

(F) **Governor Does Not Approve**—Resolutions are not referred to the Governor for his approval or disapproval. They become effective immediately after the signatures of the presiding officers of the two Houses are attached thereto.

FORMS OF RESOLUTIONS AND MESSAGES

(G) **Forms of Resolutions.**

Resolved, That (Here follows the subject matter).

JOINT RESOLUTION

Be it resolved by the General Assembly of the State of Ohio, That (Here follows the subject matter).

SEC. 2016. House Joint Resolutions begin:

Proposing Constitutional Amendments

81st General Assembly
Regular Session } H. J. R. No.....

MR. BROWN of Champaign.

JOINT RESOLUTION

Proposing an amendment to Article II, Section 2 of the Constitution of the State of Ohio, relative to the election of senators and representatives of the General Assembly.

Be it Resolved by the General Assembly of the State of Ohio, three-fifth of the members elected to both Houses concurring therein:

(A) That there shall be submitted to the electors of the state, in the manner provided by law, on the first Tuesday after the first Monday in November, ..., a proposal to amend article....., section..... of the Constitution of the state of Ohio to read as follows: (Here follows section with proposed amendments).

Be it further resolved, That at such election herein provided for the submission of this amendment to the electors of the state, this amendment shall be placed on the official ballot in the manner prescribed by law and designated as follows: "Quadrennial election of senators and representatives" or in such other language as shall be sufficiently clear to designate it. If adopted this amendment shall take effect and be in force on the first day of (insert date).

SEC. 2017. **Communication from the Clerk.**

Columbus, O., (Date).

Hon. ....., Speaker of the House of Representatives.

Sir:—

I hereby certify that in addition to the clerks provided for by Section 40 of the General Code, the business of the House will require the following additional clerks, namely, reading clerk, assistant journal clerk, assistant message clerk, assistant engrossing clerk, index clerk, financial clerk, superintendent of bill room and two bill clerks, and superintendent of stenographers, and I ask that the House provide for their appointment or election.

Very truly yours,

.....

Clerk.

SEC. 2018. Resolution that **Usually Follows the Above:**

.....General Assembly.
Regular Session, 19..... } H. R. No. .....

MR. GREEN.

Relative to the appointment of additional clerks.

WHEREAS, The clerk of the House of Representatives in accordance with the provision of Section 40 of the General Code, has certified to this body that the business of

the House will require the employment of additional clerks, namely: reading clerk, assistant journal clerk, assistant message clerk, assistant engrossing clerk, index clerk, financial clerk, superintendent of bill room and two bill clerks and a superintendent of stenographers' room; therefore,

Resolved, That the clerk be and he is hereby authorized to appoint such additional clerks, their compensation to be the same as is fixed by law for other clerks, to be paid on vouchers signed by the Speaker of the House.

Communication from the Sergeant-at-Arms

Hon....., Speaker of the House of Representatives.

Sir:—

I hereby certify that in addition to the sergeant-at-arms provided for by law the business of the House will require the employment of the following additional help, namely: One chief doorkeeper and four assistants, two custodians of cloak rooms, four custodians of committee rooms and five janitors and I ask that the House provide for their appointment or election.

Yours very truly,

.....
Sergeant-at-Arms.

* * * *

SEC. 2019. **Resolution that Usually Follows the Preceding Request.**

.....General Assembly.
Regular Session, 19.....

H. R. No. .....

MR. GAULT

Relative to the appointment of additional help in the department of the sergeant-at-arms.

WHEREAS, The sergeant-at-arms of the House, in accordance with the provisions of Section 40 of the General Code, has certified to this body that the business of the House will require the employment of additional help, namely, one chief doorkeeper and four assistants, two custodians of cloak rooms, four custodians of committee rooms and five janitors, therefore,

Resolved, That the sergeant-at-arms be and is hereby authorized to appoint such additional employes,[1] their salaries to be ..... per day to be paid on vouchers signed by the Speaker of the House.

These requests of the clerk and sergeant-at-arms vary from year to year according to the volume of work to be performed and are usually confined to actual necessities.

* * * *

SEC. 2020. **Resolution Providing Chaplain.**

Regular Session, 19.....
.....General Assembly. } H. R. No. .....

MRS. SLAGLE

Relative to the House Chaplain.

WHEREAS, It is the pleasure of the members of the House of Representatives to have our daily session opened with prayer; therefore,

Resolved, That a committee of three be appointed by the Speaker to arrange for the appointment or election of a chaplain for the House of Representatives.

[1] Or the resolution under the law could provide for the election of the additional help, instead of their appointment by the clerk and sergeant-at-arms, if the House so desire.

SEC. 2021. **Resolution Appointing Pages.**

Regular Session, 19.....
.....General Assembly. } H. R. No. .....

MR. BLUM

Relative to appointing additional pages.

WHEREAS, Section 44 of the General Code provides that the Speaker of the House may appoint only five pages and that such number is insufficient for the proper and expeditious transaction of the business of the House, therefore,

Resolved, That the Speaker of the House be and he is hereby directed and authorized to appoint five pages in addition to the number provided for in Section 44 of the General Code, and that the salary of all pages shall be ..... per day each, and he is authorized to sign vouchers for same.

* * * *

SEC. 2022. **Resolution Appointing Stenographers.**

Regular Session, 19.....
.....General Assembly. } H. R. No. .....

MR. CORLETT

Relative to the appointment of stenographers.

WHEREAS, The business of the House will require the services of several stenographers, therefore,

Resolved, That the Speaker of the House be and is hereby authorized and directed to appoint.....expert stenographers whose duty it shall be to perform the stenographic work for the members and officers of the House, and the Speaker is hereby authorized to sign vouchers for said stenographers at ..... per diem.

SEC. 2023. **Resolution Relative to Rules.**

Regular Session, 19.....
.....General Assembly. } H. R. No. .....

MR. SHEPPARD

Relative to the rules of the House.

Resolved, That the rules of the House of Representatives of the ..... (insert number of preceding Assembly) shall govern this Assembly, and be in full force and effect until such time as the committee on rules shall report permanent rules and the same are adopted by the House.

The foregoing resolution should be offered as soon after organization as convenient.

* * * *

SEC. 2024. **Resolution to Rent Typewriting Machines.**

Regular Session, 19.....
.....General Assembly. } H. R. No. .....

MR. JUSTUS

Relative to renting typewriting machines.

Resolved, That the clerk of the House of Representatives is hereby authorized and directed to rent a sufficient number of typewriting machines, desks and chairs for the use of the House and clerks during the present session and that the rental for the same be paid from the appropriate funds.

* * * *

SEC. 2025. **Resolution Providing for Inauguration of Governor-Elect.**

Regular Session, 19.....
.....General Assembly. } H. R. No. .....

MR. CAREN

Relative to the inauguration of the Governor-elect.

Be it Resolved by the General Assembly of the State of Ohio:

That a committee of five, on the part of the House and ..... on the part of the Senate, be appointed to make necessary and suitable arrangements for the inauguration of the Governor-elect ....., on Monday, January ....., 19.....

It will be noted in the foregoing resolution that the number of the committee to be appointed by the Senate is left blank for that body to fill in. It would be discourteous for either House to fix the number of members to be placed on any committee by the opposite body. Therefore it is customary to leave the space to be filled in, which is later approved by the other House.

* * * *

SEC. 2026. **Resolution for Joint Convention to Canvass Vote for State Officers.**

Regular Session, 19.....
.....General Assembly. } H. R. No. .....

MR. WARD

Relative to canvassing the vote for state officers.

Be it Resolved by the General Assembly of the State of Ohio:

That the two Houses of the General Assembly meet in joint convention, in the Hall of the House of Representatives, in accordance with the Constitution and the law, on Tuesday, January ....., 19...., at eleven o'clock,

A. M., to witness the opening of the votes cast at, and hearing the publishing and declaring of the result of the election held on the first Tuesday after the first Monday in November, 19...., for governor and other constitutional state officers.

* * * *

SEC. 2027. **Choice of Seats.**

Relative to the choice of seats.

Regular Session, 19.....
.....General Assembly.

H. R. No. .....

MR. FORNEY

Resolved, That the choice of seats be determined by lot; that the clerk prepare the necessary ballots with the names of members thereon, one upon each ballot so prepared, to be placed in some suitable receptacle, and to be drawn by a page or some other person or persons, who shall be blindfolded, the name upon each ballot to be announced by the clerk as soon as drawn; that the members retire without the bar before the drawing commence; each one to select his seat when his name is announced and continue to occupy it until the drawing is concluded. In the selection of seats all that portion of the hall (here insert the division necessary to accommodate the majority party) shall be reserved for the members of the majority and the remaining to the members of the minority. The following members shall be allowed to select their seats before the drawing: (This privilege is extended to the Speaker pro tem, minority floor leader, elderly, and deaf members.)

SEC. 2028. **Resolution for Stationery.**

Regular Session, 19.....
.....General Assembly. } H. R. No. .....

MR. CAVE

Relative to providing stationery for members and officers.

Resolved, That the clerk of the house is hereby authorized and directed to make his requisition upon the state printer for the following stationery for the use of the members and officers of the House, to-wit: One thousand individual letter-heads and envelopes for each representative and the same number for the clerk and deputy clerk of the House, and such other officers designated by the clerk, three-fourths of said number of envelopes to be of the size known as No. 6¾ and one-fourth to be of the size known as No. 10; the name of each representative and officer to be printed on the letter-heads and envelopes allotted to each respectively.

* * * *

SEC. 2029. **Resolution Relative to General Code.**

Regular Session, 19.....
.....General Assembly. } H. R. No. .....

MR. STEVENS

Relative to providing sets of General Code for use of members and officers.

Resolved, That the secretary of state is hereby requested and authorized to furnish the sergeant-at-arms of the House of Representatives, for the use of the House .....sets of the General Code, to be apportioned as follows: To each member, one set; Finance committee, one set; Judiciary committee, one set; Code committee, one set;

Cities committee, one set; four sets for office of clerk, one for clerk, one for index clerk, one set for stenographer's room; one set for sergeant-at-arms.

* * * *

SEC. 2030. **Resolution to Pack Contents of Desks of Members at Close of Session.**

Regular Session, 19.....
.....General Assembly.

MR. BECK

Relative to packing and shipping contents of the desks of the members.

Resolved, That when the House adjourns sine die, the (Sergeant-at-arms), is hereby authorized to box and ship by express, charges prepaid, to each member and officer the contents of his desk; the charge for making the boxes and the express charges to be paid out of the appropriate fund of the House on approval of the Speaker. He is also authorized to employ such help as he may require to assist in packing and shipping the property of members of the House, said employes to be paid at the rate of..... per diem for such services for a period not exceeding .....(usually ten) days, and the Clerk of the House is hereby authorized and directed to draw a warrant for said expenses, the same to be paid from the appropriate fund of the House.

Be it further resolved, That immediately after adjournment of the General Assembly each member of the House is requested to lock his desk and deliver the keys thereto, together with the keys of the postoffice, to the postmaster of the House.

SEC. 2031. **Resolution Fixing Mileage of Members.**

Regular Session, 19.....
.....General Assembly.

MR. MORGAN

Relative to mileage of members and officers.

WHEREAS, Section 40 of the General Code of Ohio provides that the members of the General Assembly shall receive mileage each way once a week during the session from and to his place of residence, by the most direct route of public travel, to and from the seat of government, to be paid at the end of the session, therefore,

Resolved, That the Speaker of the House appoint a committee of three to ascertain and report to the House the distance in miles traveled by each member and officer to the House and from his home to the seat of government, by the most direct route of public travel, as provided in Section 40 of the General Code.

* * * *

SEC. 2032. **Resolution for Sine Die Adjournment.**

Regular Session, 19.....
.....General Assembly.

MR. ROBERTS

Relative to adjournment without day.

Be it Resolved by the General Assembly of the State of Ohio:

That when the Senate and House of Representatives adjourn on....., it be to meet on.....(usually ten days later) at 10 o'clock in the forenoon, and the ..... General Assembly adjourn sine die on..... at.....o'clock in the afternoon (or morning).

SEC. 2023. **Providing for Printing Additional Bills.**

Regular Session, 19.....
.....General Assembly.

MR. MCRITCHIE

Relative to printing additional copies of H. B. No. .....for the use of the members of the House and Senate.

Be it Resolved by the General Assembly of the State of Ohio:

That one thousand additional copies of House Bill No....., Mr. ..... ("to provide for the appointment of deputy state Tax Commissioners,") be printed for the use of the members of the House and Senate.

NOTE: In the parenthesis the title should always be inserted.

PROCEDURE IN NATIONAL HOUSE ON DEATH OF MEMBER

SEC. 2034. On the occasion of the death of a member, the National House has a very appropriate ceremony expressive of its feeling and respect of its members.

(A) It is the custom for a member to announce the death of a member and move that the House meet on a specified evening, but usually on Sunday for a memorial service and for the appointment of a committee to make suitable arrangements for such service.

(B) When assembled at the appointed hour, they introduce a resolution substantially as follows:

RESOLUTION OF RESPECT ON DEATH OF MEMBER

(C) *Resolved,* That the business of the House be suspended that opportunity may be given to pay tribute to the memory of the Honorable....., member of the House.....from.....

That as a special mark of our respect to the memory of the deceased, and in recognition of his eminent ability as a distinguished and useful public servant, citizen and man, the House at the conclusion of these exercises do stand adjourned.

That the clerk of the..... ..do communicate these resolutions to the Senate or House (as the case may be).

That the clerk also transmit a copy of these resolutions and proceedings to the family of the deceased.

(D) After the adoption of the resolution, the House proceeds with the service as planned by the committee at the conclusion of which the House stands adjourned upon the announcement of such by the Speaker.

JOINT RESOLUTION PROVIDING SINE DIE ADJOURNMENT

SEC. 2035. *Resolved,* That the President of the Senate and Speaker of the House of Representatives be authorized to close the present session of the Assembly by adjourning their respective Houses sine die at 12 M. Thursday, April 15, 1924.

NOTIFYING GOVERNOR OF SINE DIE ADJOURNMENT

SEC. 2036. *Resolved,* That a committee of two members of the House be appointed by the Speaker to join a similar committee of the Senate to wait upon the Governor of the state and inform him that the two Houses of the Assembly have completed the business of the session and are ready to adjourn without day, unless the Governor has other communications to submit to them.

USE OF RESOLUTION[1]

SEC. 2037. In our National Congress bills and joint resolutions have the same status and are treated exactly alike, in other words, both are used for enacting laws. The joint resolution of the Ohio Assembly is known in Congress as a concurrent resolution, and is treated the same as we treat joint resolutions. In recent years Congress has endeavored to restrict the use of joint resolutions in lawmaking to matters of minor importance or merely temporary laws.

RESOLUTION ON DEATH OF MEMBER

SEC. 2038. *Resolved,* That the House or Senate (as the case may be) having heard with great sorrow of the death of the Honorable.....from .....county, in the.....Assembly, hereby extend to his family genuine sentiments of condolence in their present affliction.

Resolved, That the clerk is directed to send a copy of these resolutions to the family of the deceased.

Resolved, That as a further expression of esteem and condolence this resolution be adopted by a rising vote or adjournment.

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[1] See chapter on Court Decisions.

a NOTE: The foregoing forms are intended merely as guides in the preparation of resolutions. They are drawn as House resolutions, but with a few slight changes they are the same as used in the Senate.

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