Mr. Prynne, having at a Committee of the Whole amended a mistake in a bill without order or knowledge of the committee, was reprimanded. *1 Chand., 77.*

A bill being missing, the House resolved that a protestation should be made and subscribed by the members "before Almighty God, and this honorable House, that neither myself, nor any other to my knowledge, have taken away, or do at this present conceal a bill entitled," &c. *5 Grey, 202.*

After a bill is engrossed, it is put into the Speaker's hands, and he is not to let any one have it to look into. *Town, col. 209.*

In the House an alleged improper alteration of a bill was presented as a question of privilege and examined by a select committee. It being ascertained that the alteration was made to correct a clerical error, the committee reported that it was "highly censurable in any Member or officer of the House to make any change, even the most unimportant, in any bill or resolution which has received the sanction of this body" (III, 2598). Alleged abuse of power in the processing and enrollment of bills has formed the basis of questions of privilege (Feb. 16, 2006, p. 1948; May 22, 2008, p. __). Although engrossing papers must be at the desk, additional copies of a pending measure are not required (June 26, 2009, p. __). The Clerk signs engrossments; the Speaker signs enrollments (1 U.S.C. 106).

SEC. XVII—ORDER IN DEBATE

§ 353. Decorum of Members as to sitting in their places.

When the Speaker is seated in his chair, every member is to sit in his place. *Scob., 6; Grey, 403.*

In the House the decorum of Members is regulated by rule XVII; and this provision of the parliamentary law is practically obsolete.

§ 354. Procedure of the Member in seeking recognition.

When any Member means to speak, he is to stand up in his place, uncovered, and to address himself, not to the House, or any particular Member,

but to the Speaker, who calls him by his name, that the House may take notice who it is that speaks. *Scob., 6; D'Ewes, 487, col. 1; 2 Hats., 77; 4 Grey, 66; 8 Grey, 108.* But Members who are indisposed may be indulged to speak sitting. *2 Hats., 75, 77; 1 Grey, 143.*

This provision has been superseded by clause 1 of rule XVII. The Speaker, moreover, calls the Member, not by name, but as "the gentleman or gentlewoman from ____," (naming the State). As long ago as 1832, at least, a Member was not required to rise from his own particular seat because seats are no longer assigned (V, 4979, footnote).

§ 355. Conditions under which a Member's right to the floor is subjected to the will of the House.

When a Member stands up to speak, no question is to be put, but he is to be heard unless the House overrule him. *4 Grey, 390; 5 Grey, 6, 143.*

Except as provided in clause 4 of rule XVII, no question is put as to the right of a Member to the floor.

§ 356. The parliamentary law as to recognition by the Speaker.

If two or more rise to speak nearly together, the Speaker determines who was first up, and calls him by name, whereupon he proceeds, unless he voluntarily sits down and gives way to the other. But sometimes the House does not acquiesce in the Speaker's decision, in which case the question is put, "which Member was first up?" *2 Hats., 76; Scob., 7; D'Ewes, 434, col. 1, 2.*

In the Senate of the United States the President's decision is without appeal.

In the House recognition by the Chair is governed by clause 2 of rule XVII and the practice thereunder. There has been no appeal from a decision by the Speaker on a question of recognition since 1881, on which occasion Speaker Randall stated that the power of recognition is "just as absolute in the Chair as the judgment of the Supreme Court of the United States is absolute as to the interpretation of the law" (II, 1425–1428), and in the later practice no appeal is permitted (VIII, 2429, 2646, 2762).

§ 357. Right of the Member to be heard a second time.

No man may speak more than once on the same bill on the same day; or even on another day, if the debate be adjourned. But if it be read more than once in the same day, he may speak once at every reading. *Co., 12, 115; Hakew., 148; Scob., 58; 2 Hats., 75.* Even a change of opinion does not give a right to be heard a second time. *Smyth's Comw. L., 2, c. 3; Arcan, Parl., 17.*

But he may be permitted to speak again to clear a matter of fact, *3 Grey, 357, 416;* or merely to explain himself, *2 Hats., 73,* in some material part of his speech, *Ib., 75;* or to the manner or words of the question, keeping himself to that only, and not traveling into the merits of it, *Memorials in Hakew., 29;* or to the orders of the House, if they be transgressed, keeping within that line, and not falling into the matter itself. *Mem. Hakew., 30, 31.*

The House has modified the parliamentary law as to a Member's right to speak a second time by clause 3 of rule XVII and by permitting a Member controlling time in debate to yield to another more than once (Apr. 5, 2000, p. 4497; Oct. 18, 2007, p. 27575). In ordinary practice rule XVII is not rigidly enforced, and Members find little difficulty in making such explanations as are contemplated by the parliamentary law.

§ 358. Participation of the Speaker in debate.

But if the Speaker rise to speak, the Member standing up ought to sit down, that he may be first heard. *Town., col. 205; Hale Parl., 133; Mem. in Hakew., 30, 31.* Nevertheless, though the Speaker may of right speak to matters of order, and be first heard, he is restrained from speaking on any other subject, except where the House have occasion for facts

within his knowledge; then he may, with their leave, state the matter of fact. *3 Grey, 38.*

This provision is usually observed in the practice of the House only with regard to the conduct of the Speaker when in the chair. In several instances the Speaker has been permitted by the House to make a statement from the chair, as in a case wherein his past conduct had been criticized (II, 1369), in a case wherein there had been unusual occurrences in the joint session to count the electoral vote (II, 1372), and in a matter relating to a contest for the seat of the Speaker as a Member (II, 1360). In rare instances the Speaker has made brief explanations from the chair without asking the assent of the House (II, 1373, 1374). Speakers have called others to the chair and participated in debate, usually without asking consent of the House (II, 1360, 1367, footnote, 1368, 1371; III, 1950), and in one case a Speaker on the floor debated a point of order that the Speaker pro tempore was to decide (V, 6097). In rare instances Speakers have left the chair to make motions on the floor (II, 1367, footnote). Speakers may participate in debate in Committee of the Whole, although the privilege was rarely exercised in early practice (II, 1367, footnote).

§ 359. Impertinent, superfluous, or tedious speaking.

No one is to speak impertinently or beside the question, superfluous, or tediously. *Scob., 31, 33; 2 Hats., 166, 168; Hale Parl., 133.*

The House, by clause 1 of rule XVII, provides that remarks must be confined to the question under debate, but neither by rule nor practice has the House suppressed superfluous or tedious speaking, its hour rule (clause 2 of rule XVII) being a sufficient safeguard in this respect.

§ 360. Language reflecting on the House.

No person is to use indecent language against the proceedings of the House; no prior determination of which is to be reflected on by any Member, unless he means to conclude with a motion to rescind it. *2 Hats., 169, 170; Rushw., p. 3, v. 1, fol. 42.* But while a proposition under consideration is still *in fieri,* though it has even been reported by a committee, reflections on it are no reflections on the House. *9 Grey, 508.*

In the practice of the House it has been held out of order in debate to cast reflections on either the House or its membership or its decisions,

whether present or past (V, 5132–5138). A Member who had used offensive words against the character of the House, and who declined to explain, was censured (II, 1247). Words impeaching the loyalty of a portion of the membership have also been ruled out (V, 5139). Where a Member reiterated on the floor certain published charges against the House, action was taken, although other business had intervened, the question being considered one of privilege (III, 2637). It has been held inappropriate and not in order in debate to refer to the proceedings of a committee except such as have been formally reported to the House (V, 5080–5083; VIII, 2269, 2485–2493; June 24, 1958, pp. 12120, 12122), but this rule does not apply to the proceedings of a committee of a previous Congress (Feb. 2, 1914, p. 2782), and the rationale for this limitation on debate is in part obsolete under the modern practice of the House insofar as the doctrine is applied to open committee meetings and hearings.

§ 361. Personalities in debate forbidden.

No person, in speaking, is to mention a Member then present by his name, but to describe him by his seat in the House, or who spoke last, or on the other side of the question, &c., *Mem. in Hakew., 3; Smyth's Comw., L. 2, c. 3;* nor to digress from the matter to fall upon the person, *Scob., 31; Hale Parl., 133; 2 Hats., 166,* by speaking reviling, nipping, or unmannerly words against a particular Member. *Smyth's Comw., L. 2, c. 3.* * * *

In the practice of the House, a Member is not permitted to refer to another Member by name (V, 5144; VIII, 2526, 2529, 2536), or to address a Member in the second person (V, 5140–5143; VI, 600; VIII, 2529). The proper reference to another Member is "the gentleman or gentlewoman from ____," (naming the Member's State) (June 14, 1978, p. 17615; July 21, 1982, p. 17314). A mere reference to a Member's voting record does not form a basis for a point of order against those remarks (June 13, 2002, p. 10226, p. 10232).

By rule of the House (clause 1 of rule XVII), as well as by parliamentary law, personalities are forbidden (V, 4979, 5145, 5163, 5169), whether against the Member in the Member's capacity as Representative or otherwise (V, 5152, 5153), even if the references may be relevant to the pending question (Sept. 28, 1996, p. 25778). The House has censured a Member for gross personalities (II, 1251). The Chair may intervene to prevent improper references if it is evident that a particular Member is being described (Nov. 3, 1989, p. 27077).

The Chair does not rule on the veracity of a statement made by a Member in debate (Apr. 9, 1997, p. 4926; Sept. 26, 2008, p. __). Although accusing

another Member of deceit engages in personality, merely accusing another Member of making a mistake does not (Oct. 26, 2000, p. 24921).

Clause 1 of rule XVII has been held to proscribe: (1) referring to an identifiable group of sitting Members as having committed a crime (*e.g.*, stealing an election or obstructing justice) (Feb. 27, 1985, p. 3898; Speaker Wright, Mar. 21, 1989, p. 5016; May 19, 1998, p. 9738; July 15, 2004, p. 15859); (2) referring in a personally critical manner to the political tactics of the Speaker or other Members (June 25, 1981, p. 14056); (3) referring to a particular Member of the House in a derogatory fashion (Nov. 3, 1989, p. 27077); (4) characterizing a Member as "the most impolite Member" (June 27, 1996, p. 15915) or "mean-spirited" (May 13, 1992, p. 11235); (5) questioning the integrity of a Member (July 25, 1996, p. 19170); (6) denunciating the spirit in which a Member had spoken (V, 6981); (7) using a Member's surname as though an adjective for a word of ridicule (June 13, 2002, p. 10232; May 13, 2008, p. __); (8) questioning the decency of another Member (Mar. 21, 2007, p. 7074).

A distinction has been drawn between general language, which characterizes a measure or the political motivations behind a measure, and personalities (V, 5153, 5163, 5169). Although remarks in debate may not include personal attacks against a Member or an identifiable group of Members, they may address political motivations for legislative positions (Jan. 24, 1995, p. 2214; Mar. 8, 1995, pp. 7307, 7308; Nov. 17, 1995, p. 33832; June 13, 1996, p. 14043; July 16, 2008, p. __). For example, references to "down-in-the-dirt gutter politics" and "you people are going to pay" were held not to be personal references (Nov. 14, 1995, p. 32388). Similarly, characterizing a pending measure as a "patently petty political terrorist tactic" was held in order as a reference to the pending measure rather than to the motive or character of the measure's proponent (Nov. 9, 1995, p. 31413). The Chair also has held in order a general reference that "big donors" receive "access to leadership power and decisions" because the reference did not identify a specific Member as engaging in an improper quid pro quo (Apr. 9, 1997, p. 4926). A general statement seeming to invoke racial stereotypes but not in a context so inflammatory as to constitute a breach of decorum, was held not unparliamentary (Apr. 9, 2003, p. 9005 (sustained by tabling of appeal)). Likewise, a general statement linking politics with armed conflict in an impersonal way was held not to breach decorum (Oct. 18, 2007, p. 27578).

A Member may not read in debate extraneous material critical of another Member that would be improper if spoken in the Member's own words (May 25, 1995, pp. 14436, 14437; Sept. 12, 1996, p. 22898). Thus, words in a telegram read in debate that repudiated the "lies and half-truths" of a House committee report were ruled out of order as reflecting on the integrity of committee members (June 16, 1947, p. 7065), and unparliamentary references in debate to newspaper accounts used in support of a Member's personal criticism of another Member were similarly ruled out of order (Feb. 25, 1985, p. 3346).

A Member should refrain from references in debate to the official conduct of a Member if such conduct is not the subject then pending before the House by way of either a report of the Committee on Ethics or another question of the privileges of the House (see, *e.g.*, July 24, 1990, p. 18917; Mar. 19, 1992, p. 6078; May 25, 1995, pp. 14434–37; Sept. 19, 1995, pp. 25454, 25455; Apr. 27, 2005, p. 8049); and, although such references are ordinarily enforced by the Chair in response to a point of order, the Chair may take the initiative in order to maintain proper decorum (Apr. 1, 1992, p. 7899; June 17, 2004, p. 12748). This stricture also precludes a Member from reciting news articles discussing a Member's conduct (Sept. 24, 1996, p. 24318), reciting the content of a previously tabled resolution raising a question of the privileges of the House (Nov. 17, 1995, p. 33853; Sept. 19, 1996, p. 23855), or even referring to a Member's conduct by mere insinuation (Sept. 12, 1996, p. 22899). Notice of an intention to offer a resolution as a question of the privileges of the House under rule IX does not render a resolution "pending" and thereby permit references to conduct of a Member proposed to be addressed therein (Sept. 19, 1996, p. 23811).

The stricture against references to a Member's conduct not then pending before the House applies to the conduct of all sitting Members (Apr. 1, 1992, p. 7899), including conduct that has previously been resolved by the Committee on Ethics or the House (Sept. 24, 1996, pp. 24483, 24485; Apr. 17, 1997, p. 5831). This stricture does not apply to the conduct of a former Member, provided the reference is not made in an attempt to compare the conduct of a former Member with the conduct of a sitting Member (Sept. 20, 1995, pp. 25825, 25826; Sept. 12, 1996, pp. 22900, 22901).

Debate on a pending privileged resolution recommending disciplinary action against a Member may necessarily involve personalities. However, clause 1 of rule XVII still prohibits the use of language that is personally abusive (see, *e.g.*, July 31, 1979, p. 21584; Jan. 21, 1997, p. 393) and the Chair may take the initiative to prevent violations of the rule (July 24, 2002, p. 14300). Furthermore, during the actual pendency of such a resolution, a Member may discuss a prior case reported to the House by the Committee on Ethics for the purpose of comparing the severity of the sanction recommended in that case with the severity of the sanction recommended in the pending case, provided that the Member does not identify, or discuss the details of the past conduct of, a sitting Member (Dec. 18, 1987, p. 36271).

In addition to the prohibition against addressing a Member's conduct when it is not actually pending before the House, the Speaker has advised that Members should refrain from references in debate (1) to the motivations of a Member who filed a complaint before the Committee on Standards of Official Conduct (now Ethics) (June 15, 1988, p. 14623; July 6, 1988, p. 16630; Mar. 22, 1989, p. 5130; May 2, 1989, p. 7735; Nov. 3, 1989, p. 27077); (2) to personal criticism of a member of the committee (Apr. 1, 1992, p. 7899; Mar. 3, 1995, p. 6715; Sept. 19, 1996, p. 23812; Sept.

24, 1996, p. 24317); (3) to an investigation undertaken by the committee, including suggestion of a course of action (Mar. 3, 1995, p. 6715; Sept. 24, 1996, p. 24317; Sept. 28, 1996, p. 25778) or advocacy of an interim status report by the committee (Sept. 12, 1996, p. 22900; Sept. 28, 1996, p. 25778).

For precedents applicable to references in debate to the President, see § 370, *infra*, or Members of the Senate, see § 371, *infra*.

§ 362. Criticism of the Speaker.

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 (V, 5188). In a case wherein a Member used words insulting to the Speaker the House on a subsequent day, and after other business had intervened, censured the offender (II, 1248). In such a case the Speaker would ordinarily leave the chair while action should be taken by the House (II, 1366; V, 5188; VI, 565). In the 104th Congress the Chair reaffirmed that it is not in order to speak disrespectfully of the Speaker, and that under the precedents the sanctions for such violations transcend the ordinary requirements for timeliness of challenges (II, 1248; Jan. 4, 1995, p. 552; Jan. 19, 1995, p. 1599). It is not in order to arraign the personal conduct of the Speaker (Jan. 18, 1995, p. 1441; Jan. 19, 1995, p. 1601). For example, it is not in order to charge dishonesty or disregard of the rules (July 11, 1985, p. 18550), to reflect on his patriotism by accusing him of "kowtowing" to persons who would desecrate the flag (June 20, 1990, p. 14877), to refer to him as a "crybaby" (Nov. 16, 1995, p. 33394), or to refer to official conduct of the Speaker that has previously been resolved by the Committee on Standards of Official Conduct (now Ethics) or the House (Apr. 17, 1997, p. 5831). The Chair may take the initiative to admonish Members for references in debate that disparage the Speaker (June 25, 1981, p. 14056; Mar. 22, 1996, p. 6077; May 13, 2008, p. __). Debate on a resolution authorizing the Speaker to entertain motions to suspend the rules may not engage in personality by discussing the official conduct of the Speaker, even if possibly relevant to the question of empowerment of the Speaker (Sept. 24, 1996, p. 24485).

§ 363. Motives of Members not to be arraigned.

* * * The consequences of a measure may be reprobated in strong terms; but to arraign the motives of those who propose to advocate it is a personality, and against order. *Qui digreditur a materia ad personam,* Mr. Speaker ought to suppress. *Ord. Com., 1604, Apr. 19.*

The arraignment of the motives of Members is not permitted (V, 5147–51; Dec. 13, 1973, p. 41270), and Speakers have intervened to prevent it, in the earlier practice preventing even mildest imputations (V, 5161,

5162). However, remarks in debate may address political, but not personal, motivations for legislative positions (Jan. 24, 1995, p. 2214; Mar. 8, 1995, pp. 7307, 7308; Nov. 17, 1995, p. 33832; June 13, 1996, p. 14043) or for committee membership (July 10, 1995, pp. 18257–59). Accusing another Member of hypocrisy has been held not in order (July 24, 1979, p. 20380; Mar. 29, 1995, p. 9675), and characterizing the motivation of a Member in offering an amendment as deceptive and hypocritical was ruled out of order (June 12, 1979, p. 11461). A statement in debate that an amendment could only be demagogic or racist because only demagoguery or racism impelled such an amendment was ruled out of order as impugning the motives of the Member offering the amendment (Dec. 3, 1973, pp. 41270, 41271). However, debate characterizing a pending measure as a "patently petty political terrorist tactic" was held in order as directed at the pending measure rather than the motive or the character of its proponent (Nov. 9, 1995, p. 31413). Although in debate the assertion of one Member may be declared untrue by another, in so doing an intentional misrepresentation must not be implied (V, 5157–5160), and if stated or implied is censurable (II, 1305). A Member in debate having declared the words of another "a base lie," censure was inflicted by the House on the offender (II, 1249).

§ 364. Disorder and interruptions during debate.

No one is to disturb another in his speech by hissing, coughing, spitting, *6 Grey, 322; Scob., 8; D'Ewes, 332, col. 1, 640, col. 2,* speaking or whispering to another, *Scob., 6; D'Ewes, 487, col. 1;* nor stand up to interrupt him, *Town, col. 205; Mem. in Hakew., 31;* nor to pass between the Speaker and the speaking Member, nor to go across the House, *Scob., 6,* or to walk up and down it, or to take books or papers from the table, or write there, *2 Hats., 171, p. 170.*

The House has, by clause 5 of rule XVII, prescribed certain rules of decorum differing somewhat from this provision of the parliamentary law, but supplemental to it rather than antagonistic. In one respect, however, the practice of the House differs from the apparent intent of the parliamentary law. In the House a Member may interrupt by addressing the Chair for permission of the Member speaking (V, 5006; VIII, 2465); but it is entirely within the discretion of the Member occupying the floor to determine when and by whom to be interrupted (V, 5007, 5008; VIII, 2463, 2465). There is no rule of the House requiring a Member having the floor to yield to another Member referred to during debate (Aug. 2, 1984, p. 22241). A Member may ask another to yield from any microphone in the

Chamber, including those in the well, so long as not crossing between the Member having the floor and the Chair (June 5, 1998, p. 11170). The Chair may take the initiative in preserving order when a Member declining to yield in debate continues to be interrupted by another Member, may order that the interrupting Member's remarks not appear in the Record (July 26, 1984, p. 21247), and may admonish Members not to converse with a Member attempting to address the House (Feb. 21, 1984, p. 2758), because it is not in order to engage in disruption while another is delivering remarks in debate (June 27, 1996, p. 15915). On the opening day of the 103d Congress, during the customary announcement of policies with respect to particular aspects of the legislative process, the Chair elaborated on the rules of order in debate with a general statement concerning decorum in the House (Jan. 5, 1993, p. 105). Under this provision, the Chair may require a line of Members waiting to sign a discharge petition to proceed to the rostrum from the far right-hand aisle and require the line not to stand between the Chair and Members engaging in debate (Oct. 24, 1997, p. 23293). Hissing and jeering is not proper decorum in the House (May 21, 1998, p. 10282). For further discussion of interruptions in debate, see § 946, *infra*.

§ 365. Parliamentary method of silencing a tedious Member.

Nevertheless, if a Member finds that it is not the inclination of the House to hear him, and that by conversation or any other noise they endeavor to drown his voice, it is his most prudent way to submit to the pleasure of the House, and sit down; for it scarcely ever happens that they are guilty of this piece of ill manners without sufficient reason, or inattention to a Member who says anything worth their hearing. *2 Hats., 77, 78.*

In the House, where the previous question and hour rule of debate have been used for many years, the parliamentary method of suppressing a tedious Member has never been imported into the practice (V, 5445).

§ 366. The parliamentary law as to naming a disorderly Member.

If repeated calls do not produce order, the Speaker may call by his name any Member obstinately persisting in irregularity; whereupon the House may require the Member to withdraw. He is

then to be heard in exculpation, and to withdraw. Then the Speaker states the offense committed; and the House considers the degree of punishment they will inflict. *2 Hats., 167, 7, 8, 172.*

This provision of parliamentary law should be in conjunction with clause 4 of rule XVII, §§ 960–961, *infra*, particularly as this provision relates to the ultimate authority of the House to determine whether a Member ignoring repeated calls to order should be permitted to proceed in order.

§ 367. Proceedings in cases of assaults and affrays.

For instances of assaults and affrays in the House of Commons, and the proceedings thereon, see *1 Pet. Misc., 82; 3 Grey, 128; 4 Grey, 328; 5 Grey, 382; 6 Grey, 254; 10 Grey, 8.* Whenever warm words or an assault have passed between Members, the House, for the protection of their Members, requires them to declare in their places not to prosecute any quarrel, *3 Grey, 128, 293; 5 Grey, 280;* or orders them to attend the Speaker, who is to accommodate their differences, and report to the House, *3 Grey, 419;* and they are put under restraint if they refuse, or until they do. *9 Grey, 234, 312.*

In several instances assaults and affrays have occurred on the floor of the House. Sometimes the House has allowed these affairs to pass without notice, the Members concerned making apologies either personally or through other Members (II, 1658–1662). In other cases the House has exacted apologies (II, 1646–1651, 1657), or required the offending Members to pledge themselves before the House to keep the peace (II, 1643). In case of an aggravated assault by one Member on another on the portico of the Capitol for words spoken in debate, the House censured the assailant and three other Members who had been present, armed, to prevent interference (II, 1655, 1656). Assaults or affrays in the Committee of the Whole are dealt with by the House (II, 1648–1651).

§ 368. Parliamentary law as to taking down disorderly words.

Disorderly words are not to be noticed till the Member has finished his speech. *5 Grey, 356; 6 Grey, 60.* Then the person objecting to them, and desiring them to be taken down by the Clerk at the table, must repeat them. The Speaker then may direct the Clerk to take them down in his minutes; but if he thinks them not disorderly, he delays the direction. If the call becomes pretty general, he orders the Clerk to take them down, as stated by the objecting Member. They are then a part of his minutes, and when read to the offending Member, he may deny they were his words, and the House must then decide by a question whether they are his words or not. Then the Member may justify them, or explain the sense in which he used them, or apologize. If the House is satisfied, no further proceeding is necessary. But if two Members still insist to take the sense of the House, the Member must withdraw before that question is stated, and then the sense of the House is to be taken. *2 Hats., 199; 4 Grey, 170; 6 Grey, 59.* When any Member has spoken, or other business intervened, after offensive words spoken, they can not be taken notice of for censure. And this is for the common security of all, and to prevent mistakes which must happen if words are not taken down immediately. Formerly they might be taken down at any time the same day. *2 Hats., 196; Mem. in Hakew., 71; 3 Grey, 48; 9 Grey, 514.*

The House has, by clause 4 of rule XVII, provided a method of procedure in cases of disorderly words. The House permits and requires them to be

noticed as soon as uttered, and has not insisted that the offending Member withdraw while the House is deciding as to its course of action.

§ 369. Disorderly words taken down and reported from Committee of the Whole.

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

This provision of the parliamentary law has been applied to the Committee of the Whole, rather than to select or standing committees, which are separately empowered to enforce rules of decorum (clause 1(a) of rule XI, which incorporates the provisions of rule XVII where applicable). The House has censured a Member for disorderly words spoken in Committee of the Whole and reported therefrom (II, 1259).

§ 370. References in debate to the Executive.

In Parliament, to speak irreverently or seditiously against the King is against order. *Smyth's Comw., L. 2, c. 3; 2 Hats., 170.*

This provision of the parliamentary law is manifestly inapplicable to the House (V, 5086); and it has been held in order in debate to refer to the President of the United States or his opinions, either with approval or criticism, provided that such reference be relevant to the subject under discussion and otherwise conformable to the Rules of the House (V, 5087–5091; VIII, 2500). Under this standard the following references are in order: (1) a reference to the probable action of the President (V, 5092); (2) an adjuration to the President to keep his word (although an improper form of address) (Dec. 19, 1995, p. 37601); (3) an accusation that the President "frivolously vetoed" a bill (Nov. 8, 1995, p. 31785).

Although wide latitude is permitted in debate on a proposition to impeach the President (V, 5093), Members must abstain from language personally offensive (V, 5094; Dec. 18, 1998, p. 27829); and Members must abstain from comparisons to the personal conduct of sitting Members of the House or Senate (Dec. 18, 1998, p. 27829). Furthermore, when impeachment is not the pending business on the floor, Members may not refer to evidence of alleged impeachable offenses by the President contained in a communication from an independent counsel pending before a House committee (Sept. 14, 1998, p. 20171; Sept. 17, 1998, p. 20758), although they may refer to the communication, itself, within the confines of proper decorum in debate (Oct. 6, 1998, p. 23841).

Personal abuse, innuendo, or ridicule of the President is not permitted (VIII, 2497; Aug. 12, 1986, p. 21078; Oct. 21, 1987, p. 8857; Sept. 21, 1994, p. 25147; Sept. 7, 2006, pp. 17381, 17382). Under this standard it is not

in order to call the President, or a presumptive major-party nominee for President, a "liar" or accuse such person of "lying" (June 26, 1985, p. 17394; Sept. 24, 1992, pp. 27345, 27346; Nov. 15, 1995, p. 32587; June 6, 1996, pp. 13228, 13229; Mar. 18, 1998, p. 3937; Nov. 14, 2002, p. 22370; July 15, 2003, pp. 18172, 18173; Mar. 24, 2004, pp. 5115, 5116). Indeed, any suggestion of mendacity is out of order. For example, the following remarks have been held out of order: (1) suggesting that the President misrepresented the truth, attempted to obstruct justice, and encouraged others to perjure themselves (Feb. 25, 1998, p. 2621); (2) accusing him of dishonesty (July 13, 2004, p. 15275; June 29, 2005, p. 14770) or of failing to be honest (Apr. 14, 2011, p. __), accusing him of making a "dishonest argument" (Sept. 12, 2006, p. 17851), charging him with intent to be intellectually dishonest (May 9, 1990, p. 9828), or stating that many were convinced he had "not been honest" (Mar. 5, 1998, p. 2620); (3) accusing him of "raping" the truth (Apr. 24, 1996, p. 8807), not telling the truth (Oct. 29, 2003, p. 26363), or distorting the truth (Sept. 9, 2003, pp. 21570–73); (4) stating that he was not being "straight with us" (Nov. 19, 2003, p. 29811); (5) accusing him of being deceptive (Mar. 29, 2004, pp. 5523, 5524; Feb. 1, 2006, p. 647) or using "deceptive rhetoric" (Oct. 17, 2007, pp. 27534, 27538), fabricating an issue (July 6, 2004, pp. 14313, 14314), or intending to mislead (Oct. 6, 2004, p. 21053; July 12, 2007, p. 18827); (6) accusing him of intentional mischaracterization, although mischaracterization without intent to deceive is not necessarily out of order (July 19, 2005, p. 16525).

Furthermore, the following remarks have been held out of order as unparliamentary references to the President, or to a presumptive major-party nominee for President: (1) attributing to him "hypocrisy" (Sept. 25, 1992, p. 27674; Apr. 26, 2006, p. 6129); (2) accusing him of giving "aid and comfort to the enemy" (Jan. 25, 1995, p. 2352; May 6, 2004, pp. 8601, 8602); (3) accusing him of "demagoguery" (Jan. 23, 1996, p. 1144; Jan. 24, 1996, pp. 1220, 1221; May 30, 1996, pp. 12646, 12647); (4) calling him a "draft-dodger" (Apr. 24, 1996, pp. 8807, 8808; Sept. 30, 1996, p. 26603) or alleging unexcused absences from military service (May 5, 2004, pp. 8417, 8418), including allegations that the President was "A.W.O.L." (Sept. 22, 2004, p. 18953); (5) describing his action as "cowardly" (Oct. 25, 1989, p. 25817); (6) referring to him as "a little bugger" (Nov. 18, 1995, p. 33974); (7) alluding to alleged sexual misconduct on his part (May 10, 1994, p. 9697; Feb. 25, 1998, p. 1828; Mar. 5, 1998, p. 2620; May 18, 1998, p. 9418); (8) alluding to unethical behavior or corruption (*e.g.*, June 20, 1996, p. 14829; July 9, 2002, p. 12286; Oct. 29, 2003, pp. 26400–402), such as implying a cause-and-effect relationship between political contributions and his actions as President (*e.g.*, May 22, 2001, p. 9028; Sept. 29, 2004, pp. 19976, 19977), including an accusation that the President had "lined the pockets" of his "political cronies" and filled "campaign coffers" (Sept. 14, 2005, pp. 20238, 20239); (9) discussing "charges" leveled at the President or under investigation (Mar. 19, 1998, p. 4094; June 11, 1998, p. 12025), including alluding to "fund-raising abuses" (Mar. 14, 2000, p. 2716) or speculating that the

Vice President might someday pardon the President for certain charges (Apr. 12, 2000, p. 5419); or discussing alleged criminal conduct (Sept. 10, 1998, p. 19976) or "illegal surveillance" (June 20, 2006, p. 11935); (10) discussing personal conduct even as a point of reference or comparison (July 16, 1998, p. 15784; Sept. 9, 1998, p. 19735); (11) asserting that a major-party nominee had done something "disgusting" and "despicable" (Mar. 11, 2004, p. 4033); (12) asserting that a major-party nominee is not "a large enough person" to apologize (Mar. 11, 2004, p. 4086) or that the President does not care about black people (Sept. 8, 2005, p. 19797); (13) describing his action as "arrogant" (Jan. 11, 2007, p. 998; Mar. 22, 2007, p. 7321) or "mean-spirited" (July 15, 2008, p. __); (14) equating his decisions with regard to armed conflict as him having "slaughtered" thousands (Mar. 8, 2007, p. 5815) or that a soldier's death was for his "amusement" (Oct. 18, 2007, pp. 27569, 27570). The Chair may admonish Members transgressing this stricture even after other debate has intervened (Jan. 23, 1996, p. 1144).

A Member may not read in debate extraneous material personally abusive of the President that would be improper if spoken in the Member's own words (Mar. 3, 1993, p. 3958; Nov. 15, 1995, p. 32587; May 2, 1996, p. 10010; Mar. 17, 1998, p. 3799; July 15, 2003, p. 18170; Sept. 16, 2003, pp. 22151, 22152; Oct. 17, 2007, p. 27538). This prohibition includes the recitation of another Member's criticism of the President made off the floor (even if recited as a rebuttal to such criticism) (Dec. 17, 1998, p. 27775).

The Chair has advised that the protections afforded by Jefferson's Manual and the precedents against unparliamentary references to the President, personally, do not necessarily extend to members of his family (July 12, 1990, p. 17206).

References in debate to former Presidents are not governed by these standards (Nov. 15, 1945, p. 10735; June 27, 2002, pp. 11844, 11845).

In the 102d Congress, the Speaker enunciated a minimal standard of propriety for all debate concerning nominated candidates for the Presidency, based on the traditional proscription against personally offensive references to the President even in the capacity as a candidate (Speaker Foley, Sept. 24, 1992, p. 27344); and this policy has been extended to a presumptive major-party nominee for President (*e.g.*, Apr. 22, 2004, pp. 7401, 7402). However, references to the past statements or views of such nominee are not unparliamentary (May 6, 2004, p. 8554).

For discussion of the stricture against addressing remarks in debate to the President, as in the second person, see § 945, *infra*.

On January 27, 1909 (VIII, 2497), the House adopted a report of a committee appointed to investigate the question, which report in part stated:

"The freedom of speech in debate in the House should never be denied or abridged, but freedom of speech in debate does not mean license to indulge in personal abuses or ridicule. The right of Members of the two Houses of Congress to criticize the official acts of the President and other executive officers is beyond question, but this right is subject to proper

rules requiring decorum in debate. Such right of criticism is inherent upon legislative authority. The right to legislate involves the right to consider conditions as they are and to contrast present conditions with those of the past or those desired in the future. The right to correct abuses by legislation carries the right to consider and discuss abuses which exist or which are feared.

"It is, however, the duty of the House to require its Members in speech or debate to preserve that proper restraint which will permit the House to conduct its business in an orderly manner and without unnecessarily and unduly exciting animosity among its Members or antagonism from those other branches of the Government with which the House is correlated."

§ 371. References in debate to the other House and its Members.

It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there; because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses. *8 Grey, 22.*

Until former clause 1 of rule XIV (currently clause 1 of rule XVII) was amended in the 100th and 101st Congresses (H. Res. 5, Jan. 6, 1987, p. 6; H. Res. 5, Jan. 3, 1989, p. 72), this principle of comity and parliamentary law as described by Jefferson governed debate in the House to the full extent of its provisions (see generally, V, 5095–5130; VIII, 2501–21; July 31, 1984, p. 21670; Deschler-Brown, ch. 29, § 44). From the 101st Congress through the 108th Congress, clause 1 of rule XVII permitted some factual references that were a matter of public record, references to the pendency or sponsorship in the Senate of certain measures, factual descriptions concerning a measure under debate in the House, and quotations from Senate proceedings relevant to the making of legislative history on a pending measure. In the 109th Congress clause 1 was amended to permit debate to include references to the Senate or its Members but within the general stricture that requires Members to avoid personality (sec. 2(g), H. Res. 5, Jan. 4, 2005, p. 43). Under the new standard, remarks may urge the Senate to take a particular action (Mar. 21, 2010, p. __). For a recitation of precedents under the former rule, see § 371 of the House Rules and Manual for the 108th Congress (H. Doc. 107–284).

Since the adoption of the new rule, the following references to Members of the Senate have been held unparliamentary: (1) accusing Senate Repub-

licans of hypocrisy (May 16, 2005, p. 9757); (2) referring to Senate Democrats as "cowardly" (May 18, 2005, p. 10136); (3) accusing a Senator of making slanderous statements (June 17, 2005, p. 13009; June 21, 2005, p. 13408); (4) attributing to a Senator a list of offenses under investigation by the Securities and Exchange Commission (Oct. 18, 2005, p. 22987); (5) accusing a Senator of giving "aid and comfort" to the enemy (Dec. 13, 2005, p. 28162); (6) accusing a Senator of corruption (Oct. 13, 2009, p. __) or of taking bribes (Jan. 19, 2010, p. __); (7) stating a "low opinion" of the Senate (Apr. 1, 2011, p. __).

It remains the duty of the Chair to call to order a Member who engages in personality with respect to a Senator (see § 374, *infra*), and the Chair may admonish a Member for unparliamentary references even after intervening recognition (Oct. 12, 1999, p. 24954; Nov. 15, 2001, p. 22596). Although the Chair is under a duty to caution Members against unparliamentary references, the Chair will not advise Members on how to construct their remarks to avoid improper references (Feb. 25, 2004, pp. 2409–15).

The prohibition against improper references to Senators includes (1) a reference not explicitly naming the Senator (VIII, 2512; Feb. 23, 1994, p. 2658; June 30, 1995, p. 18153; Feb. 27, 1997, pp. 2768, 2769); (2) the reading of a paper making criticisms of a Senator (V, 5127); (3) a reference to another person's criticism of a Senator (Aug. 4, 1983, p. 23145). Similarly, the Chair has consistently held that if references to the Senate are appropriate, the Member delivering them is not required to use the term "the other body," (Oct. 4, 1984, p. 30047) and, by the same token, references to "the other body" will not cure unparliamentary references directed to the Senate (*e.g.*, Oct. 2, 2002, p. 18913; Apr. 2, 2004, pp. 6394, 6395).

Under the earlier form of the rule, the Chair held that remarks in debate during the pendency of an impeachment resolution may not include comparisons to the personal conduct of sitting Members of the House or Senate (Dec. 18, 1998, p. 27829) and remarks in debate may not criticize words spoken in the Senate by one not a Member of that body in the course of an impeachment trial (V, 5106). After examination by a committee under the earlier form of the rule, a speech reflecting on the character of the Senate was ordered to be stricken from the Record on the ground that it tended to create "unfriendly conditions between the two bodies * * * obstructive of wise legislation and little short of a public calamity" (V, 5129). Under the earlier form of the rule, where a Member had been assailed in the Senate, he was permitted to explain his own conduct and motives without bringing the whole controversy into discussion or assailing the Senator (V, 5123–5126). Propositions relating to breaches of these principles were entertained as a matter of privilege (V, 5129, 6980).

The precise standard in former clause 1 of rule XIV for references to "individual Members of the Senate" did not apply to references to former Senators (Dec. 14, 1995, p. 36968).

The official policies, actions, and opinions of a Senator who is a candidate for President or Vice President (as, in modern practice, with one who is

not) may be criticized in terms not personally offensive (Speaker Wright, Sept. 29, 1988, p. 26683), but references attacking the character or integrity of a Senator in that context are not in order (Oct. 30, 1979, p. 30150).

References in debate to the Vice President (as President of the Senate) are governed by the standards of reference permitted toward the President, as under the earlier form of the rule. As such, a Member may criticize in debate the policies, or candidacy, of the Vice President but may not engage in personality (Dec. 14, 1995, p. 36968; July 14, 1998, p. 15314; Sept. 20, 2000, p. 18639). For example, it is not in order to allude to "wrongdoings [including] fund-raising telephone calls by the Vice President" (Mar. 14, 2000, p. 2716); to attribute to him a list of offenses under investigation by a special prosecutor (Oct. 18, 2005, p. 22987); to suggest that the House should investigate him in connection with government contracts awarded to his former employer (June 15, 2006, p. 11480); to speculate that he might someday pardon the President (Apr. 12, 2000, p. 5419); to accuse him of lying (Sept. 20, 2000, p. 18639; Sept. 21, 2000, p. 18789; Feb. 16, 2006, p. 1960; Mar. 6, 2007, p. 5412); to suggest "he has a problem with the truth" (Oct. 5, 2000, p. 21014); to allege "unethical behavior" or "corruption" (see, *e.g.*, Oct. 29, 2003, pp. 26400–402; Nov. 4, 2003, pp. 27070, 27071), including innuendo suggesting policy choices were made on the basis of personal pecuniary gain (July 7, 2004, p. 14582; Sept. 13, 2005, pp. 20238, 20239) or accusations of abuse of power (July 14, 2004, p. 15501); to describe him as "arrogant" (June 28, 2007, p. 17926; Sept. 25, 2008, p. __). The rule also precludes the insertion in the Record of a paper making improper references to the Vice President (Sept. 19, 2000, p. 18580).

A Member may not read in debate extraneous material regarding the Vice President that would be improper if spoken in the Member's own words (Feb. 16, 2006, p. 1960).

§ 373. Complaint by one House of conduct of a Member of the other.

Neither House can exercise any authority over a Member or officer of the other, but should complain to the House of which he is, and leave the punishment to them.

In a notable instance, wherein a Member of the House had assaulted a Senator in the Senate Chamber for words spoken in debate, the Senate examined the breach of privilege and transmitted its report to the House, which punished the Member (II, 1622). A Senator having assailed a House Member in debate, the House messaged to the Senate a resolution declaring the language a breach of privilege and requested the Senate to take appropriate action (Sept. 27, 1951, p. 12270). The Senator subsequently asked unanimous consent to correct his remarks in the permanent Congressional Record, but objection was raised (Sept. 28, 1951, p. 12383). But where certain Members of the House, in a published letter, sought to influence

the vote of a Senator in an impeachment trial, the House declined to consider the matter as a breach of privilege (III, 2657). Although on one occasion it was held that a resolution offered in the House requesting the Senate to expunge from the Record statements in criticism of a Member of the House did not constitute a question of privilege, being in violation of the rule prohibiting references to the Senate in debate (VIII, 2519), a properly drafted resolution referring to language published in the Record of Senate proceedings as constituting a breach of privilege and requesting the Senate to take appropriate action concerning the subject has been held to present a question of the privileges of the House (VIII, 2516).

§ 374. Duty of the Speaker to prevent expressions offensive to the other House.

* * * Where the complaint is of words disrespectfully spoken by a Member of another House, it is difficult to obtain punishment, because of the rules supposed necessary to be observed (as to the immediate noting down of words) for the security of Members. Therefore it is the duty of the House, and more particularly of the Speaker, to interfere immediately, and not to permit expressions to go unnoticed which may give a ground of complaint to the other House, and introduce proceedings and mutual accusations between the two Houses, which can hardly be terminated without difficulty and disorder. *3 Hats., 51.*

A rule of comity prohibiting most references in debate to the Senate was first enunciated in Jefferson's Manual and was strictly enforced in the House through the 108th Congress (albeit with certain exceptions adopted in the 100th and 101st Congresses in the former clause 1(b) of rule XVII) (§ 371, *supra* and § 945, *infra*). In the 109th Congress clause 1 was amended to permit references to the Senate or its Members, even critical references, so long as avoiding personality (sec. 2(g), H. Res. 5, Jan. 4, 2005, p. 43). Nevertheless, it remains the duty of the Chair to call to order a Member who violates the rule in debate or through an insertion in the Record.

The Chair has distinguished between engaging in personality toward another Member of the House, as to which the Chair normally awaits a point of order from the floor, and improper references to Members of the Senate, which violate comity between the Houses, as to which the Chair

normally takes initiative (Feb. 27, 1997, pp. 2778, 2779). The Chair may admonish Members to avoid unparliamentary references to the Senate even after intervening recognition (Oct. 12, 1999, p. 24954). Pending consideration of a measure relating to the Senate, the Speaker announced his intention to strictly enforce this provision of Jefferson's Manual prohibiting improper references to the Senate, and to deny recognition to Members violating the prohibition, subject to permission of the House to proceed in order (Speaker O'Neill, June 16, 1982, p. 13843). Under the earlier form of clause 1 of rule XVII, the Chair refused to respond to hypothetical questions as to the propriety of possible characterizations of Senate actions before their use in debate (Oct. 24, 1985, p. 28819). For a further discussion of the Speaker's duties regarding unparliamentary debate, see §§ 960–961, *infra*.

§ 375. Course of the Member when business concerning that Member is under debate.

No Member may be present when a bill or any business concerning himself is debating; nor is any Member to speak to the merits of it till he withdraws. *2 Hats., 219.* The rule is that if a charge against a Member arise out of a report of a committee, or examination of witnesses in the House, as the Member knows from that to what points he is to direct his exculpation, he may be heard to those points before any question is moved or stated against him. He is then to be heard, and withdraw before any question is moved. But if the question itself is the charge, as for breach of order or matter arising in the debate, then the charge must be stated (that is, the question must be moved), himself heard, and then to withdraw. *2 Hats., 121, 122.*

In 1832, during proceedings for the censure of a Member, the Speaker informed the Member that he should retire (II, 1366); but this seems to be an exceptional instance of the enforcement of the law of Parliament. In other cases, after the proposition for censure or expulsion has been proposed, Members have been heard in debate, either as a matter of right (II, 1286), as a matter of course (II, 1246, 1253), by express provision (II, 1273), and in writing (II, 1273), or by unanimous consent (II, 1275). A Member against whom a resolution of censure was pending was asked by the Speaker if he desired to be heard (VI, 236). But a Member was

not permitted to depute another Member to speak in his behalf (II, 1273). In modern practice the Member has been permitted to speak in his own behalf, both in censure (June 10, 1980, pp. 13802–11) and expulsion proceedings (Oct. 2, 1980, pp. 28953–78; July 24, 2002, pp. 14299, 14309). A Member-elect has been permitted to participate in debate on a resolution relating to his right to take the oath (Jan. 10, 1967, p. 23).

§ 376. Disqualifying personal interest of a Member.

Where 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 voice has been disallowed, even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principle of the social compact, which denies to any man to be a judge in his own cause, it is for the honor of the House that this rule of immemorial observance should be strictly adhered to. *2 Hats., 119, 121; 6 Grey, 368.*

In the House it has not been usual for the Member to withdraw from debate when the Member's private interests are concerned in a pending measure, although clause 1 of rule III addresses voting in such a contingency. In one instance the Senate disallowed a vote given by a Senator on a question relating to his own right to a seat; but the House has never had occasion to proceed so far (V, 5959).

§ 377. Wearing of hats by Members.

No Member is to come into the House with his head covered, nor to remove from one place to another with his hat on, nor is to put on his hat in coming in or removing, until he be set down in his place. *Scob., 6.*

In 1837 the parliamentary practice of wearing hats during the session was abolished by adoption of current clause 5 of rule XVII. See § 962, *infra*.

§ 378. Adjournment of questions of order.

A question of order may be adjourned to give time to look into precedents. *2 Hats., 118.*

As described in §§ 628 and 628a, *infra*, the Speaker has declined, on a difficult question of order, to rule until taking time for examination (III, 2725; VI, 432; VII, 2106; VIII, 2174, 2396, 3475), and may take a parliamentary inquiry under advisement, especially if not related to the pending proceedings (VIII, 2174; Apr. 7, 1992, p. 8274). However, it is conceivable that a case might arise wherein this privilege of the Chair would require approval of the majority of the House to prevent arbitrary obstruction of the pending business by the Chair. The law of Parliament evidently contemplates that the adjournment of a question of order shall be controlled by the House. On occasion, the Chair has reversed as erroneous a decision previously made (VI, 639; VII, 849; VIII, 2794, 3435).

§ 379. House's control over question of the Speaker.

In Parliament, all decisions of the Speaker may be controlled by the House. *3 Grey, 319.*

The Speaker's decision on a question of order is subject to appeal by any Member (clause 5 of rule I).

SEC. XVIII—ORDERS OF THE HOUSE

§ 380. Keeping of the doors of the House.

Of right, the door of the House ought not to be shut, but to be kept by porters, or Sergeants-at-Arms, assigned for that purpose. *Mod ten. Parl., 23.*

§ 381. Right of the Member to demand execution of the subsisting order.

The only case where a Member has a right to insist on anything, is where he calls for the execution of a subsisting order of the House. Here there having been already a resolution, any person has a right to insist that the Speaker, or any other whose duty it is, shall carry it into execution; and no debate or delay can be had on it.

As a request for unanimous consent to consider a bill is in effect a request to suspend the order of business temporarily, a Member has the right at any time to demand the "regular order" (IV, 3058). If the regular order is demanded pending a request for unanimous consent, further reservation of the right to object thereto is precluded (Speaker Foley, Nov. 14, 1991, p. 32128; Nov. 7, 2009, p. __). Occasionally a Member may incorrectly demand the "regular order" to assert that remarks are not confined to the question under debate. On such an occasion the Chair may treat the de-