

## Chapter CXXXVIII.

### MESSAGES AND COMMUNICATIONS.

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1. Provisions of the parliamentary law. Section 6590.<sup>1</sup>
  2. Ceremony of receiving message of President. Section 6591.
  3. Entry of messages on Journal. Section 6593.
  4. Practice and forms as to messages between the Houses. Sections 6594–6599.<sup>2</sup>
  5. Reception of messages in relation to pending business. Sections 6600–6604.
  6. Correction of errors and return of. Sections 6605–6611.
  7. Messages of the President and their consideration. Sections 6612–6646.
  8. Messages sent by President before organization of the House. Sections 6647–6650.
  9. Withdrawal of a portion of a message. Section 6651.
  10. Communications from public officers and others. Sections 6652–6662.<sup>3</sup>
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**6590. As a committee of the whole may not receive a message, the Speaker takes the chair informally if a message be received while the committee is sitting.**

**Messengers are saluted by the Speaker for the House.**

**If the messenger commit an error he may be admitted or called in to correct it.**

**A message from the President is usually communicated to both Houses on the same day when its nature permits.**

Jefferson's Manual has the following provisions in regard to the reception of messages:

In section XII: If a message is announced during a committee, the Speaker takes the chair and receives it, because the committee can not.<sup>4</sup> (2 Hats., 125, 126.)

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<sup>1</sup>Rare instances wherein messages to the Senate were sent by Members of the House. (Secs. 1538 of Vol. II and 1928 of Vol. III.)

<sup>2</sup>Usage as to the messages preliminary to the electoral count. (Sec. 1961 of Vol. III.)

Form of message when the House disagrees to certain amendments of the Senate and agrees to others with amendment. (Sec. 6287 of this volume.)

In relation to secret sessions. (Secs. 7250–7252 of this volume.)

Informal rising of the Committee of the Whole when messages are received. (Secs. 4785–4791 of Vol. IV.)

<sup>3</sup>Secretary Stanton's communication which led to the impeachment of the President. (Sec. 2408 of Vol. III.)

As to estimates of appropriations transmitted from the Executive Departments. (Secs. 3573–3577 of Vol. IV.)

<sup>4</sup>It is the practice of the House to receive messages from the Senate or President during a call of the roll, or when a Member has the floor; but not while the Journal is being read.

In section XLVII: In the House of Representatives, as in Parliament, if the House be in committee when a messenger attends, the Speaker takes the chair to receive the message, and then quits it to return into committee, without any question or interruption. (4 Grey, 226.)

Messengers are not saluted by the Members, but by the Speaker for the House. (2 Grey, 253, 274.)

If messengers commit an error in delivering their message, they may be admitted or called in to correct their message. (4 Grey, 41.) Accordingly, March 13, 1800, the Senate having made two amendments to a bill from the House of Representatives, their Secretary, by mistake, delivered one only; which being inadmissible by itself, that House disagreed, and notified the Senate of their disagreement. This produced a discovery of the mistake. The Secretary was sent to the other House to correct his mistake; the correction was received and the two amendments acted on *de novo*.

Where the subject of a message is of a nature that it can properly be communicated to both Houses of Parliament, it is expected that this communication should be made to both on the same day. But when a message was accompanied with an original declaration, signed by the party to which the message referred, its being sent to one House was not noticed by the other, because the declaration being original, could not possibly be sent to both Houses at the same time.<sup>1</sup> (2 Hats., 260, 261, 262.)

**6591. The ceremony of receiving a messenger from the President of the United States in the House.**—The messenger is introduced by the Doorkeeper at the bar of the House, with the words “Mr. Speaker, a message from the President” [or the 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,” since such is his title whether he be from the President or the Senate. Thereupon the messenger delivers the message in a distinct voice that should be heard by all the Members present.

The Secretary of the President makes his announcement in form as follows:

I am directed by the President of the United States to deliver to the House a message in writing [or “sundry messages in writing” if there be more than one].

Sometimes, also, he adds, if the occasion require, the words—

and to announce his approval of sundry House bills.

Frequently the message merely announces the approval of bills.

**6592. Practice as to the reception in the House of messages from the Senate, as founded on former joint rules.**—For many years, from the early days of the Government until 1876, the two Houses had joint rules, which established the practice as to messages:

When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the Doorkeeper, and shall be respectfully communicated to the Chair by the person by whom it may be sent.

The same ceremony shall be observed when a messenger shall be sent from the House of Representatives to the Senate.

Messages shall be sent by such persons as a sense of propriety in each House may determine to be proper.<sup>2</sup>

The practice continues in accordance with the requirements of these rules, although the rules have ceased to exist.

**6593. Messages from the Senate and President giving notice of bills passed or approved are entered in the Journal and published in the Record.**

<sup>1</sup> See section 6616 of this volume.

<sup>2</sup> The Clerk or one of his subordinates delivers the messages of the House in the Senate and Senate messages are delivered by the Secretary of the Senate or one of his subordinates.

### Present form and history of Rule XLI.

Rule XLI provides:

Messages received from the Senate and the President of the United States giving notice of bills passed or approved shall be entered in the Journal and published in the Record of that day's proceedings.

March 15, 1867,<sup>1</sup> on motion of Mr. Nathaniel P. Banks, of Massachusetts, a rule was adopted providing that such messages should be read immediately from the Clerk's desk. In the revision of 1880<sup>2</sup> the rule was changed to its present form.

**6594. It has long been the practice for the House to direct the Clerk to take its messages to the Senate.**—A frequent form with the House in early days was to direct that “a message be sent to the Senate, notifying,” etc., “and that the Clerk do go with the said message.”<sup>3</sup> This is the full form:

*Ordered,* That a message be sent to the Senate, notifying that body that this House has chosen John Quincy Adams, President of the United States, for the term of four years, commencing on the 4th day of March, 1825; and that the Clerk do go with the said message.<sup>4</sup>

**6595. The manner of delivering and receiving messages between the two Houses was early arranged by a joint rule.**—On April 28, 1789,<sup>5</sup> Mr. Richard Bland Lee, of Virginia, reported the following respecting the mode of communicating papers, bills, and messages between the two Houses:

When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the Doorkeeper, and shall be respectfully communicated to the Chair by the person by whom it may be sent.

The same ceremony shall be observed when a message shall be sent from the House of Representatives to the Senate.

Messages shall be sent by such persons as a sense of propriety in each House may determine to be proper.

The report was read twice and agreed to by the House. November 13, 1794,<sup>6</sup> this regulation was agreed to among the joint rules and continued there until the rules were dropped in 1876.

The Senate did not at once agree to this,<sup>7</sup> but on May 7,<sup>8</sup>

*Ordered,* That, when a messenger shall come from the House of Representatives to the Senate, and shall be announced by the doorkeeper, the messenger or messengers being a Member or Members of the House, shall be received within the bar, the President rising when the message is by one Member, and the Senate also when it is by two or more; if the messenger be not a Member of the House, he shall be received at the bar by the secretary, and the bill or papers that he may bring shall there be received from him by the Secretary, and be by him delivered to the President.<sup>9</sup>

<sup>1</sup>First session Fortieth Congress, Globe, p. 119.

<sup>2</sup>Second session Forty-sixth Congress, Record, p. 207.

<sup>3</sup>Second session Eighteenth Congress, Journal, p. 222.

<sup>4</sup>Messages from the House to the Senate are taken nominally by the Clerk, but usually by the Chief Clerk, and sometimes by other subordinate officials. Thus, on May 27 and 28, 1902, messages were delivered in the Senate by the Enrolling Clerk of the House. (First session Fifty-seventh Congress, Record, pp. 5950, 6043.)

<sup>5</sup>First session First Congress, Journal, p. 21 (Gales & Seaton ed.); Annals, p. 221.

<sup>6</sup>First session Third Congress, Journal, p. 230 (Gales & Seaton ed.).

<sup>7</sup>Annals, p. 30.

<sup>8</sup>Annals, p. 31; Journal of House, p. 32 (Gales and Seaton ed.).

<sup>9</sup>An earlier proposition had proposed a more elaborate ceremonial. See Annals, pp. 23, 24.

**6596. Forms of messages in use by the Clerk of the House in transmitting business from the House to the Senate.**—The Clerk of the House<sup>1</sup> in delivering messages to the Senate uses a variety of forms, to conform to the variety of business which is to be transmitted.

For transmitting House bills:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has passed the following bills ——— in which bills the concurrence of the Senate is requested.

For transmitting Senate bills amended by the House:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has passed the bill of the Senate (S. —) [title] ———, with the accompanying amendment, in which the concurrence of the Senate is requested.

For transmitting House bills with Senate amendments to which the House has agreed:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has agreed to the amendment of the Senate to the bill of the House (H. R. —) [title] ———.

For transmitting House bills with Senate amendments to which the House disagrees, and on the disagreeing votes as to which a conference is asked:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has

*Resolved*, That the House disagrees to the amendment of the Senate to the bill (H. R. —) [title] ———, and asks a conference with the Senate on the disagreeing vote's of the two Houses thereon.

*Ordered*, That Mr. ——— ———, Mr. ——— ———, and Mr. ——— ———, be the managers of the conference on the part of the House.

[If the conference is not asked, the latter portion would not be used.]

For transmitting a House bill on which, after one disagreement as to the Senate amendment, a further conference is asked:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has

*Resolved*, That the House further insists upon its disagreement to the amendment of the Senate to the bill (H. R. —) [title] ———, and asks a further conference with the Senate on the disagreeing votes of the two Houses thereon.

*Ordered*, That Mr. ——— ———, Mr. ——— ———, and Mr. ——— ———, be the managers of the conference on the part of the House.

For transmitting a Senate bill as to which the Senate has disagreed to a House amendment on which the House insists:

Mr. President. I am directed by the House of Representatives to inform the Senate that the House has

*Resolved*, That the House insists upon its amendment to the bill (S. —) [title] ———, disagreed to by the Senate, and agrees to the conference asked by the Senate on the disagreeing vote's of the two Houses thereon.

*Ordered*, That Mr. ——— ———, Mr. ——— ———, and Mr. ——— ———, be the managers of the conference on the part of the House.

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<sup>1</sup>The forms here given are those used by Mr. William J. Browning, for twelve years Chief Clerk of the House, who as deputy of the Clerk delivers most of the messages in the Senate. He received the forms from his predecessor in office. Forms substantially similar are used by the Secretary of the Senate in delivering messages in the House.

For transmitting a Senate bill with a House amendment on which, after one disagreement, the House continues to insist:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has

*Resolved*, That the House further insists upon its amendment to the bill (S. —) [title] —, disagreed to by the Senate, and asks a further conference with the Senate on the disagreeing votes of the two Houses thereon.

*Ordered*, That Mr. —, Mr. —, and Mr. —, be the managers of the conference on the part of the House.

[Various modifications of these forms are made to suit peculiar conditions.]

For transmitting the information that the House has agreed to a conference report:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has

*Resolved*, That the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses to the amendments of the — to the bill (—) entitled —.

For transmitting the information that the House has disagreed to a conference report:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has

*Resolved*, That the House disagrees to the report of the committee of conference on the disagreeing votes of the two Houses to the amendments of the — to the bill (—) entitled —.

For transmitting enrolled bills to the Senate:

Mr. President, the Speaker of the House having signed the following enrolled bills —, I am directed to present the said bills to the Senate for the signatures of its President.

For transmitting a bill which the House has passed after its return with the objections of the President:

Mr. President, the President of the United States having returned to the House the bill (H. R. —) entitled An act —, with his objections to the same, the House proceeded to reconsider the bill, and

*Resolved*, That the bill do pass, two-thirds of the House agreeing thereto,

I am directed by the House to communicate the said bill, the message of the President returning the same with his objections, and the proceedings of the House thereon, to the Senate.

For transmitting intelligence of the death of a Member:

Mr. President, I am directed by the House of Representatives to communicate to the Senate intelligence of the death of Hon. —, of —, late a Representative from the State of —, and to transmit the resolutions of the House thereon.

[Where a committee has been appointed to attend the funeral, the names of the committee would be given.]

For transmitting resolutions adopted by the House after eulogies of a deceased Member:

Mr. President, I am directed by the House of Representatives to transmit to the Senate the resolutions of the House as tributes to the memory of Hon. —, late a Representative from the State of —.

**6597. Forms of messages of the Senate announcing disagreements and insistence as to amendments, and asking conferences.**—On April 29, 1858,<sup>1</sup> this message was received from the Senate:

The Senate insist upon their amendments, disagreed to by the House, to the bill of the House (H. R. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and ask a conference with the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. Toombs, Mr. Biggs, and Mr. Fessenden the managers at said conference on the part of the Senate.

**6598.** On May 27, 1858,<sup>2</sup> a message was received from the Senate as follows:

The Senate insist upon their amendments, disagreed to by the House, and disagree to the amendment of the House to the amendment of the Senate to the bill of the House (H. R. 201) making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1859, and ask a conference with this House on the disagreeing votes of the two Houses thereon, and have appointed Mr. Pearce, Mr. Fitzpatrick, and Mr. Trumbull the committee on their part.

**6699.** On March 3, 1859,<sup>3</sup> the following message was received:

The Senate have disagreed to the amendments of this House to the amendments of the Senate to the bill of the House (H. R. 712) making appropriations for the naval service during the fiscal year ending June 30, 1860; ask a conference with the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. Mallory, Mr. Bright, and Mr. Hamlin the managers on the part of the Senate.

**6600. The reception of a message from the President or the Senate is not the transaction of business.**

**An opinion that a message may be received during a call of the House.**

At the evening session of July 20, 1886,<sup>4</sup> which had been set apart for the consideration of a certain class of bills, the Secretary of the Senate appeared with a message.

Mr. Ransom W. Dunham, of Illinois, made a point of order as follows:

Under the order of the House providing for this evening session, nothing is in order but to act upon bridge bills, and therefore the receipt of a message from the Senate is not now in order.

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

The Chair thinks that the reception of a message from the Senate or from the President is not the transaction of business, and this has heretofore been held very frequently in the House. For instance, even when the House is operating under an order for a call of the House, no motion being in order except a motion to adjourn or for some matter connected with the call, it has always been held that these messages could be received. The Chair overrules the point of order.

**6601. Messages between the Houses are received during debate, but are to be sent only when both Houses are sitting.**

**In Congress the rejection by one House of a bill from the other is made the subject of a message to the originating House.**

**General provisions of the parliamentary law relating to messages between the Houses.**

<sup>1</sup> First session Thirty-fifth Congress, Journal, p. 711.

<sup>2</sup> Journal, p. 933. (See also Journal, p. 1062, for a similar case.)

<sup>3</sup> Second session Thirty-fifth Congress, Journal, p. 564.

<sup>4</sup> First session Forty-ninth Congress, Record, p. 7243; Journal, p. 2281.

<sup>5</sup> John G. Carlisle, of Kentucky, Speaker.

Section XLVII of Jefferson's Manual provides:

Messages between the Houses are to be sent only while both Houses are sitting. (3 Hats. 15.) They are received during a debate without adjourning the debate.<sup>1</sup> (3 Hats., 22.)

It is not the usage for one House to inform the other by what numbers a bill is passed. (10 Grey, 150.) Yet they have sometimes recommended a bill, as of great importance, to the consideration of the House to which it is sent. (3 Hats., 25.) Nor when they have rejected a bill from the other House, do they give notice of it; but it passes sub silentio, to prevent unbecoming altercations. (1 Blackst., 183.)

But in Congress the rejection is notified by message to the House in which the bill originated.

A question is never asked by the one House of the other by way of message, but only at a conference; for this is an interrogatory, not a message. (3 Grey, 151, 181.)

When a bill is sent by one House to the other, and is neglected, they may send a message to remind them of it. (3 Hats., 25; 5 Grey, 154.) But if it be mere inattention, it is better to have it done informally by communications between the Speakers or Members of the two Houses.

**6602. The Speaker has exercised his discretion about interrupting the pending business to permit the reception of a message.**—On February 17, 1877,<sup>2</sup> the Speaker laid before the House a communication from Nathan Clifford president of the Electoral Commission, informing the House that the Commission had considered and decided upon the matters submitted to it under the act of Congress, and had transmitted the decision to the President of the Senate, to be read at the meeting of the two Houses according to said act.

Mr. Lucius Q. C. Lamar, of Mississippi, submitted the following resolution and demanded the previous question thereon:

*Resolved*, That the Clerk of the House notify the Senate that the House of Representatives will be prepared at 11 o'clock a. m. on Monday to receive the Senate in the hall for the purpose of proceeding under the provisions of the act to provide for and regulate the counting of votes for President and Vice-President.

Mr. John A. Kasson, of Iowa, made the point of order that before action was taken on the pending resolution a message from the Senate must be received, the Secretary of the Senate being now at the door of the House with a message from that body pertinent to the said communication.

The Speaker<sup>3</sup> overruled the point of order, on the ground that the pending resolution was also pertinent to the subject-matter of said communication, and that the previous question had been demanded thereon.

**6603. In the latest practice the parliamentary rule that messages are to be sent only when both Houses are sitting has been observed.**—On June 17, 1892<sup>4</sup> a message having been received from the Senate, Mr. John L. Bretz, of Indiana, made the point of order that the House could not receive a message from the Senate submitting a request for a conference when the Senate was not in session.

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

<sup>1</sup>The adjourning of a debate is a practice of Parliament, but not of the House. Messages are received in the House during a debate, even while a Member is speaking, and while the roll is being called, but not while the Journal is being read.

<sup>2</sup>Second session Forty-fourth Congress, Journal, p. 465; Record, p. 1664.

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

<sup>4</sup>First session Fifty second Congress, Journal, p. 230; Record, p. 5371.

<sup>5</sup>Charles F. Crisp, of Georgia, Speaker.

**6604.** On Monday, April 18, 1898,<sup>1</sup> the House met at 10 a.m., in continuation of the legislative day of Saturday, April 16, 1898. On Saturday evening the Senate had passed the joint resolution (H. Res. 233) “authorizing and directing the President of the United States to intervene to stop the war in Cuba, and for the purpose of establishing a stable and independent government of the people therein,” with amendments, one of which recognized the independence of the Cuban republic. The Senate then adjourned until the usual hour, 12 m., on Monday.

When the House met, at 10 a.m., Mr. Nelson Dingley, of Maine, being recognized, said:

Mr. Speaker, in view of the fact that no message can be received from the Senate until both Houses are in session, I move that the House do now adjourn.

Mr. Joseph W. Bailey, of Texas, rising to a parliamentary inquiry, said:

I desire to inquire if it be true that no message can be received from the Senate unless both Houses are in session?

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

That is the rule.<sup>3</sup>

**6605. The request of the Senate that its Secretary be allowed to correct an error in a message was granted by order of the House.**—On September 27, 1850,<sup>4</sup> a message was received from the Senate by Mr. Dickens, their Secretary, which concluded as follows:

I am directed, further, to notify the House that in engrossing the amendments of the Senate to the bill entitled “An act making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1851, and for other purposes, “a mistake was made by stating as an amendment that the words “five thousand five hundred,” in lines 25 and 26 of page 11, had been struck out, and the words “one thousand” inserted in lieu thereof; and request that the Secretary be permitted to correct the error.

And then the Secretary withdrew.

Then, on motion of Mr. Samuel F. Vinton, of Ohio, by unanimous consent—

*Ordered,* That the Secretary of the Senate be authorized to correct the error of which the Senate has notified the House.

**6606. Correction of an error whereby a Senate amendment to a House bill had failed to be included in a message.**—On July 12, 1790,<sup>5</sup> it being discovered that a mistake had been made in the message from the Senate on Friday last, respecting the amendment to the bill entitled “An act to regulate trade and intercourse with the Indian tribes,” whereby an amendment proposed on the part of the Senate for striking out the fourth section of the bill had been omitted, the House proceeded to consider the said amendment, and—

*Resolved,* That this House do disagree to the same.

<sup>1</sup> Second session Fifty-fifth Congress, Record, p. 4002.

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

<sup>3</sup> See section 6601.

<sup>4</sup> First session Thirty-first Congress, Journal, p. 1546.

<sup>5</sup> Second session First Congress, Journal, pp. 171, 172 (Old ed.), 268 (Gales & Seaton ed.).



**6607. One House may correct an error in its message to the other, the receiving House concurring in the correction.**—On July 14, 1866,<sup>1</sup> by unanimous consent, and on motion of Mr. Nathaniel P. Banks, of Massachusetts—

*Ordered*, That the Clerk be directed to correct an error in the announcement of the action of the House upon the amendments of the Senate to the bill of the House (H. R. 261) making appropriations for the diplomatic and consular service of the Government.

On July 16 the Senate received the correction, and on motion of Mr. Charles Sumner, of Massachusetts, agreed to the following:

*Resolved*, That the Senate agree to the correction of the message of the House of Representatives in respect to its action upon the amendments of the Senate to the bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes, as requested by the House.

A message announcing this action was sent to the House.

**6608.** On February 10, 1873,<sup>2</sup> Mr. Nathaniel P. Banks, of Massachusetts, as a question of privilege, but which was journalized. as by unanimous consent, presented a resolution correcting the message of the House to the Senate on the 23d of January, 1873, acquainting the Senate with the action of the House on the amendments of the Senate to the joint resolution (H. Res. No. 170) in relation to the Vienna Exposition. The resolution went on to specify the corrections.

The House agreed to the resolution, and on the same day the Senate concurred in the correction of the error.

**6609. One House sometimes asks of the other the return of a message. It is in order for one body to recommit a conference report if the other body by action on the report have not discharged their conferees.**

On June 28, 1906,<sup>3</sup> the House received from the Senate a message transmitting the following resolution:

*Resolved*, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. 19844) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes, with the amendments of the Senate thereto and the message of the Senate of June 27, 1906, notifying the House of the agreement of the Senate to the conference report thereon.

The House, which had begun the consideration of the conference report, but had laid it aside without action, ordered that the message be returned to the Senate.

In the Senate, on the same day,<sup>4</sup> on motion of Mr. George C. Perkins, of California, the report was recommitted to the conferees.

No message announcing this recommittal was sent to the House.

**6610.** On June 24, 1902,<sup>5</sup> the Speaker laid before the House the following resolution from the Senate:

*Resolved*, That the Secretary be directed to request the House of Representatives to return to the Senate its message disagreeing to the amendment of, and asking a conference with, the House of Rep-

<sup>1</sup>First session Thirty-ninth Congress, Journal, pp. 1018, 1023; Globe, p. 3825.

<sup>2</sup>Third session Forty-second Congress, Journal, p. 353; Globe, pp. 1224, 1233.

<sup>3</sup>First session Fifty-ninth Congress, Record, p. 9546.

<sup>4</sup>Record, p. 9475.

<sup>5</sup>First session Fifty-seventh Congress, Record, p. 7337.

representatives on the bill (S. 4284) entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' approved January 14, 1889."

The request was granted.

**6611.** On June 28, 1902,<sup>1</sup> the House received by message from the Senate the following resolution:

*Resolved*, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. 8586) amending the act of March 2, 1901, entitled "An act to carry into effect the stipulations of Article VII of the treaty between the United States and Spain, concluded on the 10th day of December, 1898," the amendments of the Senate thereto, and the message of the Senate of March 11, 1902, disagreeing to the report of the committee of conference thereon.

The House granted this request.

**6612. The Constitution provides that the President shall from time to time give Congress information of the state of the Union, and make recommendations.**—The Constitution of the United States, in section 3 of article 2, in prescribing the duties of the President of the United States, provides:

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient.

**6613. Origin of the practice as to the transmission and reception of messages from the President of the United States.**—On May 29, 1789,<sup>2</sup> on report made by a joint committee, the House agreed:

That until the public offices are established and the respective officers appointed any returns of bills and resolutions or other communications from the President may be received by either House, under cover, directed to the President of the Senate or Speaker of the House of Representatives, as the case may be, and transmitted by such person as the President may think proper.

On June 1 the House received notice that the Senate had agreed to the report.

**6614. It is usual for the President to inform the House by message of such bills as he has approved and of such as have become laws without his approval.**—On February 28, 1861,<sup>3</sup> a message was received from the President of the United States, by A.J. Glossbrenner, his private secretary, notifying the House that he did, on the 27th instant, approve and sign bills of the following titles:

H.R. 435. An act to refund to the Territory of Utah the expenses incurred in suppressing Indian hostilities in the year 1853; and

H.R. 714. An act establishing certain post routes.

And this day,

H.R. 864. An act making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1862;

Also notifying the House that "An act for the relief of Hockaday & Ligget," having been presented to the President on the 16th of February, 1861, and not having been returned by him within ten days (Sundays excepted), it has now become a law under the Constitution of the United States.

**6615.** On February 23, 1867,<sup>4</sup> the President sent to the House a message notifying the House that the following bills, having been presented to the President on

<sup>1</sup> First session Fifty-seventh Congress, Journal, p. 872; Record, pp. 7595, 7600.

<sup>2</sup> First session First Congress, Journal, p. 43 (Gales & Seaton ed.); Annals, p. 432.

<sup>3</sup> Second session Thirty-sixth Congress, Journal, p. 424.

<sup>4</sup> Second session Thirty-ninth Congress, Journal, p. 479.

the 9th day of February, 1867, and not having been returned by him within ten days (Sundays excepted), had become laws under the Constitution of the United States:

H. R. 874. An act to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes; and

H. R. 902. An act to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims," etc.

**6616. A message of the President is usually communicated to both Houses on the same day, but an original document accompanying can of course be sent to but one House.**—On February 2, 1858,<sup>1</sup> on motion of Mr. Alexander H. Stephens, of Georgia, by unanimous consent, the Speaker laid before the House the following message this day received from the President of the United States, which was read, and was as follows:

*To the Senate and House of Representatives of the United States:*

I have received from J. Calhoun, esq., president of the late constitutional convention of Kansas, a copy, duly certified by himself, of the constitution framed by that body, with the expression of a hope that I would submit the same to the consideration of Congress "with the view of the admission of Kansas into the Union as an independent State." In compliance with this request, I herewith transmit to Congress, for their action, the constitution of Kansas, with the ordinance respecting the public lands, as well as the letter of Mr. Calhoun, dated at Lecompton on the 14th ultimo, by which they were accompanied. Having received but a single copy of the constitution and ordinance, I send this to the Senate.<sup>2</sup> \* \* \*

**6617.** On March 28, 1898,<sup>3</sup> the President of the United States transmitted to the House a message relating to the loss of the battle ship *Maine* in the harbor of Habana.

The message having been read, Mr. Joseph W. Bailey, of Texas, rising to a parliamentary inquiry, said:

I understand that under the rules of the House the message must be referred to the proper committee without debate, but I understood the President to say in his message that he lays before Congress the conclusions of the naval board of inquiry and the testimony. I desire to inquire if that has reached the House?

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

The report and testimony have not reached the House. There is a note attached to the message which was not read by the Clerk. I will read it to the House:

"The findings of the court and testimony are sent with the message to the Senate."

**6618. When the President was prevented by adjournment from returning a bill with his objections it was formerly customary for him at the next session to communicate his reasons for not approving.**—On November 6, 1812,<sup>5</sup> President Madison sent a message addressed to the Senate and House of Representatives stating:

The bill entitled "An act supplementary to the acts heretofore passed on the subject of an uniform rule of naturalization," which passed the two Houses at the last session of Congress, having appeared to me liable to abuse by aliens having no real purpose of effectuating a naturalization, and therefore

<sup>1</sup> First session Thirty-fifth Congress, Journal, p. 270; Globe, p. 533.

<sup>2</sup> See also section 6590 of this volume.

<sup>3</sup> Second session Fifty-fifth Congress, Record, pp. 3285, 3286.

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

<sup>5</sup> Second session Twelfth Congress, Journal, p. 544.

not having been signed, and having been presented at an hour too near the close of the session to be returned with objections for reconsideration, the bill failed to become a law. I recommend that provision be now made in favor of aliens entitled to the contemplated benefit, under such regulations as will prevent advantage being taken of it for improper purposes.

The message was referred to a select committee.<sup>1</sup>

**6619.** On December 15, 1847,<sup>2</sup> a message was received from the President of the United States and was at once read. In this message the President stated that on the last day of the preceding session of Congress a bill entitled "An act to provide for continuing certain works in the Territory of Wisconsin, and for other purposes," which had passed both Houses, was presented to him for his approval. He entertained insuperable objections to the bill, but the short period of time before the close of the session allowed him no time to prepare his objections and communicate them to the House. For this reason the bill was retained and failed to become a law. Therefore the President deemed it proper at this time (the beginning of the succeeding session) to state his objections to the bill.<sup>3</sup>

**6620.** On January 7, 1859,<sup>4</sup> the Speaker, by unanimous consent, laid before the House a message received from the President of the United States, in which he gave his reasons for not approving on the last day of the last session of Congress "A joint resolution in regard to carrying the United States mails from St. Joseph, Mo., to Placerville, Cal." This resolution authorized and directed the Postmaster-General—

to order an increase of speed upon said route, requiring the mails to be carried through in thirty days, instead of thirty-eight days, according to the existing contract: Provided, The same can be done upon a pro rata increase of compensation to the contractors.

**6621. The annual message of the President is usually referred when read to the Committee of the Whole House on the state of the Union, whence it is distributed by action of the House to appropriate committees.**

**Messages of the President other than the annual messages, are usually referred to standing committees at once, even in matters of great importance. (Footnote.)**

**Form of resolutions for the distribution of the President's annual message.**

**The resolutions distributing the President's annual message are reported by the Committee on Ways and Means.**

When the annual message of the President is received and has been read, it is usual for a Member of the majority party<sup>5</sup> to offer the following resolution:

<sup>1</sup>In recent years it has not been customary to send messages of this kind. (See Record, first session Fiftieth Congress, p. 9538, bills H.R. 11139 and 11262.) At the close of the Fifty-fourth Congress several general appropriation bills were not approved; but the President could not have communicated his reasons, as his term expired with the Congress. Sometimes the President sends notice of the signature of a bill at the next session. (See Record, p. 363, second session Fiftieth Congress.)

<sup>2</sup>First session Thirtieth Congress, Journal, p. 82; Globe, p. 36.

<sup>3</sup>The Globe shows that the Speaker (Robert C. Winthrop) declared that all messages of the President, whether veto or not, were by precedent spread on the Journal. (First session Thirtieth Congress, Globe, p. 36.)

<sup>4</sup>Second session Thirty-fifth Congress, Journal, p. 151; Globe, p. 272.

<sup>5</sup>Usually the Chairman of the Ways and Means Committee.

*Resolved*, That the message of the President and accompanying papers be referred to the Committee of the Whole House on the state of the Union and be printed.<sup>1</sup>

Messages from the President other than the annual messages<sup>2</sup> are referred in accordance with the rule relating to the order of business to appropriate standing committees.<sup>3</sup> This is true even of the special message at the opening of a special session.<sup>4</sup>

**6622. On December 16, 1889,<sup>5</sup> Mr. William McKinley, jr., of Ohio, chairman of the Committee on Ways and Means, being recognized, said:**

<sup>1</sup>I am instructed by the Committee on Ways and Means to report a resolution for the distribution of the President's message. That message some days ago was referred to the Committee of the Whole House on the state of the Union, and to that committee this resolution should go. I move, therefore, that the House resolve itself into the Committee of the Whole for the purpose of considering the resolution.<sup>6</sup>

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<sup>1</sup>See Records, second session Fifty-fifth Congress, p. 11; first session Fifty-fourth Congress, p. 26; first session Fifty-second Congress, p. 20; first session Fifty-first Congress, p. 92.

<sup>2</sup>On January 16, 1833 (second session Twenty-second Congress, Journal, pp. 204–206; Debates, pp. 1082–1089) when President Jackson sent to the House the message relating to the nullification troubles in South Carolina, there was a long debate as to the reference. It was urged that it was a most proper matter to go to the Committee of the Whole House on the state of the Union, but there was objection that such a course, by producing debate, would intensify excitement. Therefore the House sent the message to the Committee on the Judiciary.

<sup>3</sup>Section 2 of Rule XXIV. (See sec. 3089 of vol. IV.)

<sup>4</sup>First session Fifty-fifth Congress, Record, p. 19.

<sup>5</sup>First session Fifty-first Congress, Record, p. 188.

<sup>6</sup>This distribution of the President's annual message is a survival of the old practice, according to which messages of the President were referred to the Committee of the Whole, which debated them and determined what should be done with the several portions, generally recommending their reference to select committees, standing committees not then being an established institution of the House. (Annals of Congress, First Congress, Vol. II, pp. 1847–1850, see also sec. 6623 of this volume.) These recommendations took the form of resolutions which originated in the Committee of the Whole and were reported by it to the House. The change of practice in the House has been such that now the Ways and Means Committee report the resolutions for reference of the message, and they are referred to the Committee of the Whole House on the state of the Union, which considers them and reports them to the House for adoption.

The treatment of the annual messages has varied somewhat. Formerly they were kept in Committee of the Whole House on the state of the Union and therein debated at various times. This occurred as late as 1856. (First session Thirty-fourth Congress, Journal, pp. 532, 544, 659, 1430.) At a later session in the same Congress the annual message was debated at length in the House on the motion to refer and print. (Third session Thirty-fourth Congress, Journal, pp. 82, 221.) In 1860 the usual motion to refer the annual message to the Committee of the Whole House on the state of the Union was amended so that so much as referred to the perilous condition of the country should go to a special committee of one from each State. The remainder of the message was on the following day considered in Committee of the Whole House on the state of the Union, which at once reported the usual resolutions of distribution. These resolutions had been moved in the committee by Mr. John Sherman, of Ohio, chairman of the Ways and Means Committee. (Second session Thirty-sixth Congress, Journal, pp. 36, 42; Globe, p. 16.) In the next Congress the resolutions were offered in the House by unanimous consent by Mr. Ehu B. Washburne, of Illinois, who was chairman of the Committee on Commerce. (First session Thirty-seventh Congress, Journal, p. 49.) At the next session the message was debated in Committee of the Whole House on the state of the Union, and after general debate had been closed by order of the House, the Committee of the Whole, on motion of Mr. Thaddeus Stevens, of Pennsylvania, chairman of the Ways and Means Committee, rose and reported the resolutions. (Second Session Thirty-seventh Congress, Journal, pp. 37, 39.) At the next session the resolutions were reported from the Committee of the Whole House on the state of the union (third session Thirty-seventh Congress, Journal, p. 89); but at the succeeding session they were reported from the Ways and Means Committee, Mr. Thaddeus Stevens, chairman of that committee,

This resolution being agreed to, the House resolved itself into Committee of the Whole, and after some time therein the committee rose and reported the resolution with the recommendation that it be adopted by the House. The House agreed to the recommendation.

The resolution provided:

*Resolved*, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session as relates to our foreign affairs, including appropriations therefore, together with the accompanying correspondence and documents, the Pan-American Congress, the International Maritime Congress, the regulation of Chinese immigration, the Canadian fisheries and boundaries, the enlargement of extradition with Great Britain, Spanish and Venezuela claims, West India trade, Isthmian transit, and the reorganization of our consular and diplomatic service, be referred to the Committee on Foreign Affairs.

That so much of said message and accompanying documents as relates to the public debt and the public revenues, to the national finances, to the revenue provisions of treaties with foreign countries, having connection with revenue questions, and the revision of the tariff and internal-revenue laws, to the wants and condition of the Treasury, and the reduction of the surplus, be referred to the Committee on Ways and Means.

That so much of said message and accompanying documents as relates to the appropriation of the revenue for the support of the Government, as herein provided, namely, for legislative, executive, and judicial expenses, for sundry civil expenses, for fortifications and coast defenses, for District of Columbia, for pensions, and for all deficiencies, be referred to the Committee on Appropriations.

That so much as relates to the judiciary of the United States, to legislation touching citizenship, naturalization, bankrupt law, protection of Federal officers and witnesses, international copyright, and the reorganization of the Department of Justice, be referred to the Committee on the Judiciary.

And so on through the list of subjects included in the message.

On December 24, 1895, when Mr. Nelson Dingley, of Maine, chairman of the Committee on Ways and Means, presented the resolutions, he obtained unanimous

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making the report by unanimous consent. (First session Thirty-eighth Congress, Journal, p. 55; Globe, p. 32.) The same practice again occurred at the second session of the Thirty-eighth Congress. (Journal, p. 29; Globe, p. 22.) It was considered proper to debate the message in Committee of the Whole after it had been distributed. (First session Thirty-eighth Congress, Journal, pp. 35, 56–58, 306, 434.) Beginning with the Thirty-ninth Congress the practice of reporting the resolutions from the Committee of the Whole was resumed (first session Thirty-ninth Congress, Journal, p. 105; second session Thirty-ninth Congress, Journal, p. 55; second session Fortieth Congress, Journal, p. 56, etc.), the only exception for a series of years being at the time of the impeachment of President Johnson, when the House, not intending to consider the message, laid it on the table. (Third session Fortieth Congress, Journal, p. 41; Globe, p. 34.) While the resolutions were offered in Committee of the Whole by the chairman of the Ways and Means Committee, they do not seem to have been offered by authority of that committee (first session Forty-third Congress, Record, p. 98; first session, Forty-fourth Congress, Record, p. 255) until Mr. Fernando Wood, of New York, reported the resolutions from the Ways and Means Committee in the Forty-fifth Congress, and they were by the House referred to the Committee of the Whole House on the state of the Union (first session Forty-fifth Congress, Journal, pp. 192, 103; Record, p. 203; third session Forty-fifth Congress, Journal, p. 63; Record, pp. 74, 80; second session Forty-sixth Congress, Journal p. 46); but in one instance Mr. Wood waited until the House had resolved itself into Committee of the Whole, and then submitted the resolutions “by instructions of the Ways and Means Committee.” (Second session Forty fifth Congress, Record, p. 101; Journal, p. 81.) This was an exception, however, and the general practice since has been to have the resolutions reported from the Ways and Means Committee and referred to the Committee of the Whole House on the state of the Union. (First session Forty-eighth Congress, Journal, p. 255.) The resolutions seem generally in recent years to have been reported without unanimous consent, as if privileged.

consent for their consideration in the House,<sup>1</sup> but they are usually considered in Committee of the Whole.<sup>2</sup>

**6623. Recent instance wherein the House has resolved itself into Committee of the Whole House on the state of the Union for debate on the President's message.**—On December 12, 1895,<sup>3</sup> after a few bills had been passed by unanimous consent, but not after a call of committees had progressed for an hour, Mr. Nelson Dingley, of Maine, announced that Mr. Galusha A. Grow, of Pennsylvania, desired to speak on the President's message, and therefore moved that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering the President's message. No unanimous consent was asked, nor was objection made when the motion was made.

The motion was agreed to and the House having resolved itself into Committee of the Whole House on the state of the Union, Mr. Grow addressed the committee.

Mr. Grow having concluded, Mr. Dingley moved that the committee rise.

The committee accordingly rose and the Chairman<sup>4</sup> reported that the committee had had under consideration the annual message of the President of the United States and had come to no resolution thereon.

This was before the resolutions distributing the President's message had been agreed to.

**6624.** On November 1, 1877,<sup>5</sup> the House resolved itself into Committee of the Whole House on the state of the Union, for consideration of the President's message (which had already been distributed) and debate occurred on a bill relating to resumption of specie payments, which bill was not before the Committee of the Whole but was actually in the Committee on Banking and Currency. The motion to go into Committee of the Whole was made by Mr. William D. Kelley, of Pennsylvania, the oldest member in continuous service.

**6625. The Committee of the Whole, having under consideration the President's message, may report in part, recommending a resolution for adoption.**—On December 16, 1869,<sup>6</sup> the Committee of the Whole House on the state of the Union arose, and the Speaker having resumed the Chair, the Chairman reported that the Committee had had under consideration the state of the Union generally, and particularly the annual message of the President of the United States, and had directed him to report the following resolution:

*Resolved*, That the proposition, direct or indirect, to repudiate any portion of the debt of the United States is unworthy of the honor and good name of the nation; and that this House, without distinction of party, hereby sets its seal of condemnation upon any and all such propositions.

The questions having been raised as to the resolution, the Speaker<sup>7</sup> said:

The resolution is entirely in order. It is competent for the Committee of the Whole, having under consideration the President's message, to make any report which the majority of the committee may indicate, and on the rising of the committee such report comes immediately before the House for its

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<sup>1</sup> First session Fifty-fourth Congress, Record, p. 301.

<sup>2</sup> Second session Fifty-fourth Congress, Record, p. 56.

<sup>3</sup> First session Fifty-fourth Congress, Journal, p. 43; Record, pp. 155–158.

<sup>4</sup> Albert J. Hopkins, of Illinois, Chairman.

<sup>5</sup> First session Forty-fifth Congress, Record, p. 215.

<sup>6</sup> Second session Forty-first Congress, Journal, pp. 77, 78; Globe, p. 195.

<sup>7</sup> James G. Blaine, of Maine, Speaker.

action. \* \* \* This may be considered in the nature of a partial report. The action of the Committee of the Whole on the President's message may not be exhausted after hundreds of such reports. The Committee of the Whole have not reported back the President's message, but merely report that they have come to this resolution thereon. The President's message may be the foundation of any number of reports from the Committee of the Whole.

The resolution was then agreed to, yeas 124, nays 1.

**6626. The Committee of the Whole, in distributing the President's message, may recommend reference of portions to a standing or select committee with instructions.**—On December 16, 1852,<sup>1</sup> the President's message was under consideration in Committee of the Whole House on the state of the Union, and a resolution was offered to refer so much of it as related to the existing tariff to the Committee on Ways and Means. Various attempts were made to amend this resolution by substituting for it a bill, etc., but the Chairman<sup>2</sup> ruled the amendment out of order, but intimated that an amendment instructing the committee to report the text of a bill relating to the general subject would be admissible. Accordingly Mr. Thomas L. Clingman, of North Carolina, offered an amendment instructing the committee to report a bill in the "following words," appending the text of a bill. This amendment was considered by the committee. On December 21,<sup>3</sup> this amendment was rejected.

**6627.** On December 11, 1854,<sup>4</sup> the President's message was under consideration in Committee of the Whole House on the state of the Union, when Mr. John Wheeler, of New York, offered the following:

*Resolved,* That so much of the said message as relates to the bombardment and burning of the town of San Juan de Nicaragua, or Greytown, be referred to a select committee of thirteen, and that said committee be instructed to report the facts in relation thereto, and that said committee. have power to send for persons and papers.

Mr. John S. Millson, of Virginia, raised a question of order that the Committee of the Whole might not appoint a special committee.

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

The resolutions make no reference to any committee. They only recommend to the House to refer different portions of the message to certain committees. \* \* \* The Chair is not aware of any principle of order or rule of the House that would prevent this committee from recommending the reference of any part of the message to a select committee. The Chair does not know that it has been usual to do it, but certainly it is not inconsistent with the object of the resolutions offered by the gentleman from Alabama.<sup>6</sup>

**6628. While the President's annual message is usually referred entire to the Committee of the Whole, yet a portion of it has been referred to a select committee.**—On December 4, 1860,<sup>7</sup> the annual message of the Presi-

<sup>1</sup> Second session Thirty-second Congress, Globe, pp. 78–83.

<sup>2</sup> Charles E. Stuart, of Michigan, Chairman.

<sup>3</sup> Globe, p. 121.

<sup>4</sup> Second session Thirty-third Congress, Globe, p. 29; Journal, p. 57.

<sup>5</sup> Frederick P. Stanton, of Tennessee, Chairman.

<sup>6</sup> Mr. George S. Houston, of Alabama, chairman of the Committee of Ways and Means, upon whom for many years has devolved the duty of preparing and presenting the resolutions distributing the President's annual message. (See secs. 1461, 1462 of this work.)

<sup>7</sup> Second session Thirty-sixth Congress, Journal, pp. 36, 37; Globe, pp. 6, 7.



dent of the United States was received and read, whereupon the usual motion was made that it be referred to the Committee of the Whole House on the state of the Union.

Thereupon Mr. Alexander R. Boteler, of Virginia, proposed the following amendment to the motion to refer, which was adopted:

And that so much of the President's message as relates to the present perilous condition of the country be referred to a special committee of one from each State.

This amendment was agreed to, and the motion as amended was also agreed to.

**6629. In 1801 President Jefferson discontinued the custom of making an annual speech to Congress, and transmitted the first annual message.**

**Ceremonies at the delivery of the annual speech of the President of the United States to Congress.**

**In response to the President's annual speech the Speaker, attended by the House, used to deliver an address.**

Until December 8, 1801, the President of the United States delivered to Congress an annual speech instead of transmitting a message. The two Houses met in joint meeting, either in the Senate Chamber or Hall of the House, and the President addressed them. He was sometimes accompanied by his secretary and the heads of the several Departments of the Government.<sup>1</sup> It seems to have been the custom for the President to take the chair of the Speaker (when the joint meeting was held in the Hall of the House), the President and Clerk of the Senate being placed on the right hand of the chair, and the Speaker and Clerk of the House on the left.<sup>2</sup>

It was the custom for the House to prepare an address, which the Speaker, attended by the House, carried to the President of the United States.<sup>3</sup>

On December 8, 1801,<sup>4</sup> the Secretary of the President appeared and, addressing the Speaker, announced that he was "directed by the President of the United States<sup>5</sup> to hand you a letter, accompanying a communication, in writing." The letter stated the inconvenience of the mode heretofore practiced, of making by personal address the first communications between the Legislative and Executive branches, and therefore he had adopted that by message, as used on all subsequent occasions through the session. In doing this he had principal regard to the convenience of the legislature, to the economy of their time, to their relief from the embarrassments of immediate answers on subjects not yet fully before them, and to the benefits thence resulting to public affairs. He therefore begged leave to communicate the inclosed message.

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<sup>1</sup>Third session Fifth Congress, Annals, p. 2420.

<sup>2</sup>First session Fifth Congress, Annals, p. 54.

<sup>3</sup>Former joint rule No. 10 provided: "When the Senate and House of Representatives shall judge it proper to make a joint address to the President it shall be presented to him in his audience chamber by the President of the Senate in the presence of the Speaker and both Houses." This joint rule dated from November 13, 1794. May 5 and 14, 1789 (first session First Congress, Journal, pp. 27, 32, 34; Annals, pp. 33, 36, 318), the House and Senate joint committee disagreed as to the title by which the President of the United States should be addressed. The House were at this time using the simple form "To the President of the United States." The Senate committee favored "His Excellency" or "His Highness, the President of the United States of America, and Protector of their Liberties." The Senate, however, overruled its committee and decided in favor of the simple form contended for by the House.

<sup>4</sup>First session Seventh Congress, Journal, pp. 7, 8. (Gales & Seaton ed.)

<sup>5</sup>Thomas Jefferson.

All messages of the President, whether annual or otherwise, have been transmitted “in writing” the President’s secretary announcing to this day that he is instructed to deliver to the House a message “in writing.”

**6630. A joint rule formerly prescribed the method of presenting a joint address of the two Houses to the President of the United States.**

**President Madison declined a conference with a committee of the Senate.**

On July 27, 1789,<sup>1</sup> the House, as one of its joint rules, adopted the following, which on the succeeding day was agreed to by the Senate:

That when the Senate and House of Representatives shall judge it proper to make a joint address to the President, it shall be presented to him in his audience chamber by the President of the Senate, in the presence of the Speaker and both Houses.<sup>2</sup>

President Madison declined a conference with a committee of the Senate.<sup>3</sup>

**6631. Ordinary messages of the President are referred without debate, usually by the Speaker, but sometimes by the House itself.**

**The President’s annual message is usually referred by the House to the Committee of the Whole House on the state of the Union.**

The reference of messages from the President is governed by section 2 of Rule XXIV:

Messages from the President shall be referred to the appropriate committees without debate.

This was also the rule in the Fifty-first and Fifty-fourth Congresses. In the Fiftieth Congress the rule was:

After the Journal is read and approved each day, other than Monday, the Speaker shall lay before the House for reference messages from the President, etc.

In the Fifty-third Congress the rule was in section 1 of Rule XXIV, and provided:

After the Journal is read and approved each day, the Speaker shall lay before the House, for reference without debate, messages from the President, etc.

In the form first proposed by the Committee on Rules in the Fifty-first Congress<sup>4</sup> it was intended to have messages of the President referred by the Speaker like other communications from the Executive Departments of the Government, but during the consideration of the report the Committee on Rules modified the rule, adopting the present form, so that the reference of President’s messages should be done as in preceding Congresses.<sup>5</sup> In preceding Congresses the messages of the President were usually referred by the Speaker to the committees having jurisdiction under the rules,<sup>6</sup> but the House at any time might refer the message itself, on motion made from the floor,<sup>7</sup> to such committee as it should select.<sup>8</sup> In the more recent

<sup>1</sup>First session First Congress, Journal, p. 67 (Gales & Seaton ed.); Annals, pp. 58, 59, 698.

<sup>2</sup>This joint rule has not been in use since the very early days of the House, and the Executive has communicated to the two Houses by message.

<sup>3</sup>American State Papers, Miscel., Vol. II, pp. 215, 217, 218.

<sup>4</sup>First session Fifty-first Congress, Record, p. 1107.

<sup>5</sup>First session Fifty-first Congress, Record, p. 1287.

<sup>6</sup>First session Fiftieth Congress, Record, pp. 7901, 8012.

<sup>7</sup>First session Fiftieth Congress, Record, pp. 527, 2705, 4139, 9075.

<sup>8</sup>The House also has referred messages to select committees, to which it gave powers and instructions. (Second session Forty-fourth Congress, Journal, pp. 285, 305.)

Congresses the Speaker has usually referred the messages to the committees having jurisdiction under the rules, and the House has not exercised its power to interfere with such references.<sup>1</sup> The President's annual message, however, is generally referred to the Committee of the Whole House on the state of the Union by a motion or resolution offered from the floor<sup>2</sup>

**6632. A message from President Monroe asking for the adjustment of certain personal claims was referred to a select committee with instructions.**—On January 6, 1825,<sup>3</sup> President Monroe sent to the Congress a message stating that his term of service would expire at the end of the session of Congress; that he had been long in the service of his country, at home and abroad; and that it was his wish that all matters of account and claims between his country and himself should be settled with that strict regard to justice which is observed in settlements between individuals in private life. "It would be gratifying to me," he said, "and it appears to be just, that the subject should be now examined, in both respects, with a view to a decision hereafter. No bill would, it is presumed, be presented for my signature which would operate either for or against me, and I would certainly sanction none in my favor." He goes on to say that he wishes the examination made in order that he may enjoy his retirement in tranquillity, and also states that the public may derive considerable advantage from the precedent in the future government of the country.<sup>4</sup>

On January 11<sup>4</sup> the message was considered, and Mr. Samuel D. Ingham, of Pennsylvania, moved that it be referred to a select committee.

A long debate followed in which the delicacy of the subject was discussed and the peculiar relations of the House to the Executive. By some it was proposed that the claim should be referred to the Committee on Claims, like the claim of the ordinary citizen. It was urged, on the other hand, that the Committee on Claims was overburdened, and that the distinguished station of the applicant entitled him to reference to a select committee.

Mr. John Forsyth, of Georgia, moved to amend the motion with instructions "to receive from the President any evidence or explanation of his claims he may think proper to present, and report the same to this House."

These instructions were voted, 90 yeas to 70 noes.

The motion was then agreed to as amended.

Mr. Ingham was appointed chairman of the committee, and on February 21,<sup>5</sup> made a report. This report contained no recommendations, simply setting forth the findings of fact.<sup>6</sup>

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<sup>1</sup>See reference of messages relating to relations with Spain, second session Fifty-fifth Congress, Record, p. 3707; also Record for April 25, 1898.

<sup>2</sup>First session Fifty-first Congress, Record, p. 92; second session Fifty-third Congress, p. 15; second session Fifty-fifth Congress, p. 11.

<sup>3</sup>Second session Eighteenth Congress, Journal, p. 110; Debates, p. 150.

<sup>4</sup>Journal, p. 123; Debates, pp. 170–186.

<sup>5</sup>Journal, p. 255.

<sup>6</sup>House Report No. 79, second session Eighteenth Congress. In the Nineteenth Congress, on December 25, 1825, the subject was referred to a select committee, and a bill (H. R. 177) "for the relief of James Monroe" was reported and became a law. (See Journal, pp. 90, 181, 374, first session Nineteenth Congress.)

**6633. The House may refer a message of the President to a select committee, and may specify its number, instruct it, and give it power to send for persons and papers.**—On February 2, 1858,<sup>1</sup> a message was received from the President relating to the Lecompton constitution of Kansas.

Mr. Alexander H. Stephens, of Georgia, moved that the message be referred to the Committee on Territories.

At once a proposition was made for reference to a select committee, and after a long parliamentary struggle, and on February 8, the House referred the message in accordance with the following resolution:

*Resolved*, That the message of the President concerning the constitution framed at Lecompton, in the Territory of Kansas, by a convention of delegates thereof, and the papers accompanying the same, be referred to a select committee of fifteen, to be appointed by the Speaker,<sup>2</sup> that said committee be instructed to inquire into all the facts connected with the formation of said constitution, and the laws under which the same was originated, and into all such facts and proceedings as have transpired since the formation of said constitution having relation to the question or propriety of the admission of said Territory into the Union under said constitution, and whether the same is acceptable and satisfactory to a majority of the legal voters of Kansas; and that said committee have power to send for persons and papers.<sup>3</sup>

**6634.** On January 22, 1877,<sup>4</sup> the Speaker, by unanimous consent, laid before the House a message of the President of the United States transmitting a reply to a resolution of the House making inquiry as to the use of United States troops in certain States.

The message having been read, Mr. Fernando Wood, of New York, submitted a resolution providing that the message be referred to a select committee with certain instructions, and providing that the committee might have power to send for persons and papers and administer oaths.

Mr. John A. Kasson, of Iowa, made the point of order that the resolution was not in order except upon a motion to suspend the rules.

The Speaker<sup>5</sup> held that unanimous consent having been given to lay the said message before the House, the question of reference in the event of different committees being proposed was prescribed by Rule 43,<sup>6</sup> and the resolution, so far as it created a select committee and conferred power to send for persons and papers, was in order.<sup>7</sup> It was not necessary that the House refer to a select committee already in existence. It might refer the message to one to be appointed.

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<sup>1</sup> First session Thirty-fifth Congress, Journal, pp. 270, 279, 349, 369; Globe, p. 535.

<sup>2</sup> The rules provide now that all select committees shall be appointed by the Speaker (see sec. 4470 of Vol. IV), but in 1858 the House had the power to appoint the committee itself.

<sup>3</sup> In recent practice the powers of a committee are usually enlarged by a resolution reported from the Committee on Rules.

<sup>4</sup> Second session Forty-fourth Congress, Journal, p. 285; Record, pp. 814–817.

<sup>5</sup> Samuel J. Randall, of Pennsylvania, Speaker.

<sup>6</sup> Rule 43, which no longer exists, was as follows: "When a resolution shall be offered or a motion made to refer any subject, and different committees shall be proposed, the question shall be taken in the following order: The Committee of the Whole House on the state of the Union, the Committee of the Whole House, a standing committee, or a select committee."

<sup>7</sup> This committee was appointed January 26. (Journal, p. 305.)

**6635. Messages of the President are regularly laid before the House only at the time prescribed by the order of business.**—On April 3, 1848,<sup>1</sup> while the House was considering resolutions relating to the movements in France and Italy for freer governments, Mr. Charles J. Ingersoll, of Pennsylvania, asked that the message this day received from the President of the United States, and now in the possession of the Speaker, be laid before the House.

The Speaker<sup>2</sup> said that it could be done only by unanimous consent of the House; and hearing no objection, he accordingly handed the message to the Clerk.

The Clerk was in the act of opening the said message, when Mr. George Ashmun, of Massachusetts, objected to its being laid before the House at this time.

Mr. Charles J. Ingersoll raised the point of order that the objection came too late, the message having passed from the possession of the Speaker.

The Speaker decided that the objection was in season, the reading of the message not having been commenced, and that the message could not now be laid before the House.

Mr. Ingersoll having appealed, the decision of the Chair was sustained—yeas 90, nays 30.

**6636.** On August 14, 1848,<sup>3</sup> a message in writing was received from the President of the United States, and the Speaker announced to the House, on opening the said message, that it related to the approval by the President of the United States of the bill (H. R. 201) entitled “An act to establish the territorial government of Oregon.”

Objection being made to the reading of the message at this time, it remained on the Speaker’s table when the House was adjourned sine die.

On December 6, 1848,<sup>4</sup> the second day of the next session of Congress, this message was laid before the House.

**6637.** On January 3, 1849,<sup>5</sup> Mr. Frederick P. Stanton, of Tennessee, asked that the message of the President of the United States on the previous day, and now on the Speaker’s table, be laid before the House.

Mr. Stanton urged that as the Constitution made it the duty of the President to communicate to the House, it was equally the duty of the House to listen to the communication. If the President should come to the House in person, as he had done in the earlier years of the Government, his communication would be received at once.

The Speaker<sup>2</sup> said that the Chair was not the servant of the President, but the servant of this House. It was his duty to obey the rules of the House—to receive Executive communications respectfully at the door of the House, but not to present them to the House out of the regular order of business, unless the House called for them. The Constitution of the United States declared that each House

<sup>1</sup> First session Thirtieth Congress, Journal, pp. 650, 651.

<sup>2</sup> Robert C. Winthrop, of Massachusetts, Speaker.

<sup>3</sup> First session Thirtieth Congress, Journal, p. 1293; Globe, p. 1081.

<sup>4</sup> Second session Thirtieth Congress, Journal, p. 54.

<sup>5</sup> Second session Thirtieth Congress, Journal, pp. 175, 176; Globe, pp. 144, 145.

might determine its own rules of proceeding. This House had done so, and by one of these rules had declared that—

after one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker’s table, and to the orders of the day; which being decided in the affirmative, the Speaker shall dispose of the business on his table in the following order, viz, messages and other Executive communications.<sup>1</sup>

A note appended to the branch of the rule which prescribed that messages and communications should be first received, gave the date of its adoption as the 14th of September, 1837; at which time the Speaker believed the chair was occupied by the present Executive of the United States—though of that fact he was not quite certain—it might not be so; but whether it was so or not, that rule was adopted by the House. The Chair had always enforced it; and if messages had not been seasonably laid before the House it was in consequence of the action of the House itself, and not by any decision of the Speaker. It would be in the recollection of many gentlemen that at the close of the last session of Congress the Speaker had attempted again and again to lay before the House a message from the President, which was not laid before it until after the commencement of the present session. The House insisted upon other proceedings—calling for the yeas and nays, and submitting different motions. The Speaker, in the course he had taken, had conformed not only to the rules of the House, but to the precedents established by all his predecessors; and until the House changed the rule he should continue to execute its order. The Speaker would remark that during the last session of Congress—on the 3d of April, 1848—a question had been raised somewhat analogous to that now submitted by the gentleman from Tennessee. The Chair here quoted the precedent.

Mr. Stanton appealed, but subsequently withdrew the appeal.

**6638.** Messages from the President used at times to lie on the table several days before they could be laid before the House in the regular order of business. Such an instance is observed on January 9, 1850,<sup>2</sup> when unanimous consent was refused to present to the House and have laid on the table and printed a message that had been received several days before.

**6639. While a question of privilege is pending the reading of a message from the President is in order only by unanimous consent.**—On December 4, 1856,<sup>3</sup> the question before the House was the motion of Mr. Galusha A. Grow, of Pennsylvania, to lay upon the table the motion to reconsider the vote by which the House determined that the oath should not be administered to John W. Whitfield as the Delegate elect from the Territory of Kansas.

Mr. Humphrey Marshall, of Kentucky, rose and claimed as a question of constitutional privilege that the message of the President of the United States, transmitted to the House on the preceding day, be now read.

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<sup>1</sup>The rules relating to the order of business are now different.

<sup>2</sup>First session Thirty-first Congress, *Globe*, p. 124.

<sup>3</sup>Third session Thirty-fourth Congress, *Journal*, p. 48; *Globe*, p. 38.

The Speaker<sup>1</sup> stated that a question of privilege was already pending, and that it could not be superseded by other business except by the unanimous consent of the House.

Objection being made to the reading of the message, the Speaker decided that it could not now be read.

From this decision of the Chair Mr. Humphrey Marshall appealed, saying in the course of his remarks:

The point I present relates to my constitutional privilege as a Member of this House to hear and to have read the President's message, which has been communicated to this House; and, as I understand the decision of the Chair, my question of privilege can not now be made because another question of privilege is pending. My ground is that it is not a question of privilege which can come in contact with mine, because the subject to which it relates is a creature of statute; that he is not a Member of this House; that he holds his place *ex gratia* and can not raise a question of debate in the House which can get inside of, or oust, my constitutional privilege as a Member.

The Speaker said:

The Chair will state the question: A question relating to the privilege of a Delegate elect from one of the Territories being before the House, the gentleman from Kentucky calls for the reading of the President's message. In the opinion of the Chair it is a question relating to priority of business which is submitted, and the Chair rules it out of order as being in conflict with the question of privilege before the House; and when the gentleman from Kentucky takes an appeal, that appeal must be decided under the rule relating to the priority of business—the one hundred and thirteenth rule—which states that all questions relating to the priority of business to be acted on must be decided without debate.

It is certainly a question for the House to decide what class of business it will proceed with, and that question must be decided, under the positive rule of the House, without debate. The appeal must follow the same rule. \* \* \* The Chair does not decide the question presented by the gentleman from Kentucky. That is for the House to decide. The Chair only decides the manner in which the Chair reaches his decision.

On the succeeding day Mr. Marshall withdrew his appeal.

**6640. A message from the President is received during consideration of a question of privilege, but does not displace the pending business.**—On April 26, 1838,<sup>2</sup> during the discussion of the report of the committee which had investigated the duel between Messrs. Graves and Cilley, a message was announced from the President of the United States. Objection being made to the reception of the message, the Speaker<sup>3</sup> said it was a delicate question between the parliamentary rule that pending a question of privilege no other business could be entertained and the constitutional right of the Chief Magistrate to make a communication to the House. If compelled to decide, he should decide that the message could be received, but he hoped that the objection would be withdrawn. It was withdrawn and the message was received. The next day the message was read and referred by consent.

**6641.** On March 30, 1894,<sup>4</sup> during the consideration of a contested-election case under a special order, the Speaker laid before the House the message from the President of the United States returning, with his objections, the bill (H. R. 4956)

<sup>1</sup> Nathaniel P. Banks, of Massachusetts, Speaker.

<sup>2</sup> Second session Twenty-fifth Congress, Journal, p. 817; Globe, p. 334.

<sup>3</sup> James K. Polk, of Tennessee, Speaker.

<sup>4</sup> Second session Fifty-third Congress, Journal, pp. 292, 293, 295; Record, pp. 3351, 3352.

entitled "An act directing the coinage of the silver bullion held in the Treasury, and for other purposes."

Mr. Charles A. Boutelle, of Maine, made the point of order that under the ruling of the Chair, heretofore made, such a document as a message from the President of the United States could not be submitted or acted upon by the House, or entertained by it, pending the consideration of any question under the special order.

The Speaker<sup>1</sup> overruled the point of order, and held that while the message would not now be acted upon, yet in pursuance of the requirements of the Constitution and practice of the House it should now be laid before the House and entered upon the Journal.

Mr. Boutelle stated that he appealed from the decision just rendered.

The Speaker declined to entertain the appeal.

**6642.** On March 30, 1894,<sup>2</sup> the House received a message from the President wherewith he returned, without his approval, the bill (H. R. 4956) "directing the coinage of the silver bullion held in the Treasury, and for other purposes."

At the time the message was received the House was considering a contested election case, and as soon as the message had been read,

Mr. Josiah Patterson, of Tennessee, demanded that the House proceed to the regular order of business.

Mr. Charles A. Boutelle, of Maine, thereupon moved that the House proceed, under the provisions of the Constitution, to reconsider the bill (H. R. 4956) entitled "An act directing the coinage of silver bullion held in the Treasury, and for other purposes."

Mr. William M. Springer, of Illinois, made the point of order that the motion of Mr. Boutelle was not now in order.

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

There is before the House a question of the highest privilege, a question relating to the right of a Member of the House to his seat. The Constitution provides that each House shall determine the qualifications, returns, and election of its Members. The House is now discharging that duty, considering that question. Pending that the House has received and there has been read a message from the President of the United States containing his objections to a bill which has been passed by the House. The situation is this: The House is considering a matter of the highest privilege, made so by the Constitution, and is considering that matter also under a rule of its own, which provides that until it disposes of the matters mentioned in that rule it will consider no other business. Therefore the Chair overrules the motion to take up at this time the matter to which the President's message relates, and holds that it can be taken up after the disposition of the contested-election cases.

**6643. It has ordinarily been considered a mark of disapprobation to lay a message of the President on the table.**—On December 9, 1868,<sup>3</sup> the annual message of the President was, on motion of Mr. Elihu B. Washburne, of Illinois, laid on the table by a vote of 128 yeas, 38 nays. This action was taken as a means of expressing the disapprobation of the House as to the message, as appears from the debate.

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

<sup>2</sup> Second session Fifty-third Congress, Journal, pp. 292, 293, 295; Record, p. 3353.

<sup>3</sup> Third session Fortieth Congress, Journal, pp. 39, 40; Globe, pp. 33–35.



**6644.** On August 15, 1876,<sup>1</sup> a motion was made to lay on the table and print a message from the President, the message being of such a character that the House did not consider action necessary. But Mr. James A. Garfield, of Ohio, opposed such a motion, on the ground that it would not be respectful to the President. The message was then referred to a committee.

**6645. An instance wherein a message from the President to the House of one Congress was received by the House of the next, and laid on the table.**—On March 4, 1867,<sup>2</sup> the Thirty-ninth Congress expired at 12 m., and the Fortieth Congress, convened under the act of January 22, 1867, assembled at 12 m. A message had been transmitted but not received from the President in the last moments of the expiring Congress, giving his reasons for signing the bill making appropriations for the support of the Army.

The Speaker,<sup>3</sup> by unanimous consent, laid this message before the House of the new Congress, and it was read and laid on the table.

**6646. The reading of a message from the President having been prevented in the closing hours of a session, it was read at the beginning of the next session of the same Congress.**—On August 14, 1848, in the closing hours of the session, a message was received from President Polk in relation to his approval of the bill for the establishment of the Territorial government of Oregon. The House was considering a resolution reported from the Committee on Printing. There was a call for the reading of the message, but, objection being made, the Speaker declined to put it before the House, as unanimous consent was refused. The House therefore adjourned without the message being read. The Journal says:<sup>4</sup>

Objection being made to the reading of the said message at this time, it remained on the Speaker's table when the House was adjourned sine die.

This message was read at the beginning of the next session, but not until the day after the regular message had been received.<sup>5</sup>

**6647. Messages sent to the House by the President before its organization have been retained in custody of the Clerk, but have not been read.**

**The contests over election of a Speaker in 1855 and 1859.**

**Discussion as to the status of the House with reference to the transaction of business before its organization by the choice of a Speaker.**

On December 31, 1855,<sup>6</sup> the House was in the midst of a prolonged struggle over the election of a Speaker, 84 ballots having already been taken without result.<sup>7</sup> On this day a message, in writing, from the President of the United States was handed in at the Clerk's desk by Sidney Webster, his private secretary.

Mr. Thomas L. Clingman, of North Carolina, moved that the message be read.

<sup>1</sup> First session Forty-fourth Congress, Record, p. 5685.

<sup>2</sup> First session Fortieth Congress, Journal, p. 9; Globe, p. 5.

<sup>3</sup> Schuyler Colfax, of Indiana, Speaker.

<sup>4</sup> First session Thirtieth Congress, Journal, p. 1293; Globe, p. 1082.

<sup>5</sup> Second session Thirtieth Congress, Journal, p. 54.

<sup>6</sup> First session Thirty-fourth Congress, Journal, pp. 221–228, 231–233, 444, 511; Globe, pp. 111–113.

<sup>7</sup> The House was acting under general parliamentary law, rules not having been adopted.

Mr. Lewis D. Campbell, of Ohio, raised the question of order that the reading of the message was the transaction of business, and they could not transact business until the House was organized. He quoted the act of 1789.<sup>1</sup>

Mr. Clingman urged that the hearing of the message read was not of itself business.

The point being made by Mr. Campbell that they did not even know who were the Members of this House, Mr. Clingman raised the point that they were empowered to elect a Speaker, and Mr. James L. Orr, of South Carolina, quoted the language of the Constitution, "The House of Representatives shall choose their Speaker and other officers," to show that the body was the House. It was but respectful to the President that the message should be read. As to what could be done with the message after it was read was another question which had not been reached.

Mr. Alexander H. Stephens, of Georgia, quoted the section of the Constitution providing that the President shall from time to time give to Congress information of the state of the Union, etc. It was no action for the House to hear the message read. He agreed with the gentleman from Ohio that they could not take action until they were organized. But it was respectful to the President to listen to the message.

Mr. Israel Washburn, jr., of Maine, in reply admitted the direction of the Constitution, but contended that this was not at present a Congress, and could not be a Congress while either branch was unorganized. A Speaker must be elected before the Members could take the oath or transact business. Therefore the House had no right to receive and the President no right to send a message. It would be a breach of privilege for the President to tell the House it must organize. He could say nothing in regard to any business which they were to transact until the House was organized.

Mr. Stephens admitted that such an instance was unprecedented in this country, but it was shown by the Manual that the British Parliament had at one time been in session fourteen days before the election of a Speaker, during which time communications passed between the two Houses and between the House and the King.

Mr. Joshua R. Giddings, of Ohio, held that the sending of the message was an attempted innovation upon the uniform practice of the body from the foundation of the Government. If it was the duty of the President to communicate with this body in its unorganized state, why had he not sent the message four weeks before? The President had no right to communicate to the House until they became a constituent branch of Congress by electing a Speaker and taking the oath of office. It was an encroachment on their rights. He might as well have sent the message before they left their dwellings. They were as much a House then as now.

Mr. Orsamus B. Matteson, of New York, read the law of 1789, which provides for administering the oath to Members by the Speaker "previous to entering upon any other business."

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<sup>1</sup> Now section 30 of the Revised Statutes.

Mr. Humphrey Marshall, of Kentucky, contended that they were a House before they elected a Speaker; they were contemplated as a House before they elected a Speaker; and as a House they formed a constituent branch of the Congress of the United States. Mr. Marshall continued:

The President has taken the responsibility of addressing us while we are in a disorganized, or rather an unorganized condition. We assume here to be a House; but the Constitution says that each House shall be the judge of the election, return, and qualification of its own Members. We are here, and we have not exchanged credentials with each other, and we do not know, therefore, that the body of gentlemen here assembled, and assuming to be a House, is a qualified House; or if there is the majority of a quorum of a House here. And how are we to know that fact? Why, when the oath shall have been administered to us, and upon the presentation of our credentials. The Constitution says in the fifth section of the ninth article: "Each House shall be the judge of the election, return, and qualification of its own Members, and a majority of each shall constitute a quorum to do business."

I take it, therefore, that until there is an ascertained majority of a constitutional House, whose election and qualification are established, we are in an unorganized condition and can not possibly do any business. Yet we have assumed, as the President has a right to assume, that we are a House. We have assembled here, and have called the yeas and nays. Although we have not communicated to the President that we are organized and ready to receive communications from him, still, when his messenger appears at our door, and informs us that the President has sent a message to the House of Representatives, I think we should be stultifying ourselves if we were to turn round and say to him, "We are not yet a House so as to receive it." I am of opinion that we ought to receive it, and that, when we shall have received it, it ought to lie just where it now lies until we are ready, by an organization, to read it and to act upon it.

Mr. George G. Dunn, of Indiana, moved to amend the motion of Mr. Clingman by striking out the same and inserting in lieu thereof the following:

That the packages delivered to the Clerk of this body on this day, purporting to be a communication from the President of the United States to the House of Representatives, be returned by the Clerk to the person who presented the same to him, as this House is not yet organized, and so is incompetent to receive such communication or entertain any question in regard to the same.

The previous question being ordered, the main question was put,<sup>1</sup> and the motion that the message be read was decided in the negative, 87 yeas to 126 nays.

Then, on motion of Mr. Henry Winter Davis, of Maryland, the whole subject was laid on the table by a vote of 108 yeas to 104 nays.

After further proceedings, Mr. Humphrey Marshall presented this resolution, which was not acted on, as the House adjourned pending its consideration:

*Resolved*, That the communication sent by the President of the United States to the House of Representatives, this day, be respectfully received by the House; and the Clerk is directed to take charge of the same until the organization of this House shall have been effected by the election of a Speaker.

When the House met on January 2, and after the Journal of the preceding session had been read, Mr. Joshua R. Giddings, of Ohio, moved to amend the same by striking out the following paragraph:

A message, in writing, from the President of the United States, was handed in at the Clerk's desk by Sidney Webster, his private secretary.

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<sup>1</sup>Under the old form of previous question a pending amendment fell. (See secs. 5443–5446 of this volume.)

And inserting in lieu thereof the following, viz:

After the reading of the Journal of yesterday, and before the Members had proceeded to ballot for Speaker, the private secretary of the President appeared at the bar of the House, and, without permission of the Members, announced that he was directed by the President of the United States to present to the House of Representatives a message, in writing.

He then handed a sealed package to the Hon. John W. Forney, Clerk of the House of Representatives of the last Congress, and now acting, under the act of 1791, as Clerk for the purpose of electing a Speaker; and having delivered said package, he withdrew.

Mr. Howell Cobb, of Georgia, moved to amend the proposed amendment by striking out the words "permission of," and inserting in lieu thereof the words "objection from;" but, pending this, moved to lay the whole subject on the table, which was carried, 125 yeas to 89 nays.

Motions that the message be received and read were afterwards made on January 2 and laid on the table, after discussion of the parliamentary law.

Finally, on February 2, 1856,<sup>1</sup> on the one hundred and thirty-third ballot Mr. Nathaniel P. Banks, jr., of Massachusetts, was elected by a plurality of votes, the election being subsequently confirmed by a resolution adopted by a majority vote. The House then proceeded to complete its organization by the election of a Clerk and other officers, and on February 14, 1856, on motion of Mr. Howell Cobb, of Georgia, by unanimous consent, the annual message of the President of the United States was taken up and read.

**6648.** On January 24, 1856,<sup>2</sup> while the House was still endeavoring to elect a Speaker, and before the result of the one hundred and twenty-fourth vote for Speaker had been announced, the Doorkeeper announced at the door of the House a message from the President of the United States.

Mr. Lewis D. Campbell, of Ohio, objected to receiving the same.

Mr. Alexander H. Stephens, of Georgia, moved that the message be received. And the question being put, it was decided in the affirmative, yeas 117, nays 84.

Thereupon a motion in writing from the President of the United States was handed in at the Clerk's desk by Sidney Webster, his private secretary.

Mr. Alexander K. Marshall, of Kentucky, moved that the message be read. And this motion was agreed to, yeas 108, nays 87.

The message having been read, Mr. Campbell moved that the message be laid on the table and committed to the Clerk, to be by him delivered to his successor.

Then, on motion of Mr. William H. Sneed, of Tennessee,

*Ordered,* That the whole subject be laid on the table.

On February 14 this message was taken up, the House being fully organized, and was referred.

**6649.** The first session of the Thirty-sixth Congress assembled December 5, 1859,<sup>3</sup> but no Speaker was elected until February 1, when William Pennington, of New Jersey, received a majority of all the votes cast on the forty-fourth vote, and was duly declared elected. On December 27, before the Speaker was elected, and

<sup>1</sup> First session Thirty-fourth Congress, Journal, pp. 231, 233; Globe, pp. 127, 128.

<sup>2</sup> First session Thirty-fourth Congress, Journal, pp. 364, 368, 544; Globe, pp. 294-298.

<sup>3</sup> First session Thirty-sixth Congress, Journal, p. 83; Globe, p. 268.

while the Clerk was presiding, a message, in writing, from the President of the United States was announced by James Buchanan, jr., his private secretary.

This message, on motion of Mr. John Cochrane, of New York, was received and laid on the table.

A motion was made to amend Mr. Cochrane's motion so as to provide that the message might be received and read.

In making a point of order against this Mr. Benjamin Stanton, of Ohio, said:

There is no precedent of a message being sent to the House in advance of its organization by the election of a Speaker and the sending of a message to the President informing him that the House was organized and was ready to receive any communication he might be pleased to make, except in the Thirty-fourth Congress. In the Thirty-fourth Congress, in advance of the organization of the House, President Pierce sent in his annual message to the House. When it was received here a motion was made that the message be delivered into the custody of the Clerk, to be kept by him until the House should be organized and ready to proceed to business.<sup>1</sup> The motion was carried. That action was based upon the idea that the House is incompetent to transact any business before its organization by the election of a Speaker. The receipt of a message is business; the reading of it is business; and it presupposes a capacity in the House to act upon the message itself after being read; the disposing of it, the committing it to a Committee of the Whole, or such other disposition of it as the House might see fit.

Upon this statement the proposed amendment was withdrawn, and Mr. Cochrane's motion, as originally made, was agreed to.

**6650. Instance wherein the Senate received a message although a quorum were not present.**—On August 5, 1886,<sup>2</sup> in the Senate, just before adjournment sine die, and in the absence of a quorum, President pro tempore John Sherman, of Ohio, held that a message from the President and from the House might be received and read, but not acted on. Mr. George F. Edmunds, of Vermont, protested that such action was unconstitutional.

**6651. The President was allowed to withdraw papers included with a message by inadvertence.**—On May 24, 1838,<sup>3</sup> a question was raised in the House as to the character of two papers transmitted to the House as a part of the documents accompanying a message of the President of the United States, in which he responded to a call of the House for information relating to the introduction of foreign paupers into the United States.

On the succeeding day the President sent a message with a letter from the Secretary of the Treasury explaining that the papers in question were inclosed with the other documents by inadvertence, and were of such a character that they would not have been transmitted to the House had attention been attracted to them. The President therefore asked permission to withdraw the papers.

The House, on motion of Mr. Churchill C. Cambreleng, of New York, voted—that the committee to which the papers alluded to in the said message have been referred be discharged from the consideration thereof; and that the said papers be withdrawn from the files and returned to the President.

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<sup>1</sup>The Journal (first session Thirty-fourth Congress, pp. 226–231) indicates that such a motion was made, but not carried.

<sup>2</sup>First session Forty-ninth Congress, Record, pp. 8022, 8023.

<sup>3</sup>Second session Twenty-fifth Congress, Journal, p. 958; Globe, p. 410.

**6652. The Secretary of the Treasury may recommend legislation to Congress, even when his views have not been requested by either House.**—On February 14, 1878,<sup>1</sup> the Speaker laid before the House a communication from the Secretary of the Treasury, stating that discussion as to a reduction of taxes on spirits and tobacco had resulted in a decrease of revenue, which might render necessary the imposition of further taxes by Congress.

The communication having been read, Mr. Carter H. Harrison, of Chicago, made the point of order that the Secretary of the Treasury was not authorized to recommend legislation to Congress except when his views had been requested by either House, and that the said communication was not properly before the House.

The Speaker<sup>2</sup> overruled the point of order on the ground that the Secretary was required, under section 248 of the Revised Statutes, to give information to either branch of Congress respecting matters which shall appertain to his office.<sup>3</sup>

**6653. A communication from the General of the Army, transmitted directly instead of through the Secretary of War, was received and referred, although occasioning some criticism.**—On January 14, 1868,<sup>4</sup> the Speaker laid before the House a letter from U. S. Grant, General, to the Speaker of the House of Representatives, transmitting a letter of Maj. Gen. George G. Meade, commanding the third military district, in reference to a bill before Congress.

Mr. James Brooks, of New York, called attention to the extraordinary course of the House in receiving a communication from the military department through the General of the Army, instead of the Secretary of War. The subject was not discussed further, and the letter was referred to the Committee on Reconstruction.

**6654. The Speaker laid before the House a letter of explanation from a Senator who was aggrieved by a reference to him personally in a House report.**—On April 29, 1822,<sup>5</sup> the Speaker<sup>6</sup> laid before the House a letter addressed to him by Mr. Caesar A. Rodney, a Senator of the United States for the State of Delaware. In a report made by a select committee of the House, Mr. Rodney had been referred to as one employed and paid as counsel for the War Department while a Member of Congress. Mr. Rodney's letter, which was in explanation and denial, was read and ordered to lie on the table.

This letter is referred to in the Journal as presented by the Speaker, and a brief description of its contents is given.

**6655. A communication from a Member, relating to a controversy over a subject before the House, was laid before the House by the Speaker, by unanimous consent.**—On February 25, 1853,<sup>7</sup> Mr. Speaker Boyd announced that he had received a communication from Hon. Edward Stanly, of

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<sup>1</sup> Second session Forty-fifth Congress, Journal, pp. 435, 436; Record, p. 1033.

<sup>2</sup> Samuel J. Randall, of Pennsylvania, Speaker.

<sup>3</sup> The Secretary of the Treasury alone, of all the Cabinet officers, sends his annual report to the House directly. The other Cabinet officers transmit their reports as a part of the President's message, or rather with it. The law of 1789 puts the Secretary of the Treasury on a basis of especial prominence in regard to Congress.

All the Secretaries of the President communicate directly to Congress from time to time.

<sup>4</sup> Second session Fortieth Congress, Journal, p. 188; Globe, p. 517.

<sup>5</sup> First session Seventeenth Congress, Journal, p. 512; Annals, p. 1723.

<sup>6</sup> Philip P. Barbour, of Virginia, Speaker.

<sup>7</sup> Second session Thirty-second Congress, Journal, p. 338; Globe, p. 852.

North Carolina, a Member of the House, and, if there was no objection, he would lay it before the House. Unanimous consent was granted and the letter was read, it relating to a controversy with a person not a Member of the House on a subject before the House. The letter was laid on the table and printed.

**6656. Neither by unanimous consent nor by suspension of the rules was the Speaker allowed to present to the House the report of the "Peace Congress" of 1861.**—On March 1, 1861,<sup>1</sup> Mr. Speaker Pennington made an effort to present to the House the report of the peace congress, but objection was made that it was not the order of business. A motion to suspend the rules to enable the Speaker to present the document was decided in the negative.

**6657. The Speaker often presents, in regular order or by unanimous consent, communications or memorials addressed to the House.**—On January 24, 1881,<sup>2</sup> Mr. Speaker Randall laid before the House a letter from the secretary of state of the State of Oregon transmitting copies of certain memorials of the legislature of that State.

**6658.** On December 4, 1867,<sup>3</sup> the Speaker, by unanimous consent, laid before the House a letter from newspaper correspondents having seats in the gallery, asking that there be an investigation of alleged breach of faith in the publication of the President's message. The paper was referred to the Committee on the Judiciary.

**6659.** On August 11, 1848,<sup>4</sup> the Speaker laid before the House a communication from Alexandre Vattemare, tendering to the Members of the House of Representatives his grateful acknowledgments for the very liberal manner in which he has been welcomed by them as the humble exponent and advocate of the system of international exchanges; which was laid on the table and ordered to be printed.

**6660.** On February 15, 1810,<sup>5</sup> the House considered the report of a select committee on a letter from Robert Fulton addressed to the Speaker.

**6661. The House disregards anonymous communications.**—On December 17, 1806,<sup>6</sup> the Speaker informed the House that he had received an anonymous communication, addressed to Congress, from a writer who professed himself to be a foreigner, and desired that his communication might be read with closed doors.

After discussing briefly the proper way of treating the communication, it was agreed that it was best to take no order whatever upon it.

The Journal does not mention the matter.

**6662. A communication from a foreigner to the House is properly transmitted through the Executive.**—On December 4, 1834,<sup>7</sup> President Jackson transmitted to the House a message inclosing a letter from George Washington Lafayette accompanying a copy of the Declaration of Independence engraved on copper, which General Lafayette had bequeathed to Congress. The letter was referred to the Committee on Foreign Affairs.

<sup>1</sup> Second session Thirty-sixth Congress, Journal, pp. 446, 448; Globe, p. 1331.

<sup>2</sup> Third session Forty-sixth Congress, Journal, p. 251. Such memorials are now referred by filing them at the Clerk's desk. Either the Speaker or a Member may present them in this way.

<sup>3</sup> Second session Fortieth Congress, Journal, p. 37; Globe, p. 37.

<sup>4</sup> First session Thirtieth Congress, Journal, p. 1243.

<sup>5</sup> Second session Eleventh Congress, Journal, pp. 273–278.

<sup>6</sup> Second session Ninth Congress, Journal, p. 486 (Gales and Seaton ed.); Annals, p. 166.

<sup>7</sup> Second session Twenty-third Congress, Journal, p. 35.