Chapter CXLI.

THE RULES.

6741. The Constitution confers on the House the power to determine the rules of its proceedings.—The Constitution, in Article IV of section 1, provides:

Each House may determine the rules of its proceedings.

6742. Each House has usually adopted the rules of its predecessor, sometimes with additions or changes, thus building up what has become in fact a permanent system.—According to the practice of the House for the whole of its existence, except a brief period,[5] a system of rules is adopted when each new House organizes for the Congress in which its term falls. While in theory these rules are new in each Congress, yet in fact the essential portions of the system

[1] See also sections 82, 210, 187, 194, 499 of Volume I and 6002 of this volume. (Ruling of Mr. Speaker Reed.)

[2] House declines to adopt rules until the Members are sworn. (Sec. 140 of Vol. I.) Adoption of rules at the organization of the House. (Secs. 93–102 of Vol. I.)

[3] See also sections 757 of Volume I, and 5604 and 6727 of this volume.

[4] See also Chapter LXXXVIII of Volume IV, sections 3152–3265, as to special orders. Relation of the question of consideration to reports from the Committee on Rules. (Secs. 4961–4963 of this volume.)

Dilatory motions forbidden while reports from the Committee on Rules are pending. (Secs. 5738–5742 of this volume.)

[5] See sections 6743–6755 of this chapter.

of rules are continued from Congress to Congress, and become an existing code,[1] permanent in its essential provisions.[2]

6743. For a time the rules provided for their own continuance in a new Congress, thus affording a rule for election of officers.—On March 19, 1860,[3] the House adopted a rule:

These rules shall be the rules of the House of Representatives of the present and succeeding Congresses, unless otherwise ordered.

At the same time another rule was adopted, providing:

All elections of officers of the House, including the Speaker, shall be conducted in accordance with these rules, so far as the same are applicable; and, pending the election of a Speaker, the Clerk shall preserve order and decorum, and shall decide all questions of order that may arise, subject to appeal to the House.[4]

At the organization of the Thirty-eighth Congress the validity of these rules seems to have been considered doubtful and questionable, although no issue was raised.[5]

The rule continuing the rules of one Congress during the next remained through the Fiftieth Congress,[6] but was dropped in the Fifty-first, in 1890. The House at that time proceeded on the assumption that the rules of the Fiftieth Congress

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[1] Thus, the present code of rules has been readopted by each succeeding House with practically no change of importance since 1895. This code, known as the "Reed rules," has in it certain portions which embody the reforms instituted under the leadership of Mr. Speaker Reed, but while in essence these changes were of far-reaching importance, verbally they amounted to minor changes only in the code as it had gradually grown up from the foundation of the Government. For the form of the rules and their history see "Rules" in the Digest Index.

[2] Criticism of the rules has often been very severe, as the increase of membership and business has required that they be more strict. On January 14, 1828, speaking of the rules, Mr. John Randolph, of Virginia, said that when he came to the House he knew all the rules, but after having grown gray in the service of the House, he had grown out of knowledge of them. They had become complicated and extremely unparliamentary. (First session Twentieth Congress, Debates, p. 1002.)

On September 3, 1850, a proposition to have the Manual and rules published gave rise to a discussion of the rules, in which they were criticized as cumbersome and useless. (First session Thirty-first Congress, Globe, p. 1735.)

On February 16, 1853, the chairman of the Committee of Ways and Means defended the rules and the Speaker and committees against the charge that they were responsible for the obstruction of the public business. (Second session Thirty-second Congress, Globe, pp. 651, 652.)

On May 24, 1872, the House agreed to a resolution providing for a revision of the rules so as to "facilitate the presentation of reports of committees, enlarge the means of intelligent transaction of general business, and secure to every Member a proper opportunity to examine all legislative measures before they are submitted for consideration and action by the House." (Second session Forty-second Congress, Journal, p. 946; Globe, p. 3819.)

In 1860, at the time of an important general revision of the rules, there was much criticism of them; and again in the general revision of 1880, the burden of complaint being that the liberty of the individual Member suffered under them. Of course, these complaints have not tended to diminish, as the membership of the House has still further increased. In 1890, at the time Mr. Speaker Reed instituted his far-reaching reforms, the agitation over the rules reached the dignity of a national political issue.

[3] Thirty-sixth Congress.

[4] First session Thirty-eighth Congress, Journal, p. 1051; Rules, 146, 147.

[5] First session Thirty-eighth Congress, Globe. pp. 5, 8.

[6] Second session Fiftieth Congress, Journal, p. 795.

had lapsed, and on December 2 and 9, 1889,[1] adopted a few rules temporarily; but generally proceeded under general parliamentary law until February 14, 1890, when a code of rules was adopted,[2] which did not include the rule of 1860.

On December 5, 1881,[3] at the organization of the House, before the adoption of rules, and as the vote was about to be taken for choice of Speaker, the Clerk[4] announced:

> The rule of the House provides that the votes shall be viva voce.

In this case the motion to proceed to the election of Speaker had not specified the method of voting.

6744. The theory that a House might make its rules binding on the succeeding House was at one time much discussed, and even followed in practice.—On December 7, 1875,[5] Mr. Samuel J. Randall, of Pennsylvania, offered a resolution providing that the rules of the House of the Forty-third Congress be the rules of the present House until otherwise ordered, except two specified rules.

Mr. James A. Garfield, of Ohio, raised the point of order that the rules were existing without a resolution of that sort.

The Speaker[6] said:

> The Chair overrules it on the ground that the Constitution clearly gives to each House the right to adopt its own rules. Whatever may have been the rules or orders of a preceding House in reference to this matter, they can not supersede the constitutional right of this House to adopt its own rules.[7]

6745. On March 3, 1877,[8] when the House adopted a rule giving the Sergeant-at-Arms authority to enforce order under the direction of the Clerk pending the election of a Speaker or Speaker pro tempore, Mr. James A. Garfield, of Ohio, objected that the present House might not bind by a rule a succeeding House, recalling that the Speaker had very recently ruled that such was the case. The House at this time had among its rules the following, dating from March 19, 1860: "These rules shall be the rules of the House of Representatives of the present and succeeding Congresses unless otherwise ordered."[9]

The House, however, adopted the rule against which Mr. Garfield protested.

6746. In 1879,[10] at the beginning of the Congress, on March 29, a question was raised as to the rule providing that the rules of the last House should be the rules of the succeeding until new ones should be adopted, and was discussed at some length. Mr. Speaker Randall laid before the House the history of the rule, and expressed an opinion indicating that he thought the rule proper, and that the rules of

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[1] First session Fifty-first Congress, Record, pp. 83, 130.

[2] Journal, p. 233.

[3] First session Forty-seventh Congress, Record, p. 8.

[4] George M. Adams, of Kentucky.

[5] First session Forty-fourth Congress, Record, p. 174.

[6] Michael C. Kerr, of Indiana, Speaker.

[7] It is to be noted that the rule of 1860, whereby it had been sought to impose the rules of one House on its successor, had been a part of the rules of the preceding House, and was at this time in effect, if it had validity—which it did not.

[8] Second session Forty-fourth Congress, Record. pp. 2234, 2235.

[9] Rule 147; Journal. p. 719.

[10] First session Forty-sixth Congress, Record, pp. 110–112.

preceding House would continue under it until superseded. After this it seems to have been assumed that the rules of the previous House continued without the customary resolution adopting them, for on April 8 a resolution proposed to enforce a certain rule, and on April 9 [1] the Committee on Rules submitted certain amendments to the rules, which were adopted. But the rules themselves were not adopted by any vote, it being assumed that they were in existence.

On February 27, 1880,[2] Mr. Edward H. Gillette, of California, proposed a rule providing that the rules should not be the rules of a succeeding House until adopted by that House. He declared that the existing rule which made the rules of one House those of its successor until amended or changed was destructive of the liberty of the House. His amendment was not agreed to by the House.[3]

6747. The question as to whether or not one House might make its rules binding on the next House was discussed incidentally, but at some length, on January 18, 1882.[4]

The theory finally disappeared in 1889 and 1890, when Mr. Speaker Reed, having in mind the destruction of the system of obstruction which had existed for many years, and which was intrenched in the code of rules as they had existed in the preceding Congress, disregarded the provisions of the rule of 1860, and held that the House was governed by general parliamentary law until it should itself adopt rules.[5] Mr. Speaker Carlisle had proceeded on the same assumption,[6] but the rule had been readopted.

6748. Although the House becomes functus officio at the end of its term, yet in practice certain rules and regulations have extended beyond that time.—On March 3, 1861,[7] an effort was made to repeal so much of the House resolutions of May 17, 1858, as reduced during the recesses the force employed by the Doorkeeper. It is evident from this that these resolutions had a certain binding effect with Congresses succeeding that by which they were adopted.

6749. On January 13, 1845,[8] on motion of Mr. John B. Weller, of Ohio, and under suspension of the rules, the House agreed to the following:

Resolved, That the Doorkeeper of the House of Representatives be authorized to retain John Thomas McDuffie as a page to the end of the present session, the fact that he is over 16 years of age to the contrary notwithstanding.

Mr. Weller explained that the rules prescribed the age of 16. But no such rule appears among the standing rules. The usage of the House as established by former Houses was probably meant.

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[1] Journal, pp. 48, 57.

[2] Second session Forty-sixth Congress, Record, p. 1207.

[3] See also section 6759.

[4] First session Forty-seventh Congress, Record, pp. 486–491.

[5] See section 6002 of this volume. Mr. Speaker Reed's two most important rulings, one as to counting a quorum and the other as to dilatory motions, which destroyed obstruction, were made while the House was operating under general parliamentary law.

[6] Section 6759.

[7] Third session Thirty-seventh Congress, Journal, p. 602.

[8] Second session Twenty-eighth Congress, Journal, p. 202; Globe, p. 129.

6750. In 1888,[1] the House having been invited to attend the centennial celebration of the inauguration of President Washington, the Committee on the Judiciary reported that as the term for which the Members were chosen would expire on the 4th of March preceding the event, the House would be functus officio, and could not as a House participate in the ceremonies. Furthermore, the House might not accept the invitation for the succeeding House. Therefore they reported against the acceptance of the invitation.

6751. March 2, 1827,[2] at the close of the Congress, the House ordered that the Hall of the House should not be used during recesses of Congress.

6752. The House has made rules which have been followed through other Congresses by the Executive Departments, although the authority for the rules has been considered doubtful.—On December 30, 1791,[3] the House considered this resolution:

Resolved, That it shall be the duty of the Secretary of the Treasury to lay before the House of Representatives, on the fourth Monday of October in each year, if Congress shall be then in session, or, if not then in session, within the first week of the session next following the said fourth Monday of October, an accurate statement and account of the receipts and expenditures of public moneys, etc.

The presentation of this resolution occasioned considerable discussion as to the right of the House to make a rule with the intent of having it binding on future Congresses. It was urged on the one side that the Constitution empowered one Congress to make rules for another, although it was admitted that the House had proceeded on the contrary supposition. Against this argument it was urged that under such a theory one House might choose a Speaker for a subsequent House.

The resolution was finally agreed to.

6753. On February 1, 1830,[4] the House agreed to this resolution:

Resolved, That the Secretary of War cause to be annually laid before this House a number of copies of the printed Army list equal to the number of Members of the House.

6754. On March 20, 1834,[5] the Speaker laid before the House a letter from the Secretary of War accompanied by 250 printed copies of the Army Register for 1834 for the Members of the House. The letter was laid on the table. This was apparently in response to the order of the House passed in a preceding Congress.

On January 28, 1841,[6] the Speaker laid before the House a letter from the Secretary of War transmitting, "in compliance with the resolution of the 1st of February, 1830," a certain number of copies of the Army Register.

On February 28, 1854,[7] the Speaker laid before the House a letter from the Secretary of War transmitting, in compliance with a resolution of the House of of February 1, 1830, 250 copies of the Official Army Register of 1854.

6755. Discussion by the Supreme Court of the power of the House to make its own rules.—On February 29, 1892, the Supreme Court of the United

[1] First session Fiftieth Congress, Report No. 2441.

[2] Second session Nineteenth Congress, Journal, p. 370.

[3] First session Second Congress, Journal, p. 484 (Gales and Seaton ed.); Annals, pp. 300, 301.

[4] First session Twenty-first Congress, Journal, pp. 227, 242.

[5] First session Twenty-third Congress, Journal, p. 426.

[6] Second session Twenty-sixth Congress, Journal, p. 214.

[7] First session Thirty-third Congress, Journal, p. 432.

States, in the case of the United States *v.* Ballin,[1] gave a decision sustaining the action of Mr. Speaker Reed in counting a quorum. In the course of the decision it discussed the power of the House to make its rules, as follows:

> The Constitution empowers each House to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the House, and within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

6756. In exercising its constitutional power to change its rules the House has confined itself within certain limitations.—On December 13, 1878,[2] Mr. Roger Q. Mills, of Texas, proposed for immediate consideration a resolution providing for a committee to revise the rules of the House, claiming privilege for the resolution on the ground that the Constitution gave to the House a power in this respect of which it could not divest itself.

The Speaker[3] said:

> The House, acting in pursuance of its constitutional power, has adopted certain limitations as to changes of its rules.

6757. The House is governed by the rules of Jefferson's Manual in all cases in which they are applicable and in which they are not inconsistent with the standing rules and orders of the House.

Present form and history of Rule XLIV.

Rule XLIV of the rules of the House is:

> The rules of parliamentary practice comprised in Jefferson's Manual shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House and joint rules[4] of the Senate and House of Representatives.

This rule dates from September 15, 1837.[5] The Manual had been written by Mr. Jefferson for the use of the Senate,[6] over which he presided as Vice-President.[7] In the revision of 1880 the Committee on Rules decided to retain the Manual as an authority, although, as they said in their report, "compiled as it was for the use of the Senate exclusively and made up almost wholly of collations of English parliamentary practice and decisions, it was never especially valuable as an authority in the House of Representatives, even in its early history, and for many years past has

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[1] 144 U. S., p. 5.

[2] Third session Forty-fifth Congress, Record, pp. 175, 176.

[3] Samuel J. Randall, of Pennsylvania, Speaker.

[4] There are no longer joint rules, and there have not been any since the Forty-third Congress,

[5] First session Twenty-fifth Congress, Globe, p. 1533.

[6] For rules of the Senate, with date of the adoption of each, see Senate Report No. 56, second session Fortieth Congress.

[7] On February 28, 1812 (first session Twelfth Congress, Journal, p. 211; Annals, p. 1112), the House authorized the purchase of copies of Jefferson's Manual, provided the rules of the House should be annexed thereto. On April 15, 1830 (first session Twenty-first Congress, Journal, p. 536), a resolution was presented which indicates that the printing of the Constitution, Rules, and Jefferson's Manual in a volume was usual.

been rarely quoted in the House."[1] This statement, although sanctioned by high authority, is extreme. Many fundamental principles are set forth in the Manual, and while there is much that is obsolete there is also much of use at the present time, as these pages bear witness.

6758. Before rules are adopted the House is governed by general parliamentary law, but the Speakers have been inclined to give weight to the precedents of the House in modifying the usual constructions of that law.

Before the adoption of rules the motion to commit has been admitted after the ordering of the previous question.

On December 12, 1887,[2] before rules had been adopted by the House, a resolution was presented relating to the certificate of election of Owen G. Chase, claiming to be elected a Delegate from the Territory of Cimarron.

Mr. Ransom W. Dunham, of Illinois, rising to a parliamentary inquiry, asked how the resolution could be in order.

The Speaker[3] replied:

> Under the general parliamentary law of the country,[4] which permits the introduction of a proposition whenever a gentleman is recognized for that purpose. It is for the House, of course, to say what it will do with the proposition. It may refer it to a committee, lay it upon the table, or refuse to pass upon it in any shape.

Again, on the same day, the previous question was ordered on a resolution of inquiry relating to the examination of a certain harbor, which had been presented.

Mr. James H. Blount, of Georgia, having proposed a motion to refer the resolution, the Speaker said:

> The practice of the House heretofore decided by the Chair will prevail in ordinary legislative proceedings, and the gentleman's motion to refer to the committee is in order, notwithstanding the previous question has been ordered.

6759. On December 19, 1887,[5] before the adoption of rules by the House, Mr. Samuel J. Randall, of Pennsylvania, had the floor, when the Speaker informed him that his time had expired.

Mr. John H. Rogers, of Arkansas, rising to a parliamentary inquiry, asked under what rule there was a limitation as to time for debate.

The Speaker[3] replied:

> The Chair has frequently decided that in the absence of a resolution adopting the rules of the House formally the proceedings of the House are governed by the general parliamentary law, of which the practice of the House[6] constitutes a part—in fact, the principal part.

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[1] Second session Forty-sixth Congress, Record, p. 202.

[2] First session Fiftieth Congress, Record, pp. 39 and 41.

[3] John G. Carlisle, of Kentucky, Speaker.

[4] On March 24, 1880 (second session Forty-sixth Congress, Record, p. 1835), Mr. Thomas B. Reed, of Maine, afterwards Speaker), and Mr. J. S. C. Blackburn, of Kentucky, discussed the status of a standard American work on parliamentary law, the former holding that it treated largely of English precedents and was not a sure guide for American procedure. The latter urged that the work was authority.

[5] First session Fiftieth Congress, Record, p. 109.

[6] On December 19, 1881 (first session Forty-seventh Congress, Record, pp. 210, 211) , before the House had adopted rules, Mr. Speaker Keifer intimated his belief that "by immemorial usage or practice, the Speaker of each Congress has recognized the rules of the last House as governing until otherwise ordered." Mr. John H. Reagan, of Texas, dissented from this view. The code of rules in the preceding Congress had contained a rule favoring the Speaker's view. (See sections 6743–6755 of this volume.)

6760. On December 16, 1889,[1] the House was in Committee of the Whole House on the state of the Union considering a deficiency appropriation bill.

Mr. Richard P. Bland, of Missouri, having offered an amendment, Mr. David B. Henderson, of Iowa, made the point of order that it was not germane and therefore not in order.

Mr. Bland called attention to the fact that the House had not adopted rules.

The Chairman[2] said:

The Chair is aware of the common parliamentary law, and while inclined to think, under a strict construction of that law, the amendment would be germane and in order, because amendments have been introduced which changed the entire character of a proposition, the Speaker of the last House decided that common parliamentary law is the law as made up in a large degree by the practice of the House of Representatives. Under the practice of the House of Representatives for years all amendments to a proposition must be germane to that proposition; and if the ruling of the Speaker was correct, of which the Chair has no doubt, then this amendment is not in order; and the Chair so holds.

6761. Before the adoption of rules the House proceeds under general parliamentary law, founded on Jefferson's Manual and modified by the practice of American legislative assemblies, especially of the House of Representatives.[3]—In 1855,[4] prior to the organization of the House by the election of Speaker, or the adoption of rules, the Clerk[5] referred for authority to the parliamentary law as given in the Manual. Another instance occurred on December 26.

6762. During the protracted struggle over the election of a Speaker in the Thirty-sixth Congress,[6] the House was conducted under general parliamentary law, of which Jefferson's Manual was accepted as the basis.

6763. On December 9, 1885,[7] at the beginning of the Congress, and before the adoption of rules, Mr. Nathaniel J. Hammond, of Georgia, proposed the following resolution, which, after debate at length, was agreed to:

Resolved, That pending the consideration of proposed rules, and until this House shall determine the rules of its proceedings, the House be governed by Jefferson's Manual as modified by the parliamentary practice of the House of Representatives.

The rules of the preceding House had contained the clause making them the rules of succeeding Houses until changed. In the debate it was very generally held that one House could not in this way bind its successor. There was considerable discussion as to what would be the general parliamentary law binding the House in the absence of rules. Mr. Thomas B. Reed, of Maine (afterwards Speaker), said: "I believe that in this country an assembly like this, coming together without special rules, would necessarily be remitted to the common parliamentary law, or what I should perhaps more properly call the common legislative law, of the country, the foundation of which is to be found in Jefferson's Manual, and which has been modified by the general action of American legislative assemblies, especially by the action of

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[1] First session Fifty-first Congress, Record, pp. 192, 193.

[2] Julius C. Burrows, of Michigan, Chairman.

[3] See section 5452 of this volume for the opinion of Mr. Speaker White as to the general parliamentary law governing the House before the adoption of rules.

[4] First session Thirty-fourth Congress, Globe, pp. 82, 85.

[5] James W. Forney, Clerk.

[6] First session Thirty-sixth Congress, Globe, pp. 19, 21, 25, etc.

[7] First session Forty-ninth Congress, Record, pp. 144–150; Journal, p. 82.

this legislative assembly." This seemed to voice the general opinion as to the law in existence before the adoption of rules.[1]

6764. A motion which in effect rescinded a rule of the House, having been offered without objection and agreed to by the House, was held to be in force as against the rule.—On February 10, 1899,[2] a Friday, Mr. Joseph G. Cannon, of Illinois, moved that general debate on the sundry civil appropriation bill be closed in Committee of the Whole House on the state of the Union with the legislative day. This motion was admitted without objection and was agreed to by the House.

As the hour of 5 p. m. approached the Committee of the Whole rose; and in the House Mr. William H. Moody, of Massachusetts, as a parliamentary inquiry, asked whether or not general debate on the sundry civil bill would be in order when the House should assemble after the recess for the evening session.[3]

The Speaker[4] said that the expression used in fixing the time when the general debate should end was "the legislative day." Therefore he thought that under the vote of the House general debate would be in order at the evening session.

Thereupon, at the request of Mr. Cannon and by unanimous consent, it was ordered that general debate should close at once, the purpose of the vote not having been to continue the debate in the evening.

6765. The validity of a law passed by a preceding Congress which proposes to govern the House as to its rules or its organization is doubtful.—On February 19, 1841,[5] the Senate, in the course of the discussion of the election of a Public Printer, was the scene of a debate which, besides going into the history of the early arrangements for the printing, brought up again the point as to whether the inherent right of either House to elect its own officers might be modified or limited by law.

6766. On December 4, 1871,[6] Mr. Speaker Blaine said:

> The Chair desires to submit to the House a question which somewhat embarrassed him. The law reorganizing the government of the District of Columbia provided that the Delegate from the District of Columbia should be a member of the Committee for the District of Columbia. The Chair is governed by the rules of the House, which are made under the express provision of the Constitution of the United States giving to each House the right to make its own rules; and the rules of the House provide that the Committee for the District of Columbia shall consist of nine Members of the House. Looking at the duties laid on the Chair by the rule he has referred to under the Constitution, he did not feel at liberty to constitute the Committee for the District of Columbia of ten Members; and it becomes necessary, as between the law which seems to change the rule of the House, and between the rule of the House as it stands, for the House to determine what course shall be taken.

The question was referred to the Committee on Rules, and that committee on December 13, reported a rule making places for Delegates on the committees for the District of Columbia and Territories, the first rule giving them committee places. That rule was adopted by the House after debate.

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[1] At the beginning of the Fifty-first Congress rules were not adopted for several weeks, and during that time Mr. Reed, as Speaker, administered the House under general parliamentary law.

[2] Third session Fifty-fifth Congress, Record, pp. 1691, 1712.

[3] The rule gave Friday evening to pension legislation. (Sec. 3281 of Vol. IV.)

[4] Thomas B. Reed, of Maine, Speaker.

[5] Second session Twenty-sixth Congress, Globe, pp. 188–193.

[6] Second session Forty-second Congress, Journal, pp. 16, 67: Globe, pp. 11, 117.

6767. A law passed by the then existing Congress was recognized by the House as of binding force in matters of procedure.—On January 31, 1877,[1] while proceedings were pending under "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, 1877, Mr. G. Wiley Wells, of Mississippi, moved that when the House adjourn, it adjourn until Friday next.

Mr. Samuel S. Cox, of New York, made the point of order that the motion of Mr. Wells was not in order, being in violation of a law of Congress.[2]

The Speaker[3] sustained the point of order, refusing to entertain the motion.

6768. On the calendar day of February 5, 1877,[4] pending the consideration of a resolution relating to the electoral count, Mr. William J. O'Brien, of Maryland, made the point of order that the House must now proceed to the regular order of business, viz., the call of States and Territories for bills on leave and joint resolutions, as on the regular legislative day of Monday.

The Speaker[3] overruled the point of order, on the ground that the House could not perform an act forbidden by law; that the House having agreed with the Senate to pass a bill,[5] which had become a law forbidding an adjournment pending the counting of the electoral vote for President and Vice-President, the legislative day of Thursday, February 1, must continue, so far as the business of the House was concerned, until otherwise ordered, and that consequently a motion to adjourn not being in order, the call of States and Territories being Monday's business, was not in order.[6]

6769. A proposition to impose upon an officer of the House duties in addition to those prescribed by the rules is in effect an amendment of the rules and should be acted on in the way prescribed for such amendment. (Speaker overruled.)—On February 4, 1850,[7] Mr. John L. Robinson, of Indiana, offered the following preamble and resolution:

Whereas this House, by resolution, has postponed the election of Doorkeeper until the last day of March, 1851: Therefore,

Resolved, That said office being vacant it is competent and proper to provide for the discharge of the duties of said office by devolving the same upon some other officer of this House.

Resolved further, That Adam J. Glossbrenner, the Sergeant-at-Arms of this House, be, and he is hereby, ex officio authorized to perform the duties of Doorkeeper of this House until the day fixed for the election of said officer.

Mr. Albert G. Brown, of Mississippi, moved that the resolution be laid upon the table.

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[1] Second session Forty-fourth Congress, Journal, pp. 348, 349; Record, p. 1156.

[2] Act of January 29, 1877 (19 Stat. L., p. 229), which provided that during the proceedings of the electoral count the joint meeting should not dissolve until the conclusion of the count and that the recesses of either House should be limited as to time.

[3] Samuel J. Randall, of Pennsylvania, Speaker.

[4] Second session Forty-fourth Congress, Journal, p. 381; Record, pp. 1266–1271.

[5] Act of January 29, 1877 (19 Stat. L., p. 229).

[6] It will be observed that this law had been passed by this House, so the question as to the right of Congress to bind by law a succeeding House in a matter relating to its procedure, did not arise.

[7] First session Thirty-first Congress, Journal, p. 456; Globe, p. 277.

Mr. Alexander H. Stephens, of Georgia, raised the point of order that the duties of the Sergeant-at-Arms were prescribed by the sixty-seventh rule [1] of the House, and that, as the resolution proposed to impose additional duties on that officer, it was virtuallv an amendment to the rules of the House, which could not be rescinded or changed without one day's notice being given of the motion therefor.[2]

The Speaker [3] overruled the question of order raised by Mr. Stephens and decided the resolution to be in order.

From this decision of the Chair Mr. Stephens appealed; and the question was stated, Shall the decision of the Chair stand as the judgment of the House? And being put, it was decided in the negative, yeas 94, navs 101.

So the decision of the Chair was not sustained and the resolution was declared out of order.

6770. Subjects relating to the rules are referred to the Committee on Rules, which has high privilege for its reports.—Rule XI [4] of the House provides

In section 53:

All proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules.

In section 61:

The following-named committees shall have leave to report at any time on the matters herein stated, viz: The Committee on Rules, on rules, joint rules, and order of business; * * *

It shall always be in order to call up for consideration a report from the Committee on Rules, and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of.

6771. The Committee on Rules may report a resolution for the consideration of a bill, even though the effect be to discharge a committee and bring before the House a bill not yet reported.—On February 4, 1895,[5] Mr. Thomas C. Catchings, of Mississippi, from the Committee on Rules, reported a resolution for the consideration of the bill of the House, No. 8445.

Mr. Thaddeus M. Mahon, of Pennsylvania, made the point that the bill, not having been reported from the Committee on War Claims, it was not in order for the Committee on Rules to report a resolution for its consideration in the House.

The Speaker [6] overruled the point of order, holding that the Committee on Rules had jurisdiction to report a resolution fixing the order of business and the manner of considering a measure, even though the effect of its adoption would be to discharge a committee from a matter pending before it, thereby changing the existing rule relative to the consideration of business. It was for the House to determine

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[1] Now Rule IV.

[2] The old one hundred and thirty-sixth rule provided: "No standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion therefor." The rule is different now. (See sec. 6790 of this volume.)

[3] Howell Cobb, of Georgia, Speaker.

[4] For full form and history of these rules see sections 4321 and 4621 of Volume IV of this work.

[5] Third session Fifty-third Congress, Journal, p. 104.

[6] Charles F. Crisp, of Georgia, Speaker.

whether this change in the mode of consideration should be made, as recommended by the committee.

6772. It was established in practice, even when a rule suggested otherwise, that a proposition to change the rules, in order to be agreed to by majority vote, should be referred to and reported by the Committee on Rules.—On June 4, 1879,[1] the Speaker[2] stated the regular order of business to be the motion to lay upon the table the appeal of Mr. Omar D. Conger, of Michigan, from the decision of the Chair on the last preceding Wednesday in relation to the right of Mr. William M. Springer, of Illinois, to submit as an independent motion an amendment to the rules.

The Speaker had overruled the point of order on the ground that Air. Springer had been recognized for the purpose stated by him, but that, objection being made, the resolution must lie over one day under the rule.

Mr. Conger withdrew the appeal, and the resolution was thereupon read, as follows:

That rule 51 be amended by adding thereto the following:

"And any pending measure reported, but not disposed of, shall be regarded as unfinished business, and shall be in order after the morning hour of any day when such business would be in order."

It was then ordered that the same lie over one day under the rule.

6773. On February 15, 1887,[3] a question arose on this point when the bill to pension the widow of Gen. John A. Logan was before the House, and after long debate the Speaker[4] gave an elaborate opinion.[5]

The Chair has already decided in accordance with the practice which has prevailed in the House for a great many years, and in accordance, also, with several previous decisions on the subject, that a gentleman upon the floor has the right, under clause I of Rule XXVIII,[6] at any time when the House was not engaged in the consideration of other matters, to give notice of a motion to amend the rules and that this might be in the technical form of a notice or in the form of a resolution, the latter having precisely the same effect as a notice, and that it would lie over under the rule. This is the whole right conferred upon such propositions by clause I of Rule XXVIII; and it will be observed that even this right is not given in express terms, but exists only by implication. The rule reads:

"No standing rule or order of the House shall be rescinded or changed without one day's notice of the motion therefor."

Under that it has been held that, inasmuch as this was the only method by which a proposition to amend the rules of the House could be introduced, it conferred upon a Member the right to give the notice and have it lie over one day.

Since that time, however—at the beginning of the present session of Congress—clause 1 of Rule XXIV[7] was so amended as to include simple resolutions of the House among the others which might be introduced on Monday on the call of States and Territories, and it was contended yesterday that this abrogated or rescinded clause 1 of Rule XXIV: but the Chair decided then, and the Chair still thinks decided correctly, that this amendment to the rule at the beginning of the Forty-ninth Congress, instead of abrogating or rescinding clause I of Rule XXIV, was cumulative and provided an additional method

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[1] First session Forty-sixth Congress, Journal, p. 437.

[2] Samuel J. Randall, of Pennsylvania, Speaker.

[3] Second session Forty-ninth Congress, Record, pp. 1784, 1785.

[4] John G. Carlisle, of Kentucky, Speaker.

[5] During this debate the origin of the f unctions of the Committee on Rules was considered at some length. (See Record, p. 1781.)

[6] The clause relating to this notice has since been dropped.

[7] This rule also has been changed, and resolutions and bills, instead of being introduced on the call, are filed at the Clerk's desk.

for the introduction of such propositions. Instead of taking away the method already provided for it added another.

But the question now presented is quite a different one. All the right conferred by implication by clause I of Rule XXVIII has been exercised in the case now before the Chair; and if the proposition hereafter has any further privilege, it must be found either in some other rule of the House or in the nature of the subject to which the proposition relates. No other rule of the House conferring such a privilege has been cited in debate, and the Chair is not aware of the existence of any. But it is said by gentlemen on the floor that, inasmuch as the House has the power, under the Constitution, to make rules for the government of its own proceedings, propositions to make or to amend these rules must be privileged for the same reason that propositions in relation to the right of a Member to a seat on the floor and propositions relating to bills disapproved and returned by the President are privileged. The power of the House to make rules is conferred by the Constitution in the following terms:

"Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds, expel a Member."

This power is plenary, and the Chair thinks that the power of the House to make rules prescribing the methods which shall be pursued in changing its rules is just as absolute as its power to make rules to govern its proceedings in ordinary matters of legislation. To hold that the House may make rules binding upon its presiding officer and binding upon itself for the government of its proceedings in ordinary matters of legislation, but can not make rules prescribing the methods by which it shall change its rules. would certainly result in a very great and material abridgment of the power conferred by the Constitution. The House has made rules not only for the government of its proceedings in matters of legislation but also for the government of its proceeding when it comes to change its own rules or to consider propositions to change its rules.

It is provided, first, in Rule XXVIII, that such a proposition may be introduced by notice, and, second, in the amendment to clause I of Rule XXIV, that it may be introduced upon the call of the States and Territories on Mondays. It is provided in clause 43 of Rule XI that "all proposed action"—there is no exception made—"touching the rules and joint rules shall be referred to the Committee on Rules." It may be not improper to repeat here that clause 1 of Rule XXVIII, as has been already stated by the gentleman from Georgia [Mr. Hammond], has been in operation more than eighty years, and the Chair has not been able to find a single instance where it has been decided that a proposition brought before the House under that clause had any further privilege; but in every case, so far as the Chair has been able to find a decision upon the subject, it has been held that when the proposition came before the House it was here subject to all the other rules of the House. And it may also be remarked that for a long time after the organization of Congress bills could be introduced only upon notice, but it was never decided, or even contended, that when so introduced they became privileged. The giving of the notice was a matter of right, but it conferred no privilege upon the bill itself when introduced.

During the first session of the Forty-eighth Congress[1] the present occupant of the chair had occasion to decide this very question, and the Clerk will read what then occurred. The Chair will first state, however, that on the 23d of January, 1885, Mr. Valentine, then a Representative from the State of Nebraska, introduced a resolution providing that on and after a certain day the House should meet at a certain hour, and that it should be the duty of the Speaker to recognize gentlemen upon the floor for the presentation of matters for consideration, which should be considered unless objected to by a certain number of Members. On the next day the gentleman called up his resolution, as the gentleman from Iowa [Mr. Henderson] has now called up the resolution upon which the point of order is made; and the Clerk will read from the Journal what took place:

"Mr. Valentine, as a privileged question, called up the following resolution submitted by him on yesterday:

"'*Resolved,* That on and after Monday next the regular meetings of the House during the present session shall be at 11 o'clock each day; that it shall be in order each day for one hour immediately after the reading of the Journal for the Speaker to recognize such Member as he may choose, alternating sides of the House and Members, for the purpose of asking unanimous consent for the immediate consideration of such business as such Member may select; but if, after the reading of the bill or resolution, ten Members object to present consideration the same shall not be considered: *Provided,* That if consideration be had, five minutes shall be given for debate for and five minutes against such measure if asked by any Member.'

[1] This was during the second session Forty-eighth Congress, Journal, p. 332; Record, pp. 984–986.

"Mr. Randall made the point of order that under clause 43 of Rule XI the said resolution must be referred to the Committee on Rules; pending which Mr. Valentine made the further point of order that the said question of order submitted by Mr. Randall could not now be entertained, but should have been made on yesterday when the resolution was presented.

"After debate on said point of order, the Speaker sustained the first and overruled the second point of order, on the ground that the resolution, having been presented under authority of and in conformity with clause 1 of Rule XXVIII, was before the House, subject to all other rules touching its consideration, and that, as the resolution was not presented on yesterday for immediate consideration, the point of order as to such consideration by the Committee on Rules would be in order at any time before such consideration had been entered upon.

"The said resolution must therefore be referred, under clause 43 of Rule XI, to the Committee on Rules."

On the 23d of January, when the resolution was first introduced, certain proceedings occurred which the Clerk will now read from the Record:

"Mr. MILLS. Mr. Speaker, I make the point of order that that would change a rule of the House.

"Mr. MCMILLIN. I demand the regular order.

"The SPEAKER. The regular order has been demanded heretofore, but the gentleman from Nebraska stated that he rose to a privileged question.

"Several MEMBERS. That is not a privileged question.

"Mr. VALENTINE. I admit that it is not privileged for consideration at this time, but must, under the rule, lie over until to-morrow.

"The SPEAKER. The Chair thinks that so far as regards the mere introduction of the resolution, either for the purpose of having it lie over one day or for the purpose of having it referred to the Committee on Rules, it is privileged; but not beyond that.

"Mr. VALENTINE. That is all that I ask for it."

The Chair will also ask the Clerk to read the ruling made on the next day.

"The SPEAKER. Rule XXVIII of the House provides that—

No standing rule or order of the House shall be rescinded or changed without one day's notice of the motion therefor,' etc.

"The Chair supposes that this notice might be given in two ways. A Member might rise in his place and state that on the next day, or upon some succeeding day, he would propose to amend the rules in a certain way; or he might accomplish the same purpose by presenting to the House a proposition to amend the rules in a particular way. And the Chair supposes that the question as to whether or not the point of order can now be made that this proposition must have its first consideration in the Committee on Rules depends upon the same consideration, no matter in which one of those methods the notice might have been originally given.

"Suppose a gentleman had risen on the floor yesterday and simply given notice under this rule that on to-day he would propose a motion to amend the rules, stating the character of the amendment, of course no question could then have been made that it must have its first consideration in the Committee on Rules. So it was on yesterday when the gentleman from Nebraska presented his proposition. It was a mere notice to the House under Rule XXVIII of a proposition to amend its rules, and the Chair thinks that the point of order, if it can be made at all, can properly be made to-day when the subject actually comes before the House.

"The next question is, whether these rules provide two different methods for their own amendment; that is to say, whether they provide two different methods for bringing before the House for actual consideration a proposition to amend the rules. The Chair thinks not. The Chair thinks the two rules axe not at all inconsistent with each other, but they very well stand together.

"A proposition to amend the rules can not be considered by the House at all until there has been one day's notice given, either on the floor, as suggested by the Chair, or by the presentation of the proposition itself; but the giving of that notice in either form does not seem to dispense with the forty-third clause of Rule XI, which provides expressly that it shall be referred to the Committee on Rules. If the Committee on Rules should make a report to the House of a proposition to amend the standing rules or orders of this body which had not been referred to them more than one day before the report was made, the Chair would have no hesitation in saying that the report must lie one day on the table before it could be considered. But when a proposition to amend the rules has been made in the House and referred to the Committee on Rules one day before it is reported on, the Chair would

have no hesitation in holding that it would then come up for consideration, because all the requirements of both these rules of the House in such a case have been complied with.

"The Chair thinks that whatever may be the power of the House itself over its own rules, he is bound by all of them as they stand for the time being, and that this point of order can be made now and is well taken."

The Chair has reviewed not only that decision and the grounds upon which it was based, but all the other decisions which were accessible, and still adheres to that interpretation of the rules. The Chair thinks that no matter how the proposition may in the first instance be introduced, it must go to the Committee on Rules under the forty-third clause of Rule XI. The point of order is therefore sustained.

6774. A special order fixing a day for particular business has been held to be so far in the nature of a change of rules as to permit the Committee on Rules to report it under its leave to report at any time.

In 1886 the former custom of permitting the various committees to propose special orders for the consideration of business reported by them began to cease, the function being absorbed by the Committee on Rules.

On July 10, 1886,[1] Mr. William R. Morrison, of Illinois, as a privileged question from the Committee on Rules, to which was referred a resolution fixing a day for the consideration of business reported from the Committee on Ways and Means, reported the same with the following amendment in the nature of a substitute therefor:

Resolved, That Tuesday, the 13th day of July, immediately after the reading of the Journal, be, and is hereby, set apart for the consideration of such business as may be presented by the Committee on Ways and Means, not to include any bill raising revenue; and if any bill shall be under consideration and not disposed of when the House adjourns on that day the consideration of such bill shall continue from day to day, immediately after the reading of the Journal, until disposed of.

Mr. Abram S. Hewitt, of New York, made on this resolution a point of order:

It is not competent for the Committee on Rules to report in the nature of a rule a regulation of debate which is intended for a single day and a single occasion *pro hac vice.* That is not a rule. The usual practice of the House has been for the committee which desired a day to come in with a resolution, submit it to the House, and take the action of the House upon it under the rules. It seems to me this is a device by which the Committee on Rules, having power to report at any time, come into the House and do that which under the rules can only be done by resolution on the request of the committee from which the application comes.

After debate the Speaker pro tempore[2] held:

As the Chair understands, this resolution on being introduced was referred by the House to the Committee on Rules. It is competent, in the judgment of the Chair, for the House in this manner to change its rules, if this involves a change. The adoption of this resolution would be pro tanto nothing more than a change of the rules; and the proper method of making such a change under the rules is upon a report from the Committee on Rules.[3] Therefore the Chair can see nothing in the point of order made by the gentleman from New York [Mr. Hewitt].

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[1] First session Forty-ninth Congress, Journal, p. 2171; Record, pp. 6759–6760.

[2] Charles F. Crisp, of Georgia, Speaker pro tempore.

[3] On January 26, 1836 (First session Twenty-fourth Congress, Journal, p. 238; Debates, pp. 2342–2344), a resolution making a special order for the consideration of appropriation bills was reported from the Committee on Foreign Affairs. A point of order was made that it ought to come from the Committee on Rules, or at least Ways and Means, which reported the appropriation bills. But Mr. Speaker Polk decided the resolution in order, although its adoption would require a two-thirds vote.

In 1892 the Committee on Library reported a special order for the consideration of business. This was referred to the Committee on Rules. (Second session Fifty-second Congress, Record, p. 509.)

See also second session Forty-fifth Congress, Journal, pp. 734, 735, 819–820.

6775. Instance in 1875 wherein by suspension of the rules a rule was adopted that the Speaker should entertain no dilatory motions.

In 1875 the function of the Committee on Rules in reporting rules for special purposes was so little used that there was doubt as to its validity without a two-thirds vote.

In January, 1875, the passage of the so-called civil rights bill was obstructed by the minority by repetition of dilatory motions so that no progress could be made. On February 1, 1875,[1] on Monday, which under the rules then existing was the time for introducing bills, a resolution was offered for reference to the Committee on Rules providing that dilatory motions should not be entertained.

Mr. Samuel J. Randall, of Pennsylvania, made the point of order that a resolution of this kind was not in order for reference at this time, and also that no standing rule or order might be changed without one day's notice.

The Speaker[2] overruled the point of order.

Later in the same day, on motion of Mr. Benjamin F. Butler, of Massachusetts, by a vote of yeas 181, nays 90, the rules were suspended and this resolution was agreed to:[3]

Resolved, That the rules be so far suspended as to allow the Committee on Rules to report to the House, for consideration and action at the present time, any new rules or changes of rules said committee may desire to report; and that during the consideration thereof the Speaker shall entertain no dilatory motions whatever. * * *

Mr. James A. Garfield, of Ohio, then reported[4] the rule, which, after debate was agreed to, yeas 171, nays 85, the Speaker announcing:

To exclude all question of the adoption of this resolution, the Chair will state that it has been adopted by a two-thirds vote.

Mr. Randall asked if the Chair said it required a two-thirds vote, and the reply was:

The Chair does not so state.[5]

The civil rights bill was then passed.

6776. It was held as early as 1876 that a proposition to change the rules might be referred only to the Committee on Rules.—On Monday, August 7, 1876,[6] Mr. Beverly B. Douglas, of Virginia, submitted the following resolution and moved its reference to the Committee on Rules:

Resolved, That the rules be so amended as to allow the committees of investigation to report at any time during this session.

Mr. Stephen A. Hurlbut, of Illinois, objected to the reception of the resolution under this call.

The Speaker pro tempore[7] held that a resolution proposing an amendment to the rules was in order during the first call on Monday for reference to the Com-

[1] Second session Forty-third Congress, Record, pp. 880, 881.

[2] James G. Blaine, of Maine, Speaker.

[3] Record, pp. 891, 892.

[4] Record, pp. 892–902.

[5] Record, p. 902.

[6] First session Forty-fourth Congress, Journal, pp. 1395–1401; Record, pp. 5262, 5263.

[7] Milton Sayler, of Ohio, Speaker pro tempore.

mittee on Rules, and that it was not in order to refer the same to any other committee except the Committee on Rules.

Mr. Eugene Hale, of Maine, moved the reference of the resolution to the Committee on Appropriations.

The Speaker pro tempore overruled the motion, holding that under the rules and practice the resolution must be referred to the Committee on Rules.

Mr. Hale having appealed, the motion to lay the appeal on the table failed because a quorum did not vote. After successive roll calls and calls of the House, Mr. Hale withdrew the appeal and Mr. Douglas withdrew the original resolution.

6777. An instance of the function of the Committee on Rules in affording the House a method of suspending the rules by majority vote.—On February 11, 1903,[1] the sundry civil appropriation bill was under consideration in Committee of the Whole House on the state of the Union when Mr. Joseph G. Cannon, of Illinois, offered two amendments for the purpose of providing for the construction of an office building near the Capitol, and also for an extension of the Capitol building. Both amendments were ruled out of order.

Thereupon, on motion of Mr. Cannon, the Committee rose, and the Speaker having taken the chair, Mr. John Dalzell, of Pennsylvania, presented from the Committee on Rules the following resolution, which was agreed to by the House:

Resolved, That it shall be in order to consider, as an amendment to the bill (H. R. 17202) making appropriations for sundry civil expenses, a provision for the acquisition of a site and toward the construction of a fireproof building for committee rooms, folding room, and other offices for the House of Representatives, and for the necessary office rooms for Members thereof, to be used in the discharge of their official duties.

Then Mr. Charles H. Grosvenor, of Ohio, also from the Committee on Rules, presented the following, which was likewise agreed to by the House:

Resolved, That it shall be in order to consider as an amendment to the bill (H. R. 17202) making appropriations for sundry civil expenses a proposition to provide for the extension and completion of the Capitol building.

Then the Committee of the Whole resumed its sitting, and the amendments which had previously been ruled out were offered again and agreed to, no point of order being possible.

6778. A resolution changing or construing a standing rule or order is in order only when presented in the manner prescribed for changing the rules.—On July 15, 1861,[2] Mr. Abraham B. Olin, of New York, proposed the following:

Resolved, That the resolution of this House adopted on Monday, 8th instant, restricting the business of the present extraordinary session to questions of immediate national necessity be so construed as to admit of the consideration only of practical measures of legislation on the subjects embraced in the message of the President and the reports of the several heads of Departments, and to exclude all resolutions of a merely declaratory nature; and that the Speaker be directed to rule as out of order all matters thus excluded without waiting for the point of order to be raised thereon.

Mr. William S. Holman, of Indiana, made the point of order that inasmuch as the resolution changed a standing order of the House it was out of order.

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[1] Second session Fifty-seventh Congress, Journal, p. 232; Record, p. 2051.

[2] First session Thirty-seventh Congress, Journal, p. 93; Globe, p. 129.

The Speaker[1] sustained the point of order, saying that it gave construction to the resolution adopted on the previous day, and which had become a rule of the House.

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

6779. On January 17, 1839,[2] Mr. Speaker Polk decided that a proposed amendment, which, in effect, changed a standing rule of the House, was in order to be offered and agreed to; but that, should the amendment be agreed to, the proposition as amended would, in effect, present a proposition to change the rules, and must therefore be agreed to by a two-thirds vote.

6780. in 1841 it was held that, as the House had given the Committee on Rules leave to report at all times, it might report, in part, at different times.

The first step by which the Committee on Rules became an instrumentality through which the House may exercise special power for a particular piece of legislation.

On July 6, 1841,[3] Mr. William B. Calhoun, of Massachusetts, from the committee appointed on the 7th of June "to revise, amend, and report rules for the government of this House," and which committee, by an order of the House of the 16th ultimo, were directed to "proceed to revise and amend the rules, and that they have leave to report at all times," made a further report in part.

Mr. William Medill, of Ohio, objected to receiving the report on the ground that it was not in order for the committee thus to be making reports, in part, at different times and "by piecemeal."

The Speaker[4] decided that it was in order for the committee thus to report in part.[5]

On an appeal, taken by Mr. Medill, the decision of the Chair was sustained, 127 yeas to 88 nays.

6781. A report from the Committee on Rules, although highly privileged, is not in order after the House has voted to go into Committee of the Whole.—On February 28, 1901,[6] the House had voted to go into the Committee of the Whole House on the state of the Union to consider the bill (H. R. 5499) relating to the Revenue-Cutter Service. The Speaker had announced the result of the vote and declared the motion carried, but had not yet left the chair, when Mr. John Dalzell, of Pennsylvania, proposed to submit a privileged report from the Committee on Rules.

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[1] Galusha A. Grow, of Pennsylvania, Speaker.

[2] Third session Twenty-fifth Congress, Journal, p 310; Globe, p. 123.

[3] First session Twenty-seventh Congress, Journal, p. 204.

[4] John White, of Kentucky, Speaker.

[5] The debate on the appeal (Globe, p. 153) indicates that it had not hitherto been customary for the Committee on Rules to be a continuing committee with power to report at different times. Up to 1841 it had been appointed at the beginning of each Congress to report the rules for the Congress, and after this duty was attended to by a report its functions practically ceased. The Committee on Rules now has the right by rule to report at any time.

[6] Second session Fifty-sixth Congress, Journal, p. 293; Record, p. 3236.

Mr. Oscar W. Underwood, of Alabama, made the point of order that the House had voted to go into Committee of the Whole, and pending that it was not in order to consider any other business.

After debate the Speaker [1] said:

The Chair takes this view of it: The Chair has announced that the motion to go into the Committee of the Whole House on the state of the Union is carried. That, it seems to the Chair, removes the House and substitutes the committee. While it is true that reports of the Committee on Rules are of the highest order and take precedence, still we must be in the House in order to consider them, in the opinion of the Chair. There is an easy remedy for it. If it is the pleasure of the committee, it has a right to rise and go back into the House. The Chair is very clear, however, that the House is in Committee of the Whole and would not be in a position to entertain a motion to adjourn even, which is a motion of the highest privilege if made in good faith, and therefore the Chair sustains the point of order and calls upon the gentleman from Ohio [Mr. Grosvenor] to take the chair.

6782. In 1876 the joint rules were abrogated, the action being accompanied by discussion in both Houses; and subsequent efforts to restore them have failed.—On January 10, 1876,[2] Mr. Hannibal Hamlin, of Maine, made a report in the Senate on a resolution originally proposed by Mr. George F. Edmunds, of Vermont, relating to the joint rules of the two Houses. The conclusion of the report was that as the House expired each two years all rules expired with it, joint rules included, and that therefore the joint rules which had been in existence since the foundation of the Government subsisted only by acquiescence. The committee therefore proposed a concurrent resolution adopting all the former joint rules, excepting the Twenty-second, which provided the method of conducting the count of the electoral votes. This resolution was debated at length on January 17, and was adopted on January 20.

On August 14 [3] the Senate, on motion of Mr. Edmunds, adopted a resolution (the House having sent over a concurrent resolution to suspend certain joint rules) informing the House that, as the House had not notified the Senate of the adoption of joint rules this session, as proposed by the Senate to the House, there were no joint rules in force.

On December 12, 1876,[4] the question raised by the action of the Senate in abrogating the joint rules was discussed at some length in the House.

6783. On December 4, 1877,[5] a resolution was offered directing the enforcement of one of the joint rules. Mr. Speaker Randall said:

The Chair desires to say in this connection that he has always held the joint rules were in force, and, notwithstanding the Senate have held otherwise, every day's proceedings between the two Houses are conducted under a system authorized by the joint rules.

The House thereupon proceeded to pass the resolution of instruction.

6784. On January 8, 1879,[6] in the Senate, Mr. George F. Edmunds, of Vermont, proposed a joint rule to revive the old provisions in regard to bills passed and

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[1] David B. Henderson, of Iowa, Speaker.

[2] First session Forty-fourth Congress, Record, pp. 309, 431, 517–520.

[3] Record, p. 5567.

[4] Second session Forty-fourth Congress, Record, pp. 146–149.

[5] Second session Forty-fifth Congress, Record, p. 10.

[6] Third session Forty-fifth Congress, Record, pp. 369, 370.

presented to the President in the last days of the session. The proposed rule was not adopted.

6785. On April 1, 1879,[1] the Senate, after debate, adopted a resolution authorizing the Committee on Rules of the Senate to take into consideration the subject of joint rules and confer with the Committee on Rules of the House. This resolution was, in the House on June 10, referred to the Committee on Rules. No action resulted.

6786. In 1885–86[2] the Senate adopted a code of joint rules and sent them to the House, where they were referred to the Committee on Rules, but not acted on. These joint rules included many of the features of the old joint rules and some new provisions relating to legislation on appropriation bills and the matter to be included in conference reports.

6787. In 1889[3] the Senate proposed to the House action looking to the adoption of joint rules, but the resolution was not acted on in the House.[4]

6788. A concurrent resolution suspending a joint rule is agreed to by majority vote.—On March 2, 1837,[5] the House proceeded to the consideration of the following resolution from the Senate:

Resolved, That the sixteenth joint rule of the two Houses be suspended so far as to authorize the sending from one House to the other any bills which passed either House on the 28th ultimo.

Mr. Francis W. Pickens, of South Carolina, raised a question of order as to whether or not a two-thirds vote was required to concur with the Senate resolution.

The Speaker[6] decided that the rule relating to change or suspension of the rules[7] applied only to the rules and orders of the House and not to the joint rules and orders of the two Houses, and that it was competent for a majority to concur with the Senate in their resolution.

Mr. Pickens having appealed, the decision of the Speaker was sustained, yeas 134, nays 43.

6789. On June 20, 1874,[8] Mr. Speaker Blaine held that a joint rule was suspended by a majority vote on a concurrent resolution of suspension from the Senate.

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[1] First session Forty-sixth Congress, Journal, pp. 35, 472; Record, p. 138.

[2] First session Forty-ninth Congress, Journal, pp. 137, 194; Record, pp. 131, 184, 307, 413.

[3] First session Fifty-first Congress, Record, pp. 126, 188.

[4] The two Houses now have no joint rules, unless the concurrent resolution in relation to the enrollment of bills may be considered as such. (See secs. 3433, 3435, of Vol. IV.)

[5] Second session Twenty-fourth Congress, Journal, pp. 573, 574.

[6] James K. Polk, of Tennessee, Speaker.

[7] See section 6790 of this volume for past and present forms of this rule.

[8] First session Forty-third Congress, Record, p. 5309.