

Chapter CXIV.

DISORDER IN DEBATE.

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5131. Indecent language against the proceedings of the House or reflections on its prior determinations are not in order in debate.

Mentioning a Member by name, arraigning the motives of Members, and personalities generally are not in order in debate.

It is the duty of the Speaker to suppress personalities in debate.

Section XVII of Jefferson's Manual has this provision:

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

No person, in speaking, is to mention a Member then present by his name, but to describe him by his seat in the House, or who spoke last, or on the other side of the question, etc. (Mem. in Hakew., 3; Smyth's Comw., L. 2, c. 3); nor to digress from the matter to fall upon the person (Scob., 31; Hale Parl., 133; 2 Hats., 166), by speaking, reviling, nipping, or unmannerly words against a particular Member. (Smyth's Comw., L. 2, c. 3.) The consequences of a measure may be reprobated in strong terms; but to arraign the motives of those who propose to advocate it is a personality, and against order. Qui digreditur a materia ad personam, Mr. Speaker ought to suppress. (Ord. Com., 1604, Apr. 19.)

5132. It is not in order in debate to cast reflections on either the House or its membership or its decisions, whether present or past.—On February 10, 1837,³ during the consideration of the case of R. M. Whitney, a con-

¹ In case of words printed under "leave to print." (Sec. 7017 of this volume.)

Disorderly words stricken from the Congressional Record. (Secs. 6975–6982 of this volume.)

² Instance of censure proposed when words were not taken down. (Sec. 1655 of Vol. II.)

Action taken as to disorderly words after intervention of other business. (Sec. 2637 of Vol. III.)

Disorderly language by counsel in an impeachment trial. (Sec. 2140 of Vol. III.)

³ Second session Twenty-fourth Congress, Debates, p. 1693.

tumacious witness, Mr. John F. H. Claiborne, of Mississippi, having the floor in debate, said:

Talk not to me of vindicating your insulted dignity by the prosecution of Whitney. You have no dignity to vindicate.

Here the Speaker,¹ interposed, and said that the rules did not permit reflections on the House.

5133. On May 20, 1840,² Mr. David Petrikin, of Pennsylvania, in debating a motion to amend the Journal, said that "it could not be denied that of late the proceedings of the House had been such as not only to degrade it as a body, but also to degrade the country."

The Speaker,³ said that the gentleman from Pennsylvania was not in order in saying anything disrespectful to the House of Representatives.

5134. On July 14, 1866,⁴ while the House was considering the bill (S. 236) to authorize the construction of certain bridges, Mr. John Hogan, of Mississippi, having the floor, was called to order for the following words spoken:

They have their agents here upon this floor; they have their interested stockholders here to vote upon this measure; they have their feed attorneys here to vote upon this measure and rob the people of the West of the great God-given right to navigate freely the great Mississippi River.

The Speaker,⁵ decided that the words were out of order, as they contained a reflection upon Members of the House.

Mr. Hogan having taken his seat, and objection being made to his proceeding further, Mr. M. Russell Thayer, of Pennsylvania, moved that he be allowed to proceed in order.

This motion was agreed to.

5135. On March 15, 1866,⁶ Mr. Green Clay Smith, of Kentucky, in the course of a personal explanation, was called to order for pronouncing opinions and decisions of the House "damnable heresies."

The Speaker⁵ said:

The Chair sustains the point of order. The gentleman from Kentucky has no right to reflect upon the decisions of the House.

The Speaker then directed the gentleman from Kentucky to take his seat, and the question was put on allowing the gentleman to proceed in order. And there were yeas 55, nays 70. So the House refused to allow Mr. Smith to proceed with his remarks.

5136. On June 8, 1872,⁷ during the debate on the conference report on the disagreeing votes of the two Houses on the sundry civil appropriation bill (H. R.

¹James K. Polk, of Tennessee, Speaker.

²First session Twenty-sixth Congress, Globe, p. 405.

³Robert M. T. Hunter, of Virginia, Speaker.

⁴First session Thirty-ninth Congress, Journal, p. 1016; Globe, p. 3812.

⁵Schuyler Colfax, of Indiana, Speaker.

⁶First session Thirty-ninth Congress, Journal, p. 407; Globe, p. 1423.

⁷Second session Forty-second Congress, Journal, p. 1108; Globe, p. 4441.

2705), Mr. John A. Bingham, of Ohio, was called to order for the use of the following words in debate:

I say here and now, and stand ready to make it good before the tribunal of history and the great tribunal of the American people, that the proposition pretended to be set up here of the right of the minority to stay indefinitely the right of the majority to legislate is as disgraceful, as dishonorable—

The Speaker¹ ruled that the language was not parliamentary.

Thereupon, on motion of Mr. Henry L. Dawes, of Massachusetts, Mr. Bingham was permitted to proceed in order.²

5137. On June 3, 1797,³ Mr. Matthew Lyon, of Vermont, was addressing the Chair, when he recalled the act of the House in inflicting its censure on a former occasion.

The Speaker⁴ reminded Mr. Lyon that it was out of order to censure the proceedings of the House on any former occasion.

Later Mr. Lyon referred to a statement made by another Member in the debate of the preceding day.

The Speaker again reminded him that it was out of order to refer to the proceedings of a former day.

5138. On June 13, 1842,⁵ Mr. Mark A. Cooper, of Georgia, said:

The reason why the House was not more dignified was because its Members sat here tamely, acting as the passive instruments and tools of the aspirants for the Presidency in the other body. This was the truth.

Mr. Cooper was called to order, and presently the Chair⁶ ruled that he was not in order.

5139. Words spoken in debate impeaching the loyalty of a portion of the membership of the House were ruled out of order.—On January 15, 1868,⁷ the House was considering the bill (H. R. 439) supplementary to the act to provide for the more efficient government of the rebel States, when Mr. John F. Farnsworth, of Illinois, was called to order for words spoken in debate, which, on the demand of Mr. William Mungen, of Ohio, were taken down as follows:

And whoever commends himself to the affections of the rebel element there commends himself equally to the affections of their rebel brethren on this floor.

The Speaker⁸ decided the words out of order, not being proper to use in reference to Members of the House.

Mr. Farnsworth having requested permission to explain, the question was put on giving such permission, and it was decided in the affirmative.

Then Mr. Farnsworth withdrew so much of the words spoken as relates to Members “on this floor.”

¹James G. Blaine, of Maine, Speaker.

²The Journal does not give the words excepted to.

³First session Fifth Congress, Annals, pp. 234, 235.

⁴Jonathan Dayton, of New Jersey, Speaker.

⁵Second session Twenty-seventh Congress, Globe, p. 621.

⁶John White, of Kentucky, Speaker.

⁷Second session Fortieth Congress, Journal, p. 196; Globe, p. 560.

⁸Schuyler Colfax, of Indiana, Speaker.

Then, on motion of Mr. George S. Boutwell, of Massachusetts, Mr. Farnsworth was allowed to proceed with his remarks in order.

Mr. Mungen then offered a resolution that Mr. Farnsworth be reprimanded by the Speaker for the words taken down, but the resolution was laid on the table.

5140. In debate a Member should not address another in the second person.—On January 18, 1899,¹ while the House had under consideration the bill (H. R. 26) for the establishment of a light and fog signal station on Hog Island Shoal, Rhode Island, a debate arose between Mr. William P. Hepburn, of Iowa, and Mr. Joseph G. Cannon, of Illinois, in the course of which the latter addressed the former by the personal pronoun “you” instead of referring to him as “the gentleman from Iowa.”

The Speaker² thereupon called Mr. Cannon to order, saying:

The gentleman from Illinois should not use the second person in addressing a Member.

5141. On January 30, 1899,³ the House was in Committee of the Whole House on the state of the Union considering the bill (H. R. 11022) for the reorganization of the Army of the United States.

Mr. Charles B. Landis, of Indiana, in the course of a colloquy, addressed a Member with the personal pronoun “you.”

The Chairman,⁴ calling him to order, said:

The gentleman from Indiana should not address his colleague in the second person.

5142. On March 11, 1904,⁵ during consideration of a resolution relating to the conduct of certain Members in relation to transactions in the Post-Office Department, Mr. Henry A. Cooper, of Wisconsin, in debate, referring to another Member, used the pronoun “you.”

The Speaker⁶ said:

Gentlemen will not interrupt without the consent of the Member speaking, and the Chair again cautions the House that it is not proper to refer to Members except in the usual way of the gentleman so-and-so.

5143. On January 27, 1842,⁷ during a debate on the floor between Messrs. Henry A. Wise, of Virginia, and John M. Botts, of the same State, Mr. Botts addressed Mr. Wise, using the pronoun “you.”

The Speaker⁸ called Mr. Botts to order, saying that he had no right to so address a Member on the floor.

5144. A Member may not in debate refer to another Member by name.—On March 3, 1898,⁹ the bill (H. R. 5359) to amend the postal laws relating to second-class matter was under consideration, and Mr. James M. Robinson, of

¹Third session Fifty-fifth Congress, Record, p. 762.

²Thomas B. Reed, of Maine, Speaker.

³Third session Fifty-fifth Congress, Record, p. 1289.

⁴Sereno E. Payne, of New York, Chairman.

⁵Second session Fifty-eighth Congress, Record, p. 3152.

⁶Joseph G. Cannon, of Illinois, Speaker.

⁷Second session Twenty-seventh Congress, Globe, p. 182.

⁸John White, of Kentucky, Speaker.

⁹Second session Fifty-fifth Congress, Record, p. 2433.

Indiana, had the floor. Having in the course of his remarks mentioned the chairman of the Appropriations Committee by name, the Speaker¹ called him to order, saying:

The gentleman is out of order. He should not allude to Members by name.

5145. It is not in order in debate to mention a Member by name or to indulge in personalities.—On December 13, 1905,² Mr. William B. Lamar, of Florida, having the floor in general debate in Committee of the Whole House on the state of the Union, referred to another Member, Mr. John Sharp Williams, of Mississippi, as follows:

Now, Mr. Chairman, I could state with more truth than he has to charge me with party unfealty that that caucus was not right; that it was party treachery and party perfidy. I do not make that charge. His charge is more than an injustice, and unless Mr. Williams places himself before a caucus of Democrats—

The Chairman³ interposed:

The Chair will call the attention of the gentleman from Florida to the fact that under the rules he should not mention by name any other Member of the House.

Later Mr. Lamar continued:

The minority leader would like to have quietude over here, and would like to be followed. Here is how he would like to be followed by the Democracy:

“MINORITY LEADER. Do you see yonder cloud that’s almost in shape of a camel?”

“Some Democratic MEMBER. By the mass, and ’tis like a camel indeed.

“WILLIAMS. Methinks—”

The Chairman again interposed:

The gentleman from Florida must obey the rules of the House.

Again Mr. Lamar said:

I shall follow him as a leader as long as he holds that position, but I repudiate, with all the contempt that I have for him, the idea that he is fit to lead anybody anywhere. Now, I shall ask him—I say it on the floor of this House—

Mr. Williams here interposed:

Mr. Chairman, I very much dislike to call attention to a rule of the House, but as it is apt by its enforcement to prevent unpleasant things from happening on the floor I do call attention to the fact that the gentleman from Florida [Mr. Lamar] is not permitted by the rules of the House to use insulting language on the floor.

The Chairman said:

The gentleman will please proceed in order and not indulge in personalities.

5146. It is not in order in debate to call a Member by name and comment on his action in a preceding Congress.—On January 22, 1836,⁴ during a discussion of a resolution to investigate the failure of the fortifications appropriation bill in the closing hours of the last Congress, Mr. Henry A. Wise, of Virginia, in debate, was proceeding to read from the Journal of the last Congress the names

¹ Thomas B. Reed, of Maine, Speaker.

² First session Fifty-ninth Congress, Record, pp. 352, 356.

³ Thomas S. Butler, of Pennsylvania, Chairman.

⁴ First session Twenty-fourth Congress, Debates, pp. 2281, 2283, 2285, 2294, 2295.

of several gentlemen, Members of the present House, showing their votes at the time the bill failed to be acted on.

The Speaker¹ several times interposed and informed the gentleman from Virginia that it was not in order to call Members by their names, but permitted Mr. Wise to read their names from the Journal of the last session, when he did so without comment personal to the Members. Finally the Speaker said that he would repeat to the gentleman from Virginia that in reminding him a few moments ago that it was against order to refer to honorable Members of the last House who were also Members of the present House, and in their seats, by their names, it was far from the intention of the Chair to interfere with any of the rights of the gentleman from Virginia, and would exceedingly regret to interfere with the rights of any gentleman on the floor. The Chair thought it out of order and supposed such a course of debate, if suffered to proceed, was likely to produce excitement and collision, and he had therefore wished to arrest it. He felt sure that the gentleman from Virginia and every other Member would see the necessity for such a course, and would sustain the Chair in his efforts to preserve the order and harmony of the proceedings of the House.

5147. It is improper in debate to arraign the motives of Members.

A Member who has been called to order in debate and directed to sit down may not proceed on yielded time.

On the calendar day of March 2, 1903² (legislative day of February 26), the House was discussing the bill (H.R. 17546) "to provide for a Delegate to the House of Representatives of the United States from Porto Rico," when Mr. George A. Pearre, of Maryland, referring to an opponent in debate, said:

The gentleman is guilty of a worse offense in concealing the truth from this House, especially when the gentleman knows the motive was a personal one.

The Speaker³ called Mr. Pearre to order, saying:

The motives of gentlemen must not be impugned.

Mr. Pearre was about to proceed, when Mr. Oscar W. Underwood, of Alabama, made the point of order that Mr. Pearre having been called to order, must sit down.

The Speaker sustained the point of order, and Mr. Pearre took his seat.

Mr. Henry A. Cooper, of Wisconsin, who controlled the time, proposed to yield time to Mr. Pearre that he might continue; but the Speaker said:

The gentleman from Wisconsin can not do that. The gentleman from Maryland was admonished to take his seat, and if the gentleman from Wisconsin desires to proceed he can do so, but he can not yield to the gentleman from Maryland.

Soon after, Mr. Charles H. Grosvenor, of Ohio, moved that Mr. Pearre be allowed to proceed in order, and this motion being decided in the affirmative, Mr. Pearre proceeded.

5148. On April 3, 1902,⁴ while the House was in Committee of the Whole House on the state of the Union considering the bill (S. 1025) to promote the effi-

¹James K. Polk, of Tennessee, Speaker.

²Second session Fifty-seventh Congress, Record, pp. 2926, 2927.

³David B. Henderson, of Iowa, Speaker.

⁴First session Fifty-seventh Congress, Record, p. 3631.

ciency of the Revenue-Cutter Service, Mr. William P. Hepburn, of Iowa, while in a colloquy with Mr. John F. Lacey, of Iowa, said:

You have been opposing the bill. * * * And therefore I doubt very much your sincerity in this matter.

The Chairman,¹ interposing, said:

Gentlemen will not impugn the motives of fellow-Members.

5149. On April 20, 1904,² the House was considering the bill (H.R. 7262) entitled "A bill to provide for the allotment of lands in severalty to the Indians in the State of New York, and extend the protection of the laws of the United States and of the State of New York over such Indians, and for other purposes," Mr. Edward B. Vreeland, of New York, having charge thereof.

In the course of the debate Mr. William Sulzer, of New York, read a letter from a former Member of the House, John Van Voorhis, in the course of which occurred this paragraph:

White speculators want to get at the valuable oil privileges that are on those reservation lands, as they have in the past secured most of them for nothing. I would like at this moment to put Mr. Vreeland on the witness stand under oath, and ask him if it is not a fact that he himself has got rich off these very Indians, and if one corporation formed to exploit these lands was not formed by himself.

Mr. Sulzer also read another letter from W. H. Samson, president of the Rochester Historical Society, saying:

The purpose of the Vreeland bill, in my opinion, is to get the Indians' land and not to Christianize the Indians, not to civilize them, and one of the saddest and most discouraging things about the whole business is that Mr. Vreeland has deluded a whole lot of good people into the idea that its purpose is strictly philanthropical

The Speaker pro tempore³ said:

The gentleman will suspend for one moment. The Chair feels it his duty to remind the gentleman that the rule of the House forbids reference to Members by name, and it is just as much a violation of the rule to read something somebody else has said as if the gentleman had stated it himself. It is also against the rules of the House to impugn the motives of other gentlemen.

5150. On April 21, 1904,⁴ the House was considering a resolution relating to certain ballots before the Committee on Elections No. 2 in the Colorado election case of Bonyng *v.* Shafroth, of Colorado.

In the course of the debate Mr. John S. Williams, of Mississippi, referred to the speech of Mr. Robert W. Bonyng, of Colorado, and the following occurred:

Mr. WILLIAMS, of Mississippi. The gentleman used this rather cutting language, "A grand jury summoned by a Democratic sheriff," with the intent to leave that impression. [Cries of "Oh!" on the Republican side.] He said, "A grand jury summoned by a Democratic sheriff."

Mr. BONYNGE. That is a fact.

Mr. WILLIAMS, of Mississippi. And I purposely said, "A Democratic grand jury," so as to hear the gentleman's explanation of that rather cunning way of putting it.

¹ Marlin E. Olmsted, of Pennsylvania, Chairman.

² Second session Fifty-eighth Congress, Record, p. 5205.

³ Marlin E. Olmsted, of Pennsylvania, Speaker pro tempore.

⁴ Second session Fifty-eighth Congress, Record, pp. 5279, 5280.

Mr. BONYNGE. Mr. Speaker, will the gentleman yield for a moment? Did the gentleman from Mississippi say that he purposely misquoted my language?

Mr. WILLIAMS, of Mississippi. Oh, I purposely quoted what you intended to leave as an impression upon the House. [Cries of "Oh!" on the Republican side.]

The Speaker¹ said:

The Chair calls the attention of the House again to the fact that in debate it is against the rules of sound parliamentary usage to impugn the motives of Members.

5151. On May 8, 1902,² in the Senate, during a colloquy between Messrs. Jonathan P. Dolliver, of Iowa, and Edward W. Carmack, of Tennessee, the latter said:

A few moments ago when I unguardedly used an expression about the impudence of Senators upon the other side of the Chamber, the Senator from Wisconsin suggested to me that it was an improper expression, and I thought so, and withdrew it. The Senator from Iowa speaks of Senators upon this side of the Chamber as a syndicate of vituperation. I did not call the Senator from Iowa to order. If it had been any other Senator upon the other side of the Chamber I would have done so. But I did not call the Senator from Iowa to order because I know that to require him to speak the language of decency and courtesy in debate would be to condemn him to absolute silence for the rest of his life.

Mr. George F. Hoar, of Massachusetts, having called the Senator from Tennessee to order, the words were taken down, and the President pro tempore³ decided that the language was "very clearly out of order."

Later Mr. Carmack withdrew the language by consent of the Senate.

5152. Personalities aimed at a Member in a capacity other than that of Representative are not in order.—On April 20, 1871,⁴ Mr. John F. Farnsworth, of Illinois, having the floor for a personal explanation, referred to Mr. Benjamin F. Butler, of Massachusetts, in his capacity as custodian of certain public money, as follows:

Making a parade of his charity, he has been gorging himself and speculating with this money.

Mr. Butler objected to these words as not parliamentary.

The Speaker⁵ said:

The gentleman from Illinois, referring by evasion, as the Chair understands, to the gentleman from Massachusetts, speaks of the "treasurer of the asylums." That officer is known to be identical with the gentleman from Massachusetts. The Chair rules that the language used transgresses the rules of the House.

Then, on motion of Mr. Samuel S. Cox, of New York, Mr. Farnsworth was allowed to proceed in order.

5153. It is not in order in debate for one Member to accuse another of an offense not connected with the representative capacity of the latter.

Questions involving the distinction between general language and personalities in debate.

¹ Joseph G. Cannon, of Illinois, Speaker.

² First session Fifty-seventh Congress, Record, p. 5171.

³ William P. Frye, of Maine, President pro tempore.

⁴ First session Forty-second Congress, Journal, p. 202; Globe, pp. 839, 840.

⁵ James G. Blaine, of Maine, Speaker.

On February 13, 1905,¹ Mr. John A. Sullivan, of Massachusetts, was, by unanimous consent, permitted to occupy the floor for a personal explanation, and proceeded to reply to an article printed in the *New York American*, a newspaper owned and edited by Mr. William R. Hearst, a Member from New York.

In the course of the remarks of Mr. Sullivan Mr. James M. Robinson, of Indiana, made the point of order that he was referring to another Member in unparliamentary language, and cited the following:

The writer raises the query whether my "ignorance (of pending measures) was due to congenital incapacity or indifference to the people's rights." "Congenital incapacity" is a serious charge, yet obviously one which a person accused would not care to discuss. If the charge is true, he is not guilty but simply unfortunate, and it is surely a grievous misfortune not to be able to appreciate the value of the legislative services of the gentleman from New York. But congenital incapacity to understand is a term that covers a wide range of mental and moral deficiencies. It covers the case of the moral degenerate, who insolently casts his lecherous eyes upon the noblest of women whose virtue places them beyond the contamination of his lust. It covers the case of the unclean, unproductive, shiftless member of society who stands before the jeweler's window condemning the economic and municipal laws that place the beautiful gems beyond his reach. And it includes the man who, totally bereft of the sense of proportion, raises his profaning eyes toward the splendid temple of the people's highest gift—the Presidency of the United States—blissfully unconscious of the woeful contrast between the qualifications requisite for that high office and his own contemptible mental and moral equipment.

The Speaker² ruled:

The House will observe that the language used by the gentleman from Massachusetts would be unparliamentary if there were anything in the language to connect it with any Member upon the floor of the House. The Chair in passing upon the point of order can not enter the domain of speculation to say whether it refers to any Member of the House. To illustrate, if it were set out as a matter of pleading in a declaration it would need an averment that would connect it with a Member of the House. So that upon the face of the language as uttered by the gentleman from Massachusetts the Chair can not say that he is out of order.

At the conclusion of Mr. Sullivan's remarks Mr. William R. Hearst, of New York, asked and was granted unanimous consent to reply.³

In the course of his remarks Mr. Hearst said:

There is a certain class of gentlemen who are peculiarly sensitive to newspaper criticism, and have every reason to be. I was criticised on the floor of this House once before by a gentleman from California, Mr. Johnson. That gentleman had been attacked in my newspapers for subserviency to the Southern Pacific Railway. He had gone back to his constituents for vindication, and the district which had elected him by 5,000 Republican majority repudiated him and went 5,000 Democratic. It was the first time that district had gone Democratic, and it has never gone Democratic since that time, so it was obviously in order to reject the gentleman from California, Mr. Johnson. Mr. Johnson had been indicted for forgery—

Mr. Sereno E. Payne, of New York, made the point of order that it was not in order to attack a former Member of the House; but withdrew the point.

Proceeding further, Mr. Hearst said:

I had no desire, really, to criticise the gentleman from Massachusetts, and if I had I should certainly not have done it in so puerile a way. When I was at Harvard College in 1885 a murder was committed in a low saloon in Cambridge. A man partly incapacitated from drink bought in that

¹Third session Fifty-eighth Congress, Record, p. 2479.

²Joseph G. Cannon, of Illinois, Speaker.

³Record, pp. 2481, 2482.

saloon on Sunday morning, when the saloon was open against the law, was assaulted by the two owners of that saloon and brutally kicked to death. The name of one of the owners of that saloon was John A. Sullivan, and these two men were arrested and indicted by the grand jury for manslaughter and tried and convicted. I would like to ask the gentleman from Massachusetts [Mr. Sullivan] if he knows anything about that incident, and whether, if I desired to make a hostile criticism, I could not have referred to that crime?

Mr. Thomas S. Butler, of Pennsylvania, objected to this language as unparliamentary.

The Speaker said:

Up to this time, in the references to an individual not a Member of the House, the gentleman was in order touching that. So far as the Chair is able to judge from the question of the gentleman from New York [Mr. Hearst], the Chair can not see that the gentleman is out of order, and the Chair will again read to the House what he read to the House during the remarks of the gentleman from Massachusetts:

“No person, in speaking, is to mention a Member then present by his name, but to describe him by his seat in the House, or who spoke last, or on the other side of the question, etc., nor to digress from the matter to fall upon the person by speaking, reviling, nipping, or unmannerly words against a particular Member.”

Mr. Butler, of Pennsylvania, objected further:

Mr. Speaker, if I understood the gentleman from New York [Mr. Hearst] rightly, he inferentially charged the gentleman from Massachusetts [Mr. Sullivan] with either having murdered some one or conspired to murder.

The Speaker said:

He does not, from anything that the gentleman has so far said. An averment would have to be made before the Chair could know that he is referring to any Member of the House. * * *

The Chair recollects the language. The Chair was giving attention closely to the remarks. The Chair will state that the Chair himself hesitates sometimes in writing and halts in putting his own initials when he signs his name, and the Chair will state—although that is certain which may be rendered certain—that the Chair does not now even know the Christian name of either the gentleman from Massachusetts [Mr. Sullivan] or the gentleman from New York [Mr. Hearst]; nor does the Chair know whether of the 80,000,000 of people there are others bearing the same name. The Chair assumes that the gentleman from New York [Mr. Hearst] was not referring to the gentleman from Massachusetts. In other words, there is nothing so far to show on its face that the gentleman from New York [Mr. Hearst] is referring to the gentleman from Massachusetts [Mr. Sullivan].

Mr. Hearst then continued:

Mr. Speaker, I recognize the inherent justice of the remark that the gentleman from Pennsylvania has made about the character of discussion that has been going on in this House and I greatly regret it, but I must define the kind and character of men who have made their attacks upon me and their reasons for it. I must state there is a certain class of man who is peculiarly sensitive to criticism and particularly deserving of it, and I must say that it is the duty of a newspaper when such men are in public life to refer to their past and their character for the protection of the public.

The Speaker here intervened, saying:

The Chair will state, in view of the remarks of the gentleman, that an accusation of homicide against a Member—even although the alleged offense occurred before he was elected to this House—would seem to the Chair to fall within the parliamentary prohibition of being calculated “to provoke disturbance and disorder and to bring the body itself into contempt and criticism.” The Chair will state that the words quoted are from a carefully considered report made to the House some years ago in a case wherein one Member charged against another an offense committed before the latter became a Member of the House. The gentleman from New York, the Chair presumes and believes, is quite familiar with parliamentary rules and usages and will proceed in order.

5154. The explanation of a Member being referred to by another Member in debate “as worthy of a Nero or a Jeffreys,” the Speaker intervened and the language was withdrawn.—On July 20, 1867,¹ Mr. Frederick E. Woodbridge, of Vermont, having the floor for a personal explanation as to his action as a member of the Judiciary Committee in connection with the proceedings for the impeachment of President Johnson, said of a fellow-member of that committee:

Unlike my friend from Pennsylvania [Mr. Thomas Williams], I had not determined at that time what my vote would finally be. He, by his own statement before the House, had determined the question prior to the adjournment in June, and required no further testimony. The expression, sir, is more worthy of a Nero or a Jeffreys than a learned Member of the law committee of this House.

The Speaker,² interposing, said:

The Chair will state to the gentleman from Vermont that his language is not parliamentary.

Mr. Woodbridge thereupon withdrew the offensive words.

5155. Where charges of bribery had been made against a Senator, a question propounded to him by another Senator on the subject, was held to be in order.—On May 7, 1879,³ in the Senate, during discussion of a proposition relating to the reopening of the case of Spofford *v.* Kellogg, from Louisiana, Mr. John T. Morgan, of Alabama, in colloquy with Mr. Kellogg, said:

Has the Senator from Louisiana [Mr. Kellogg] any objection to the Committee on Privileges and Elections investigating the question whether or not he bribed the members of the legislature that elected him?

Mr. George F. Edmunds, of Vermont, raised a question of order, that it was not in order, where another Senator was personally concerned and a resolution was offered affecting his character, to propound such a question.

The President pro tempore⁴ decided that, in the opinion of the Chair, the language used by the Senator from Alabama contained no imputation upon the Senator from Louisiana, and was in order. He said:

If the Chair understood the observation of the Senator from Vermont, he claims that it was out of order upon the ground that it was insulting to the Senator from Louisiana. The Chair is unable to see anything of insult in the question. It is proposed that a certain charge against the Senator from Louisiana shall be referred to a committee for investigation. The Senator from Alabama simply asked the Senator from Louisiana whether he was willing that that charge should be investigated. The Chair can see nothing insulting, nothing criminating, nothing asking the Senator from Louisiana to criminate himself, in that question, and therefore rules that the point of order is not well taken.

5156. Instance of personalities in debate in the Senate.—On March 1, 1879,⁵ in the Senate, Mr. George F. Hoar, of Massachusetts, offered an amendment relating to an exception of Jefferson Davis from the provisions of a proposed law to pension soldiers of the Mexican war.

Mr. L. Q. C. Lamar, of Mississippi, in the course of debate said:

I must confess my surprise and regret that the Senator from Massachusetts should have wantonly, without provocation, flung this insult—

¹ First session Fortieth Congress, Globe, p. 759.

² Schuyler Colfax, of Indiana, Speaker.

³ First session Forty-sixth Congress, Record, pp. 1120, 1121.

⁴ Allen G. Thurman, of Ohio, President pro tempore.

⁵ Third session Forty-fifth Congress, Record, p. 2227.

At this point the Presiding Officer¹ intervened, and ruled that the words were out of order.

Mr. Lamar having appealed, the decision of the Chair was reversed, yeas 15, nays 26, and it was decided that the words were in order.

5157. While in debate the assertion of one Member may be declared untrue by another, yet in so doing an accusation of intentional misrepresentation must not be implied.—On February 16, 1836,² the House was considering a motion to take from the files of the House and print a letter sent to the House at the last session of the preceding Congress by the late Postmaster-General. Mr. Albert G. Hawes, of Kentucky, having the floor in debate on the motion, was called to order by the Speaker for referring to matters irrelevant to the subject, and for using the words “grossly false,” as applied to statements made by Mr. F. O. J. Smith, of Maine, in a publication made by him during the late recess of Congress; which irrelevant matter and words the Speaker³ decided to be a violation of that rule of the House which provided that a Member “shall confine himself to the question under debate, and avoid personality.”

Mr. Hawes, who had taken his seat, was permitted to explain, and said that the pamphlet to which he referred had been published privately by the gentleman from Maine in the recess before the present House had come into existence.

Mr. Waddy Thompson, jr., of South Carolina, having appealed, the decision of the Chair was sustained, yeas 160, nays 42.

5158. On May 1, 1868,⁴ in debate Mr. John A. Logan, of Illinois, said of the statement of another Member of the House:

That is not true, and he knows it.

Mr. Charles A. Eldridge, of Wisconsin, objected to these words, and on his motion the words were taken down.

A decision of the Chair having been demanded, the Speaker⁵ said:

The Chair thinks that those words are not unparliamentary. If the gentleman from Illinois had made use of opprobrious words sometimes used, but which the Chair will not repeat, he would have been out of order. But any gentleman has the right to say that a proposition is not true, and possibly that the one making it knew that it was not true. The Chair thinks that the words used may be severe, but they are not offensive in any sense in which it is forbidden to Members to use offensive language toward their fellow Members, and did not seem to be uttered in an offensive tone.

5159. On April 10, 1906,⁶ the post-office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. Frank A. Hopkins, of Kentucky, having the floor, was addressing the Committee.

Mr. William S. Bennet, of New York, rising to a question of order, demanded that the words just uttered by Mr. Hopkins be taken down.

¹George F. Edmunds, of Vermont, Presiding Officer.

²First session Twenty-fourth Congress, Journal, pp. 360, 361; Debates, pp. 2539, 2541.

³James K. Polk, of Tennessee, Speaker.

⁴Second session Fortieth Congress, Globe, p. 2341.

⁵Schuyler Colfax, of Indiana, Speaker.

⁶First session Fifty-ninth Congress, Record, p. 5015.

The Chairman¹ said:

The Reporter informs the Chair that he has not been taking down the remarks of the gentleman from Kentucky for the reason that the gentleman from Kentucky informed him that his remarks were in manuscript and that there was no need of reporting them. If the gentleman from Kentucky will permit the Chair to see the manuscript, the question can be determined.

The Chairman, from suggestion made by Mr. Bennet, stated the objectionable words:

He says [referring to the gentleman from New York] that 30.6 per cent of the voters of the country in which I live can neither read nor write, which is not true.

Mr. John S. Williams, of Mississippi, made the point that the language was in order.

The Chairman said:

The Chair rules that the language is not unparliamentary, and the gentleman from Kentucky will proceed.

5160. On February 13, 1835,² in the Senate, Mr. Thomas H. Benton, of Missouri, had the floor in debate, and was replying to some remarks made by Mr. John C. Calhoun, of South Carolina. In the course of his remarks Mr. Benton said that a certain accusation made by Mr. Calhoun was "a bold and direct attack upon truth."

Mr. George Poindexter, of Mississippi, called Mr. Benton to order.

The Vice-President³ having decided that Mr. Benton was in order, Mr. Daniel Webster, of Massachusetts, appealed, saying that the word untruth implied an intentional misrepresentation, and the application of it to a member of that body was unparliamentary and out of order. A member might not, he said, get up and say that the words of another were untrue. He might say that the words of another were founded on misconception, that he was mistaken, or had unintentionally made an erroneous statement, but he could not charge him with uttering an untruth. He remembered a case of this kind in the other House when a gentleman of distinction from South Carolina presided there. A Member applied certain epithets to the war then pending with Great Britain. He said it was a French war, and another Member answered that it was untrue. The Chair decided that the charge implied want of veracity, and that the Member making it was out of order.

The Senate, by a vote of 23 to 21, overruled the Vice-President, and Mr. Benton's remark was held to be out of order.

5161. In the early practice of the House the Speaker intervened to prevent in debate even the mildest imputation on the motives of a Member.— On June 17, 1813,⁴ Mr. Samuel Farrow, of South Carolina, in debating a resolution of inquiry proposed by Mr. Daniel Webster, of New Hampshire, said, in the course of his remarks:

Information, in reply to those inquiries, is not the object of the honorable Member from New Hampshire. * * * Those resolutions are intended as a plea in bar to the demand of this nation for money.

¹James S. Sherman, of New York, Chairman.

²Second session Twenty-third Congress, Debates, pp. 427–432.

³Martin Van Buren, of New York, Vice-President.

⁴First session Thirteenth Congress, Annals, p. 185.

Here the Speaker¹ stated that it was not proper to state the motives of the Member from New Hampshire.

5162. On January 25, 1836,² during the discussion of the agitation of the abolition of slavery in the District of Columbia, Mr. Thomas Glascock, of Georgia, said of Mr. John Quincy Adams, of Massachusetts, who had presented several petitions on the subject:

To press these petitions now, under circumstances like these, seems to me to be intended to produce excitement, and wound the feelings of the Southern Members.

The Speaker³ reminded the gentleman from Georgia that it was not in order to impugn the motives of any Member of the House.

5163. Examples of personal and recriminating remarks held out of order in debate by the Speakers.

The Speaker sometimes interposes to prevent breach of order in debate, without waiting for a question to be raised by a Member.

On January 26, 1828,⁴ Mr. Samuel P. Carson, of North Carolina, referring to the argument of an opponent in debate, said:

I am perfectly secure from his malignant shafts.

The Speaker⁵ interposed and reminded Mr. Carson that his remarks were out of order.

On the same day, Mr. John Floyd, of Virginia, said of words spoken by an opponent in debate:

If that remark was intended for me, I say that the remark itself is a base insinuation, and as such I hurl it back in his teeth.

The Speaker here called Mr. Floyd to order.

Later the Speaker rose and addressed the House as follows.⁶

He felt, he said, very deep regret at the personal and unpleasant character which the debate had assumed, and which, if continued, was calculated to have a baneful effect upon the character and deliberations of the House. The Speaker certainly could have no wish to restrict improperly the freedom of debate. He had never attempted it; he never should; but at the same time he felt it a duty that he owed the House, the nation, and himself to interpose the authority of the Chair in maintaining the order and dignity of the House and in repressing personalities and recriminations, which could produce no other effect than deep excitement and personal altercations. In the eagerness of controversy and the commotion of debate it was often very difficult for the Chair to interpose successfully his authority in preserving order and limiting debate; in cases of great or unusual excitement it could never be done without the most prompt and vigorous cooperation of the House. In making these remarks the Chair intended no allusion to any particular Member of the House. He had risen to impress upon the House

¹ Henry Clay, of Kentucky, Speaker.

² First session Twenty-fourth Congress, Debates, p. 2317.

³ James K. Polk, of Tennessee, Speaker.

⁴ First session Twentieth Congress, Debates, pp. 1195, 1201, 1203.

⁵ Andrew Stevenson, of Virginia, Speaker.

⁶ Debates, p. 1203.

the necessity of enforcing order and sustaining the Chair, and to entreat gentlemen who might be disposed to mingle in the debate to refrain from personal and recriminating remarks toward each other and to confine themselves to the subject under consideration.

5164. On January 29, 1828,¹ Mr. Joseph Vance, of Ohio, in debate, thus referred to Mr. John Randolph, of Virginia:

The Member from Virginia talked very pathetically about the poor man—his pound of sugar, peck of salt, etc. Now, sir, I would be glad to know when all these feelings came athwart the Member. Are they since the Huskisson dinner at Liverpool? They do not comport with what the Member is reported to have said after the excursion in the Dublin steam packets.

Mr. Vance here said he should read for the information of the House the Member's sentiments at that time.

The Chair² said it would be out of order, admonishing the gentleman from Ohio that personal allusions were out of order.

5165. On February 9, 1827,³ during debate arising over the relations of the United States and Georgia, Mr. William Haile, of Mississippi, referring to Mr. Daniel Webster, of Massachusetts, said it was true the gentleman from Massachusetts was, in many respects, far superior to him, and was possessed of high standing and great influence, both in the nation and in the House; and if the gentleman chose to direct that influence against him—

Mr. Haile being called to order at this point, the Chair⁴ decided that all reflections or observations touching the standing or influence of any Member were a violation of the decorum of debate.

5166. On January 24, 1828,⁵ Mr. Henry Daniel, of Kentucky, while debating the resolutions relating to retrenchment of the expenditures of the Government, referred to an opponent as follows:

His great argument appeared to be that, if the pay of Members of Congress were to be reduced, they could not so well educate their horses to go electioneering; and, indeed, sir, when those remarks fell from the Member I was greatly at a loss to determine which possessed the most native genius, the horse which was spoken of or his master.

The Speaker² here declared all personal observations out of order.

5167. On June 18, 1813,⁶ Mr. Alexander C. Hanson, of Maryland, replying to Mr. Felix Grandy, of Tennessee, referred to the latter as "the apologist of France," and as possessing "a characteristic skill and cunning, for which he understood the Member stood unrivaled and preeminent in the highly civilized, polished, and refined State which honored the House with his presence here."

The Speaker⁷ called the gentleman from Maryland to order, stating that the epithet "cunning was not proper to be applied to a Member of the House, and still more was it out of order to use the words "apologist of France."

¹ First session Twentieth Congress, Debates, p. 1229.

² Andrew Stevenson, of Virginia, Speaker.

³ Second session Nineteenth Congress, Debates, p. 1046.

⁴ John W. Taylor, of New York, Speaker.

⁵ First session Twentieth Congress, Debates, pp. 1141, 1142.

⁶ First session Thirteenth Congress, Annals, p. 252.

⁷ Henry Clay, of Kentucky, Speaker.

5168. On January 30, 1840,¹ during the discussion of the subject of the public printing, a colloquy occurred between Messrs. Edward Stanly, of North Carolina, and F. O. J. Smith, of Maine, in the course of which Mr. Stanly said that he should blush to receive a compliment from the gentleman from Maine.

Mr. Isaac E. Crary, of Michigan, called the gentleman from North Carolina to order for using the words.

The Speaker² decided that Mr. Stanly's words were not in order, and that he could not proceed without leave of the House.

5169. On November 21, 1867,³ during debate the Speaker⁴ called Mr. James Brooks, of New York, to order for words spoken in debate. Being questioned as to what words were disorderly, the Speaker said:

The language to which the Chair excepted was this: That the gentleman from Massachusetts [Mr. Henry L. Dawes] "had done a mean thing" toward the gentleman from New York [Mr. Brooks]. That language was not parliamentary. The gentleman from New York will now proceed in order.

5170. A Member is allowed a wide latitude in debate relating to a contumacious witness at the bar of the House.—On June 8, 1868,⁵ the House was considering the case of C. W. Wooley, a contumacious witness who had been arrested and was at the bar of the House. During the procedure, Mr. John Covode, of Pennsylvania, was called to order by Mr. Charles A. Eldridge, of Wisconsin, for the use of the following words in reference to the witness, viz:

The witness present was not only guilty of contempt of the House, but guilty of perjury.

The Speaker⁴ submitted the decision to the House, saying:

In a case parallel to this which occurred in the Thirty-eighth Congress, when the gentleman from Indiana [Mr. Orth] alluded to a Member from Maryland as a "traitor," after the House of Representatives had adopted a resolution that he had given aid and comfort to the enemy by certain remarks which he had offered on the floor of the House, it was ruled, and the ruling was sustained on appeal, that the gentleman had a right to make that charge, because the House of Representatives had, by its resolution, made such a declaration. In this case the House must, in like manner, decide whether the language used by the gentleman from Pennsylvania is justifiable, in view of the facts and evidence within the knowledge of the House.

The question being put, "Are the said words out of order?" it was decided in the negative, yeas 37, nays 70.

5171. A Member in debate may impeach the testimony of a witness before a committee.—On April 17, 1828,⁶ during discussion of the tariff bill, Mr. Churchill C. Cambreleng, of New York, criticised certain testimony given on the subject of prices of cloths as wrong.

Mr. David Woodcock, of New York, as a parliamentary inquiry, asked whether a Member had the right to impeach the testimony of a witness who had been sent for by the committee.

The Speaker⁷ replied that he had.

¹ First session Twenty-sixth Congress, Globe, p. 157.

² Robert M. T. Hunter, of Virginia, Speaker.

³ First session Fortieth Congress, Globe, p. 776.

⁴ Schuyler Colfax, of Indiana, Speaker.

⁵ Second session Fortieth Congress, Journal, pp. 819, 820; Globe, p. 2945.

⁶ First session Twentieth Congress, Debates, pp. 2366, 2367.

⁷ Andrew Stevenson, of Virginia, Speaker.

5172. A Member may not be required to give the authority of any respectful statement which he may quote in debate.—On April 15, 1830,¹ the bill in “alteration of the several acts laying duties on imports” was under consideration in Committee of the Whole House on the state of the Union.

In the course of the debate, Mr. Rollin C. Mallery, of Vermont, read from a paper, giving certain statements as to the subject under debate.

Mr. Churchill C. Cambreleng, of New York, having inquired as to the authority of the evidence, Mr. Mallery replied that it was of the most unquestioned respectability.

Mr. William Drayton, of South Carolina, raised a question of order as to whether it was not a matter of right to demand the authority of a paper which was presented for the purpose of influencing a committee.

The Chairman² decided that a Member, while addressing the committee, might read in his place any paper containing respectful language, and could not be required to give up the authority on which it was founded. It was for the committee to judge of the value of what was disclosed.

5173. Questions of order have been raised when language used in debate has been such as to suggest the dissolution of the Government.—On January 14, 1811,³ the House was considering the bill to enable the Territory of Orleans to form a constitution and State government, when Mr. Josiah Quincy, of Massachusetts, was called to order by Mr. George Poindexter, the Delegate from Mississippi Territory, for using the following expressions which, he claimed, tended to dissolve the Government and reduce the House itself to “dust and ashes:”

If this bill passes, it is my deliberate opinion that it is virtually a dissolution of this Union; that it will free the States from their moral obligations; and that as it will then be the right of all, so it will be the duty of some, definitely to prepare for separation, amicably if they can, violently if they must.

The Speaker⁴ decided that the expressions following the words “moral obligations” were out of order.

An appeal being taken, the decision of the Chair was overruled by the House, yeas 53, nays 56.

5174. On April 9, 1864,⁵ during debate on a resolution for the expulsion of Mr. Alexander Long, of Ohio, Mr. Benjamin G. Harris, of Maryland, who had the floor in debate, was called to order by Mr. Elihu B. Washburne, of Illinois, for the use of the following words:

The South asked you to let them live in peace. But no; you said you would bring them into subjugation. That is not done yet; and God Almighty grant that it never may be. I hope that you will never subjugate the South.

The Speaker pro tempore⁶ sustained the point of order, and Mr. Harris thereupon took his seat.

¹ First session Twenty-first Congress, Debates, p. 797.

² William D. Martin, of South Carolina, Chairman.

³ Third session Eleventh Congress, Journal, p. 481 (Gales and Seaton ed.); Anna1s, pp. 525, 526.

⁴ Joseph B. Varnum, of Massachusetts, Speaker.

⁵ First session Thirty-eighth Congress, Journal, p. 506 Globe, p. 1516.

⁶ Edward H. Rollins, of New Hampshire, Speaker pro tempore.

5175. If any Member in speaking or otherwise transgress the rules of the House, it is the duty of the Speaker and the privilege of any Member to call him to order, and he may be punished by censure or otherwise.

A Member called to order shall immediately sit down, unless the House, on motion, but without debate, shall permit him to explain or proceed in order.

Present form and history of section 4 of Rule XIV.

Section 4 of Rule XIV provides:

If any Member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any Member may, call him to order; in which case he shall immediately sit down, unless permitted, on motion of another Member, to explain, and the House shall, if appealed to, decide on the case without debate. If the decision is in favor of the Member called to order he shall be at liberty to proceed, but not otherwise; and, if the case require it, he shall be liable to censure or such punishment as the House may deem proper.

This is the form of the rule reported in the revision of 1880,¹ but that form was taken almost verbatim from the original rule of April 7, 1789.²

On February 28, 1820,³ Mr. William Lowndes, of South Carolina, proposed a provision that in case the decision should be against the Member called to order, he should not proceed without leave of the House if there should be objection. Mr. Lowndes urged that it was necessary to prevent waste of the time of the House in irrelevant debate, but the argument that it would be oppressive to the Member prevailed for the time being; but in 1822⁴ the provision was engrafted in the rule. On March 4, 1868,⁵ Mr. Speaker Colfax held that the rule required an objection from the floor in order to justify the Speaker in forbidding the Member to proceed. By an amendment of the rule adopted in 1880 this was changed so as to provide that the Member should not proceed at all after an adverse decision. Also, in 1880, it was provided that the permission to explain should be given "on motion of another Member."

5176. The parliamentary law relating to naming a Member who persists in irregularity, and punishment by the House.—Chapter XVII of Jefferson's Manual provides:

If repeated calls do not produce order, the Speaker may call by his name any Member obstinately persisting in irregularity; whereupon the House may require the Member to withdraw. He is then to be heard in exculpation, and to withdraw. Then the Speaker states the offense committed; and the House considers the degree of punishment they will inflict.⁶ (2 Hats., 167, 7, 8, 172.)

5177. When a Member is called to order for words spoken in debate, the words are to be taken down at once; and he shall not be held to answer or be subject to censure if debate or business intervene.

Present form and history of section 5 of Rule XIV.

¹ Second session Forty-sixth Congress, Record, p. 206.

² First session First Congress, Journal, p. 9.

³ First session Sixteenth Congress, Journal, pp. 258, 282; Annals, pp. 1557, 1592.

⁴ First session Seventeenth Congress, Journal, p. 350.

⁵ Second session Fortieth Congress, Globe, p. 2356.

⁶ This form of procedure has rarely, if ever, occurred in the House, the rules providing a method of procedure more definite and satisfactory.

Section 5 of Rule XIV provides:

If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened.

On February 24, 1808,¹ Mr. John Smilie, of Pennsylvania, proposed a rule providing that objectionable words might be taken down at the time they should be uttered. This rule was not adopted, but on December 30, 1808,² one Member having called another to order, Mr. Speaker Varnum, asked the objecting Member to put down in writing the words to which he objected. And thereafter it seems to have been the custom, when there was a desire to press a question of order for words spoken in debate, to have the words written down, as is illustrated by an incident on February 6, 1828.³ The rule as it exists to-day evidently had its origin in a contest which occurred in the House in 1832 over a resolution proposing to censure Mr. William Stanberry, of Ohio, for a speech which charged the Speaker of the House with shaping his course so as to secure office from the President of the United States.⁴ It was objected that the words complained of had been spoken on the previous day, and had not been taken down at the time; and Mr. John Quincy Adams, of Massachusetts, refused to vote on the resolution, on the ground that it proceeded upon inferences from words spoken without giving the words themselves. For this refusal to vote it was proposed to censure Mr. Adams.

On July 13, 1832, Mr. Adams proposed this rule,⁵ which was not adopted then:

If a Member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table, and no Member shall be held to answer, or be subject to the censure of the House for words spoken in debate, if any other Member has spoken, or other business has intervened after the words spoken, and before exception to them shall have been taken.

On September 14, 1837, however, the rule was adopted,⁶ and in the revision of 1880⁷ it was given the form which it now has.

5178. The demand that disorderly words be taken down must be made at once before debate intervenes.—On August 27, 1890,⁸ during debate on the question of approving the Journal, Mr. Benjamin A. Enloe, of Tennessee, made the point of order that words used by Mr. Joseph G. Cannon, of Illinois, were not in order, and demanded that the same be taken down so far as they applied to Mr. William McAdoo, of New Jersey, and read to the House.

The Speaker⁹ overruled the point of order, on the ground that the demand came too late, debate having intervened subsequently to the words excepted to. The

¹ First session Tenth Congress, Journal, p. 191; Annals, p. 1679.

² Second session Tenth Congress, Annals, p. 964.

³ First session Twentieth Congress, Debates, p. 1420.

⁴ First session Twenty-second Congress, Annals, pp. 3888–3913.

⁵ First session Twenty-second Congress, Journal, p. 1171.

⁶ First session Twenty-fifth Congress, Globe, p. 31. Mr. Adams had evidently persisted in favor of this rule, for on January 5, 1836 (first session Twenty-fourth Congress, Report No. 83), the Committee on Rules, of which Mr. Adams was a member, had reported it, but it was not then adopted.

⁷ Second session Forty-sixth Congress, Record, p. 206.

⁸ First session Fifty-first Congress, Journal, p. 994; Record, p. 9234.

⁹ Thomas B. Reed, of Maine, Speaker.

Speaker further held that under Rule XIV, clauses 4 and 5,¹ the Member who it was alleged had transgressed the rule of the House must be called to order and the words excepted to indicated, which had not been done in the present instance.

Mr. Enloe appealed from the decision of the Chair; and the question being put, Shall the decision of the Chair stand as the judgment of the House? it was decided in the affirmative, yeas 103, nays 78.

5179. When a Member who has been called to order in debate denies that the words taken down are the exact words used by himself, the question as to the words is put to the House for decision.—On January 22, 1836² the following resolution was under consideration:

Resolved, That so much of the message of the President of the United States to Congress at the commencement of the present session as relates to the failure at the last session of Congress of the bill containing the ordinary appropriations for fortifications be referred to a select committee, with instructions to inquire into, and report to the House, the causes and circumstances of the failure of that bill.

Mr. John Quincy Adams, of Massachusetts, while debating the resolution, was called to order by Mr. Charles F. Mercer, of Virginia, who, by direction of the Speaker, reduced to writing the words to which he excepted:

The Member from Massachusetts remarked, in terms, that in the debate in the paper, meaning the National Intelligence, and the debate to be a late debate in the Senate, that a charge had been made that the appropriation of three millions, meaning the amendment moved in a bill of this House of the last session, called the fortifications bill, was unconstitutional, thus referring to a late debate in the Senate of the United States.

Mr. Adams denied that he used the precise words excepted to and reduced to writing by Mr. Mercer, as herein set forth.

The question was then put to the House: "Are the words reduced to writing by Mr. Mercer the words spoken by Mr. Adams?"

And it was decided in the negative.

Thereupon Mr. Adams proceeded with his remarks.

5180. On February 15, 1836,³ the House was considering the reception of a petition of citizens of Schoharie, N. Y., praying for the abolition of slavery in the District of Columbia. Mr. Henry A. Wise, of Virginia, having the floor in debate, was called to order for using certain expressions personal to Mr. Henry L. Pinckney, of South Carolina. The Speaker decided the words to be out of order, and at the request of a Member ordered them to be reduced to writing by the Clerk. The words were then read, as follows:

He hissed him and spurned him as a deserter from the principles of the South.

Mr. Wise disclaimed using the precise words as put down.

In response to an inquiry by Mr. Francis Granger, of New York, the Speaker said that the House must pass upon the words, and proceeded to put the question: "Are the words as put down the words used by the Member from Virginia?"

Before the question was put, Mr. Wise was permitted to explain, and admitted that he had used these words:

Hissed him as a deserter from the principles of the South, upon this question of slavery.

¹ See sections 5175 and 5177 of this chapter.

² First session Twenty-fourth Congress, Journal, p. 231; Debates, pp. 2268, 2269.

³ First session Twenty-fourth Congress, Journal, pp. 355, 356; Debates, pp. 2533–2536.

⁴ James K. Polk, of Tennessee, Speaker.

The Speaker then decided that the words admitted to have been used were out of order, and that under the rule of the House Mr. Wise could "not be permitted to proceed without the leave of the House."

From this decision Mr. Wise appealed to the House, but subsequently withdrew the appeal.

Then, on motion of Mr. John Bell, of Tennessee, and by a vote of yeas 108, nays 92, Mr. Wise was permitted to proceed.

5181. A Member called to order in debate must take his seat, although he may be permitted by the House to proceed in order or explain, even after his words have been taken down.—On January 23, 1891,¹ Mr. George W. Cooper, of Indiana, claiming the floor for a question of privilege, offered a resolution relating to the investigation then going on of the conduct in of the Commissioner of Pensions.

Mr. William McKinley, jr., of Ohio, made the point of order that the resolution was not privileged.

Mr. Cooper, who proceeded to debate the point of order, was several times admonished by the Speaker to confine himself to the point of order, and finally was directed by the Speaker to take his seat.

Thereupon Mr. Richard P. Bland, of Missouri, moved that the gentleman from Indiana be allowed to proceed in order.

Mr. W. C. P. Breckinridge, of Kentucky, called attention to the fact that the debate was on a point of order, and that the Speaker had the right to say, to the Member that he did not desire to hear further argument.

The Speaker² said:

The Chair desires to state the case to the House, because the gentleman from Kentucky [Mr. Breckinridge] has made some observations which it is desirable that the House should pay attention to. The Speaker endeavored in every way possible to induce the gentleman from Indiana [Mr. Cooper] to address the Chair upon the point of order in order. He did not exercise the power, which is inherent in the Chair, of saying that he did not desire to hear anything more, because he was perfectly willing to hear anything that was in order, but the gentleman from Indiana continued to proceed, as the Chair thinks, out of order. The Chair then called him to order, and the gentleman from Missouri [Mr. Bland] now makes the motion that the gentleman from Indiana be heard further in order, and that is the motion that is to be put to the House without debate.

5182. On April 13, 1898,³ during the consideration of the resolution authorizing intervention in Cuba, Mr. David B. Henderson, of Iowa, had the floor, when he was interrupted by Mr. Henry U. Johnson, of Indiana.

Mr. Henderson having declined to yield, and Mr. Johnson having persisted, the Speaker² said:

The gentleman from Indiana must take his seat. The gentleman from Iowa declines to yield.

[Mr. Johnson continued speaking.]

The Sergeant-at-Arms will proceed unless the gentleman resumes his seat; and the House will please be in order.

The Sergeant-at-Arms appeared with the mace, and Mr. Johnson resumed his seat.

¹ Second session Fifty-first Congress, Record, p. 1788; Journal, p. 174.

² Thomas B. Reed, of Maine, Speaker.

³ Second session Fifty-fifth Congress, Record, p. 3814.

5183. On February 5, 1894,¹ the House, pursuant to the special order, proceeded to the consideration of, the resolutions (Mis. Doe., 75) relating to Hawaiian affairs.

Pending the debate, on the demand of Mr. Joseph H. Outhwaite, of Ohio, the following words, spoken by Mr. Elijah A. Morse, of Massachusetts, were taken down:

On the other side are not only white men and women, but nearly or quite all of the virtuous and intelligent white people of the islands. And yet, strange to tell, that at the command of their master, the great Grover Cleveland, the cuckoos in the House and in the Senate, stanch Southern Democrats—

Mr. Outhwaite made the point that the language was against order.

The Speaker² held that the language was not parliamentary.

On motion of Mr. Julius C. Burrows, of Michigan, Mr. Morse was permitted to explain.³

5184. On March 3, 1892,⁴ the House resumed consideration of the bill (H. R. 372) to amend section 22 of an act entitled "An act to regulate commerce," approved February 4, 1887, and amended March 2, 1889, so as to give common carriers a right to allow a greater weight of sample baggage to commercial travelers and their employees and reduced rates of transportation.

In the course of debate on the bill and amendments Mr. Jerry Simpson, of Kansas, referred to a Member of the Senate as an iniquitous railroad attorney.

Mr. John Lind, of Minnesota, made the point of order that the language used by Mr. Simpson was a violation of the rules of the House and out of order.

The Speaker² sustained the point of order.

5185. Words spoken being held out of order, and the House having permitted the Member to explain, it is then in order to move that he be permitted to proceed.—On February 26, 1894,⁵ Mr. Lafe Pence, of Colorado, was recognized, and stated that he proposed to present a question of personal privilege. Proceeding with his statement, on the suggestion of Mr. Eugene I. Hainer, of Nebraska, the following language of Mr. Pence was taken down by the Clerk:

I do not think the gentleman from Oregon has made any statement, taken any action, or cast any vote on his own hook from the beginning of the session last August.

Mr. Hainer made the point that this language was out of order.

The Speaker² held that the language was not in order.

5186. On July 28, 1892,⁶ Mr. Joseph Wheeler, of Alabama, as a matter of privilege, sent to the Clerk's desk a pamphlet purporting to have been prepared by Mr. Thomas E. Watson, a Representative in Congress from Georgia, which contained the following language, referring to the House of Representatives of the present Congress; which was read at the desk:

Lack of common business prudence never more glaring. Drunken Members have reeled about the aisles—a disgrace to the Republic. Drunken speakers have debated grave issues on the floor, and in the midst of maudlin ramblings have been heard to ask, "Mr. Speaker, where was I at?"

¹ Second session Fifty-third Congress, Journal, p. 137; Record, pp. 1879, 1880.

² Charles F. Crisp, of Georgia, Speaker.

³ See also Journal, first session Fifty-fourth Congress, p. 190, for instance where a Member was permitted to explain after his words were taken down.

⁴ First session Fifty-second Congress, Journal, p. 87; Record, p. 1703.

⁵ Second session Fifty-third Congress, Journal, p. 204; Record, p. 2450.

⁶ First session Fifty-second Congress, Journal, p. 343.

Mr. Wheeler denounced the charges as false, unfounded, and libelous.

Mr. Watson took the floor in reply to the remarks of Mr. Wheeler, and in the course of his remarks stated that every word in that book (meaning the book from which the extract just mentioned had been read) was literally true.

Mr. Charles Tracey, of New York, made the point of order that the language of Mr. Watson, in connection with the extract which had been read, was disorderly and a violation of the rules of the House.

The Speaker¹ held that the language of Mr. Watson was out of order, and directed that Mr. Watson take his seat.

On motion of Mr. Jerry Simpson, of Kansas, Mr. Watson was allowed to explain.

Upon the conclusion of Mr. Watson's explanation, the question was put, "Shall Mr. Watson be allowed to proceed with his remarks?" and it was decided in the negative.

5187. The words of a Member having been taken down, and the Speaker having decided that they were not in order, it was held that a motion that the Member be permitted to explain had precedence of a motion that he be permitted to proceed in order.—On February 2, 1894,² the House was considering a report from the Committee on Rules, and Mr. T. C. Catchings, of Mississippi, had the floor, when, upon the demand of Mr. Charles A. Boutelle, of Maine, the following words spoken by Mr. Catchings were taken down by the Clerk:

Now, Mr. Speaker, we did not submit it to the gentleman from Maine [Mr. Boutelle], because we knew in advance that nothing would receive his approval that did not give him free range to perform his fantastic and Bedlamite gyrations on this floor.

Mr. Boutelle made the point that said language was not in order.

Mr. Benton McMillin, of Tennessee, moved that Mr. Catchings be permitted to proceed in order.

Pending the vote on agreeing to this motion, Mr. W. C. P. Breckinridge, of Kentucky, made the point that, until it was decided that the language taken down was a transgression of the rules, the motion that he be permitted to proceed was unnecessary and premature.

The Speaker¹ stated that he recognized the force of the suggestion of Mr. Breckinridge, but inasmuch as the motion of Mr. McMillin had been submitted without objection, and the House was dividing thereon, the vote would proceed on said motion.

The motion of Mr. McMillin was then agreed to.

Mr. Catchings continued his remarks; when, on the demand of Mr. Boutelle, the following words spoken by Mr. Catchings were taken down.

Mr. Boutelle submitted that the language taken down was against order.

In common with many other gentlemen on the floor, I have regarded him as afflicted with a species of harmless mania for making on all occasions an exhibition of himself.

The Speaker held that the language complained of was hardly parliamentary.

Mr. Joseph H. Outhwaite, of Ohio, moved that Mr. Catchings be permitted to proceed in order.

¹ Charles F. Crisp, of Georgia, Speaker.

² Second session Fifty-third Congress, Journal, p. 132; Record, p. 1811.

Pending this, Mr. Sereno E. Payne, of New York, made the point that the question should first be taken on permitting Mr. Catchings to explain his remarks.

The Speaker held that the proper motion should be, that the gentleman be permitted to explain.

On motion of Mr. Outhwaite, it was "Ordered, That Mr. Catchings be permitted to explain his remarks."

Mr. Catchings explained, after which explanation the former motion of Mr. Outhwaite was agreed to and Mr. Catchings was permitted to proceed.

5188. When a Member is called to order for violation of the rules of debate, it is the practice to test the opinion of the House by a motion "that the gentleman be allowed to proceed in order."

Complaint of the conduct of the Speaker should be presented directly for the action of the House and not by way of debate on other matters.

The Speaker remained in the chair and ruled as to the relevance of language criticising his conduct as Speaker.

On May 13, 1897,¹ the question before the House was the approval of the Journal, and Mr. Jerry Simpson, of Kansas, having the floor, was proceeding to comment upon the fact that the Speaker had not appointed the committees, and to discuss the general observance of the rules of the House.

Mr. Nelson Dingley, of Maine, having raised the point of order that the debate was not proceeding in order, the Speaker² sustained it, saying that the question before the House was the approval of the Journal, not obedience to the rules; and under the rule directed the gentleman from Kansas to take his seat.

Mr. James D. Richardson, of Tennessee, moved that the gentleman from Kansas be allowed to proceed in order, and the House agreed to the motion.

Mr. Simpson was proceeding, when again, on a point of order made by Mr. Dingley, he was called to order; and again the House voted that he be allowed to proceed in order.

Again Mr. Simpson was proceeding, discussing the alleged arbitrary way in which Members were deprived of their rights in the House and reflecting upon the Speaker, when Mr. Dingley again called him to order.

The Speaker, in ruling, said:

The Chair desires to say to the House in regard to this matter that when an appeal is made to him on a question of order, it becomes his duty to make a ruling upon the question as he understands it. So far as the Chair is concerned, he has only requested the gentleman from Kansas to confine himself to the subject that is under discussion. The Chair submits to the House that allusions or criticisms of what the Chair did at some past time is certainly not in order. Not because the Chair is above criticism or above attack, but for two reasons: First, because the Speaker is the Speaker of the House, and such attacks are not conducive to the good order of the House; and, second, because the Speaker can not reply to them except in a very fragmentary fashion, and it is not desirable that he should reply to them. For these reasons such attacks ought not to be made.

If there be any complaint of the conduct of the Speaker it ought to be presented directly for the action of the House, but this continual making of attacks with no proper opportunity for reply every Member must see, whatever may be his relation to the pending question, is not suitable and ought not to be indulged in. If there be any objections to the acts of the Speaker they are not above criticism

¹First session Fifty-fifth Congress, Record, pp. 1067, 1068.

²Thomas B. Reed, of Maine, Speaker.

by direct presentation for the action of the House. It seems to the Chair that this view must commend itself to every gentleman present who has a regard for the honor and dignity of the House.

The Chair felt it his duty to hold that the words of the gentleman from Kansas, as the Chair understood them, were an attack of this kind, and that such an attack was not suitable to be made, and upon that he asks the favorable judgment of the House.¹

Mr. William L. Terry, of Arkansas, moved that the gentleman from Kansas be allowed to proceed in order. This motion was negatived by the House, 96 nays to 83 yeas, 14 answering present. So the gentleman from Kansas was not allowed to proceed in order.

5189. On February 10, 1898,² the House was considering the bill (H. R. 2196) directing the issue of a duplicate lost check, and Mr. Levin I. Handy, of Delaware, who had the floor, was proceeding to discuss a subject relating to the State of Delaware.

Mr. George D. Perkins, of Iowa, thereupon made the point of order that the gentleman was not confining himself to the subject under debate.

The Speaker³ said:

The Chair desires to call the gentleman's attention to the fact that under the rules of the House a speech foreign to the bill ought not to be made.

Again Mr. Handy was called to order by Mr. Dalzell for not confining himself to the subject under debate.

Mr. Joseph W. Bailey, of Texas, moved that Mr. Handy be permitted to proceed. The Chair declined to entertain that motion, the proper motion, he stated, being to permit the Member to proceed "in order."

Mr. Bailey having modified his motion, it was agreed to; and the Speaker announced that the gentleman from Delaware would proceed in order.⁴

5190. Although debate on a question of order is within control of the Speaker, yet he puts to the House the question whether a Member called to order during such debate shall "be allowed to proceed in order."—On January 23, 1891,⁵ Mr. George W. Cooper, of Indiana, was presenting a question of privilege relating to the report of the committee appointed to investigate the charges against the Commissioner of Pensions.

The Speaker called Mr. Cooper to order for transgressing the rules of the House as to debate, and directed him to take his seat, under clause 4 of Rule XV.

Mr. Richard P. Bland, of Missouri, under that clause, moved that Mr. Cooper be allowed to proceed in order.

Mr. W. C. P. Breckinridge, of Kentucky, made the point of order that the motion of Mr. Bland was not in order, for the reason that the debate, being on a question of order, was addressed to the Chair, which it was in his power to stop at any moment.

¹On March 1, 1837, Mr. Bailie Peyton, of Tennessee, addressed very scathing remarks to the Speaker, accusing him of having not only humbled himself to the Executive, but to the vilest instruments of the Executive, and of having made up an investigating committee so that it should not investigate. (Second session Twenty-fourth Congress, Debates, p. 2084.)

²Second session Fifty-fifth Congress, Record, pp. 1632–1635.

³Thomas B. Reed, of Maine, Speaker.

⁴For a similar instance see Record, second session Fifty-fifth Congress, p. 6767.

⁵Second session Fifty-first Congress, Journal, p. 174; Record, pp. 1778, 1788.

The Speaker¹ thereupon made the following statement:

The Chair desires to state the case to the House, because the gentleman from Kentucky [Mr. Breckinridge] has made some observations which it is desirable that the House should pay attention to. The Speaker endeavored in every way possible to induce the gentleman from Indiana [Mr. Cooper] to address the Chair upon the point of order in order. He did not exercise the power, which is inherent in the Chair, of saying that he did not desire to hear anything more, because he was perfectly willing to hear anything that was in order, but the gentleman from Indiana continued to proceed, as the Chair thinks, out of order. The Chair then called him to order, and the gentleman from Missouri [Mr. Bland] now makes the motion that the gentleman from Indiana be heard further, in order, and that is the motion that is to be put to the House without debate.

The Speaker then put the question, "Shall Mr. Cooper be allowed to proceed in order?" And it was decided in the negative, yeas 117, nays 142. So the House refused to allow Mr. Cooper to proceed in order.

5191. The House often votes that a Member who has been decided out of order in debate shall be allowed to proceed in order.—On June 16, 1841² during consideration of a resolution relating to the adoption of rules, and while the propriety of putting the previous question was being debated, Mr. Samuel Gordon, of New York, was called to order by Mr. Thomas D. Arnold, of Tennessee, for irrelevancy, and the call being sustained he took his seat.

Mr. John Campbell, of South Carolina, moved that Mr. Gordon have leave to proceed with his remarks, which was refused by the House.

Whereupon Mr. William M. Oliver, of New York, moved that Mr. Gordon have leave to proceed "in order." This was agreed to by the House.

5192. On December 21, 1843,³ Mr. John Quincy Adams, of Massachusetts, had the floor on an appeal relating to the reception of a petition remonstrating against the admission of Texas into the Union while she tolerated slavery. In the course of his remarks he said:

Why, according to the construction of some human skulls, nothing that bears directly on the subject before the House is relevant, and it sometimes happens that the skulls of that kind have sympathy with the skull of the Speaker.

The Speaker⁴ said that the Chair could not and would not permit reflections of that kind to be made on the House or on the Chair. He therefore called Mr. Adams to order for offensive remarks and directed him to take his seat.

Objection was made to allowing Mr. Adams to proceed in order, but Mr. John White, of Kentucky, contended that it had been the custom to permit a motion that the gentleman called to order be allowed to proceed in order, since not to allow such a motion might work injustice.

So Mr. White was permitted to move that Mr. Adams be permitted to proceed in order, and the House agreed to the motion.

5193. On April 29, 1864,⁵ the House was considering a resolution calling on the President of the United States for certain documents relating to the holding of a commission in the Army by Francis P. Blair, jr. During the debate Mr. James

¹ Thomas B. Reed, of Maine, Speaker.

² First session Twenty-seventh Congress, Journal, p. 140; Globe, p. 62.

³ First session Twenty-eighth Congress, Journal, p. 90; Globe, pp. 60, 61.

⁴ John W. Jones, of Virginia, Speaker.

⁵ First session Thirty-eighth Congress, Journal, p. 595; Globe, p. 1969.

Brooks, of New York, was proceeding to speak of alleged corruption in the Treasury Department.

Mr. John M. Broomall, of Pennsylvania, after raising a question as to the relevancy of the debate several times, insisted on the enforcement of the rule, and the Speaker¹ decided that Mr. Brooks was not in order, and required him to take his seat.

Mr. Brooks having submitted to the decision of the Chair, Mr. William H. Miller, of Pennsylvania, moved that he be permitted to proceed in order.

The question being taken, the motion was agreed to, yeas 83, nays 36.

5194. A Member having been allowed by general consent to proceed in debate after he had been called to order, it was held that a vote of the House on the question might not be demanded.—On March 3, 1849,² Mr. Meredith P. Gentry, of Tennessee, in the course of debate, was called to order by the Speaker for personalities. But no objection having been made, he proceeded with his remarks in order.

Subsequently, Mr. Thomas J. Henley, of Indiana, rose and insisted that the gentleman from Tennessee, having been pronounced out of order by the Chair, should be required to take his seat and should not be permitted to proceed without a vote of the House.

The Speaker³ decided that the objection came too late, the gentleman from Tennessee having already been permitted to proceed in order by the general consent of the House.

Mr. Henley having appealed, the decision of the Chair was sustained, yeas 130, nays 6.

5195. A Member who has been called to order in debate and granted leave to proceed, must still confine himself within the rules governing debate.

To a proposition to censure a Member for presenting a petition on the subject of slavery, debate on the opinions of statesmen of former times on the general subject of slavery was held to be irrelevant.

On February 9, 1837,⁴ during the discussion of a resolution to censure Mr. John Quincy Adams, of Massachusetts, for having proposed to present to the House a petition from certain slaves, Mr. George Evans, of Maine, having the floor in debate, was proceeding to give the opinions of some of the former statesmen of Virginia on the subject of slavery.

Mr. Albert G. Harrison, of Missouri, rising to a question of order, presented his point in writing, as follows:

The gentleman from Maine [Mr. Evans] is called to order because he is speaking the opinions of others on the subject of slavery, when that is not the question before the House.

The Speaker⁵ decided that Mr. Evans was not in order.

¹ Schuyler Colfax, of Indiana, Speaker.

² Second session Thirtieth Congress, Journal, p. 669.

³ Robert C. Winthrop, of Massachusetts, Speaker.

⁴ Second session Twenty-fourth Congress, Journal, p. 360; Debates, pp. 1668–1670.

⁵ James K. Polk, of Tennessee, Speaker.

Thereupon Mr. Evans took his seat, and a motion was made by Mr. Franklin H. Elmore, of South Carolina, that Mr. Evans have leave to proceed.

Mr. Harrison inquired whether, if Mr. Evans should be granted leave to proceed, he must not still confine himself within the rules of the House.

The Speaker said that the gentleman from Maine would still be limited by the rules of debate.

The Speaker, in putting the question, said:

The gentleman from Maine is called to order because he is speaking of the opinions of others on the subject of slavery, when that question is not before the House. The Chair decides that it is not in order to discuss the question of slavery or to cite the opinions of others on that subject on the question before the House. The gentleman from Maine resumed his seat and acquiesced in the decision of the Chair, taking no appeal. The rule required, therefore, that before the gentleman could proceed the sense of the House must be taken.

The question being taken, the House voted that Mr. Evans might proceed.

5196. A Member who has been called to order in debate and decided out of order, loses the floor and another may be recognized.—On February 20, 1801,¹ a motion was made and seconded that the House do come to the following resolution:

Resolved, That the power of the Speaker or Chairman of the Committee of the Whole shall not be construed to extend (unless by consent of the House previously obtained, or in case of disorderly behavior) to the expulsion of any person, either from the lobby, when introduced by any Member of the House, or from the gallery, when the same is generally opened.

The previous question being demanded and under consideration,² Mr. Henry W. Livingston, of New York, was called to order by the Speaker³ for proceeding, in the opinion of the Chair, to debate the merits of the main question, upon which the said Member from New York did not immediately sit down, pursuant to a rule of the House, and was again called to order by the Speaker.

An appeal being made to the House the decision of the Speaker was sustained, yeas 60, nays 42.

The previous question being put was decided in the negative, yeas 50, nays 53.

5197. On February 6, 1828,⁴ during debate on resolutions relating to retrenchment of the expenditures of the Government, Mr. Lewis Williams, of North Carolina, rising to a parliamentary inquiry, asked if Mr. Thomas Whipple, jr., of New Hampshire, who had been called to order by the Speaker, and had taken his seat when required to do so by the Chair, might not proceed.

The Speaker⁵ said that the gentleman from New Hampshire had forfeited his right to the floor. The Speaker felt no wish to restrain, improperly, any Member from addressing the House. For the last nine or ten hours he had been, although indisposed, in his chair, anxiously endeavoring to preserve the order and dignity of

¹Second session Sixth Congress, Journal, pp. 194–199 (old ed.), 811–813 (Gales & Seaton, ed.); Annals, p. 1041.

²At that time the demand for the previous question was debatable. See section 5443 of this volume.

³Theodore Sedgwick, of Massachusetts, Speaker.

⁴First session Twentieth Congress, Debates, p. 1455.

⁵Andrew Stevenson, of Virginia, Speaker.

the House, and restrain anything like disorder; but he found it impossible without interposing the power of the Chair. He had, therefore, deemed it his duty, after repeated calls and violations of order, to direct the Member from New Hampshire to take his seat, and should not permit him to proceed without the assent of the House.

No motion being made, Mr. Whipple did not get the floor.

5198. On January 2, 1844,¹ the House was considering a motion made by Mr. Lucius Q. C. Elmer, of New Jersey, that the Committee on Elections be authorized to employ a clerk.

During debate Mr. Charles H. Carroll, of New York, was called to order for irrelevancy, and the Speaker decided that the remarks of Mr. Carroll were irrelevant to the question under consideration.

Thereupon Mr. Elmer withdrew his motion, and Mr. William J. Brown, of Indiana, moved that the House adjourn.

Mr. Robert C. Schenck, of Ohio, made the following question of order:

That the call of Mr. Carroll to order, and the decision of the Speaker that he was out of order, did not deprive him of the floor, no person having objected to his proceeding in order. Therefore Mr. Elmer could not rightfully obtain the floor to withdraw the motion upon which Mr. Carroll was addressing the House; neither was Mr. Brown entitled to the floor to move an adjournment; and that the question still was, of right, on the motion of Mr. Elmer, upon which Mr. Carroll was entitled to the floor.

The Speaker² decided that Mr. Carroll having been decided out of order by the Speaker was presumed, under the thirty-fifth rule³ * * * of the House, to have taken his seat; and the floor was thus open to Mr. Elmer, who, under the Forty-fifth rule⁴ * * * , had the right at any time before a decision or amendment to withdraw the motion made by him. He therefore overruled the question of order made by Mr. Schenck.

Mr. Schenck having appealed, the House, on the succeeding day, sustained the decision of the Chair.

5199. On February 1, 1805,⁵ during debate Mr. Matthew Lyon, of Kentucky, was called to order by Mr. Joseph H. Nicholson, of Maryland, for a breach of decorum in debate, contrary to the rules of the House, by alleging that "he had been belied by another Member of the House."

Thereupon Mr. Lyon sat down, and the Speaker decided that he was out of order; after which Mr. Lyon again arose to proceed in the debate, and addressed the Chair.

This being excepted to as not in order, the Speaker⁶ decided that Mr. Lyon was in order.

On appeal, this decision was sustained, yeas 81, nays 34.

¹ First session Twenty-eighth Congress, Journal, p. 143.

² John W. Jones, of Virginia, Speaker.

³ See section 5175 of this volume.

⁴ See section 5300 of this volume.

⁵ Second session Eighth Congress, Journal, p. 277, (old ed.), 114 (Gales and Seaton ed.); I Annals, p. 1115.

⁶ Nathaniel Macon, of Georgia, Speaker.

5200. A Member whose remarks have been decided out of order as irrelevant may not proceed, under the rule, except with the permission of the House expressly granted.

On a proposition relating to the abolition of slavery in a particular locality or country, debate at large on the subject of slavery was held not to be relevant.

On December 20, 1837,¹ Mr. William Slade, of Vermont, presented sundry petitions from persons in Vermont praying the abolition of slavery and the slave trade in the District of Columbia.

Mr. Slade moved that the memorials be referred to a select committee with instructions to report a bill providing for the abolition of slavery and the slave trade in the District of Columbia.

While Mr. Slade was debating this motion he was proceeding to refer to the subject of slavery in the State of Virginia, when Mr. Robert Barnwell Rhett, of South Carolina, rising to a point of order, asked whether the discussion of the question of slavery in the States was in order in debating the motion before the House.

The Speaker² decided that Mr. Slade was not in order in so extending the limits of the discussion.

Mr. Slade was proceeding with his remarks, when Mr. James J. McKay, of North Carolina, objected that under the rule he could not proceed.

Mr. Slade thereupon took his seat by direction of the Speaker, and the question whether or not he should be allowed to proceed was put to the House.

5201. On June 10, 1841,³ the House was considering a motion to reconsider the vote whereby the House had agreed to an amendment excepting the twenty-first rule from a resolution adopting the rules of the last House temporarily. This twenty-first rule was that forbidding the reception by the House of any petition praying the abolition of slavery or the slave trade in the United States.

Mr. Charles J. Ingersoll, of Pennsylvania, having the floor, in debate was proceeding to discuss the relations of the British Government to the slave trade, when he was called to order by the Speaker⁴ for the reason that his remarks were irrelevant to the question before the House and in violation of the rule which declares that a Member "shall confine himself to the question under debate."

Mr. Ingersoll then took his seat; but the House, on motion of Mr. Nathan Clifford, of Maine, voted that he have leave to proceed.

5202. It is not in order as a question of privilege in the House to propose censure of a Member for disorderly words spoken in Committee of the Whole, but not taken down or reported therefrom.—On April 24, 1862,⁵ Mr. John Hutchins, of Ohio, proposed to submit, as a question of privilege, the following preamble and resolution:

Whereas the Hon. C. L. Vallandigham, a Member of this House from the State of Ohio, in Committee of the Whole, made use of the following language concerning the Hon. B. F. Wade, a Senator in

¹ Second session Twenty-fifth Congress, Journal, p. 125; Globe, p. 41.

² James K. Polk, of Tennessee, Speaker.

³ First session Twenty-seventh Congress, Journal, p. 76; Globe, pp. 37, 38.

⁴ John White, of Kentucky, Speaker.

⁵ Second session Thirty-seventh Congress, Journal, p. 610.

Congress: "Mr. Chairman: I have waited patiently for three days for this the earliest occasion presented for a personal explanation. In a speech delivered in this city the other day, not in this House, certainly not in the Senate—no such speech could have been tolerated in an American Senate—I find the following: * * * Now, sir, here in my place in the House and as a Representative, I denounce, and I speak it advisedly, the author of that speech as a liar, a scoundrel, and a coward, and his name is Benjamin F. Wade;" and whereas said remarks are a violation of the rules of this House, and a breach of decorum, and demand the censure of this House: Therefore,

Resolved, That said C. L. Vallandigham, for said violation of the rules of the House and its decorum, is deserving of censure, and is hereby censured.

The same having been read, Mr. Vallandigham made the point of order that, under the express language of the sixty-second rule of the House, he could not be held to answer, or be subject to the censure of the House for the words spoken, another Member having spoken and other business having intervened before exception to them was taken; and that consequently the preamble and resolution could not be entertained by the House.

On April 25, the Speaker¹ sustained the point of order, and decided that the preamble and resolution proposed to be submitted as a question of privilege by Mr. Hutchins were out of order.

In this decision of the Chair the House acquiesced.

The record of debate² shows that the Speaker, in deciding the question, quoted both the rule and also the paragraph of Jefferson's Manual:

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

The Speaker decided that as the gentleman from Ohio (Mr. Hutchins) in his resolution had not complied with either the rule of the House or the provision of parliamentary law, that therefore the point of order was well taken.³

¹ Galusha A. Grow, of Pennsylvania, Speaker.

² Second session Thirty-seventh Congress, Globe, pp. 1829, 1833.

³ Section XVII of Jefferson's Manual provides "Disorderly words spoken in a committee must be written down as in the House; but the committee can only report them to the House for animadversion." (6 Grey, 46.)