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Chapter CCXLIII.[1]

REFERENCES IN DEBATE TO COMMITTEES, THE PRESIDENT, THE STATES, OR THE OTHER HOUSE.

1. **Proceedings of committee not to be discussed unless reported. Sections 2485–2496.**
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2485. It is not in order in debate to refer to the proceedings of a committee unless the committee have formally reported their proceedings to the House.

On March 18, 1909,[2] the House had under consideration a concurrent resolution authorizing the printing of extra copies of the tariff bill.

Mr. Champ Clark, of Missouri, proceeded in debate to relate the circumstances occurring in the Committee on Ways and Means under which the tariff bill was ordered to be reported.

Mr. James R. Mann, of Illinois, made the point of order that it was not in order to state what took place in the committee unless it had been formally reported to the House.

The Speaker[3] sustained the point of order.

2486. On February 18, 1911,[4] the bill S. 7971, the omnibus claims bill, was under consideration in the House.

In the course of the debate, Mr. George W. Prince, of Illinois, in response to an inquiry by Mr. Claude Kitchin, of North Carolina, was discussing the number of members of the Committee on Claims in attendance at the time the bill was reported out.

Mr. David E. Finley, of South Carolina, raised the point of order that it was not in order to refer in the House to matters transpiring in the committee and not reported to the House.

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[1] Supplementary to Chapter CXIII.

[2] First session Sixty-first Congress, Record, p. 78.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Third session Sixty-first Congress, Record, p. 2858.

The Chairman [1] said:

The gentleman from South Carolina makes the point of order that it is not proper in the House or in the Committee of the Whole to refer to proceedings which took place in a standing committee. The Chair sustains the point of order.

2487. On February 16, 1914,[2] during consideration of a motion to suspend the rules and pass the Indian appropriation bill, Mr. Sam R. Sells, of Tennessee, having the floor, recounted in detail certain proceedings which had taken place in the Committee on Indian Affairs during consideration of the bill in that committee.

Mr. John A. Key, of Ohio, submitted that matters taking place in the committee room and not reported might not be discussed in the House.

The Speaker pro tempore [3] said:

The rule is explicit. The gentleman can not discuss what happened in the committee. The gentleman is discussing what happened in the committee, and the Chair sustains the point of order and admonishes the gentleman he must proceed in order. The rule of the House is that what transpires in committee can not be discussed in the House.

2488. On May 31, 1917,[4] the House was considering the conference report on the bill (H. R. 291) to punish espionage.

Mr. Charles C. Carlin, of Virginia, having the floor in debate, proposed to inquire how members of the Committee on the Judiciary voted while the bill was under consideration in that committee.

Mr. James R. Mann, of Illinois, raised a question of order as to the propriety of such an inquiry in the absence of any reference to the subject in the report of the committee to the House.

The Speaker [5] held that the inquiry was out of order.

2489. On July 19, 1919,[6] the House considering the bill H. R. 6810, the prohibition enforcement bill.

During the debate Mr. W. M. Morgan, of Ohio, proceeded to discuss the vote by which certain amendments to the bill had been agreed to in the Committee of the Judiciary.

Mr. Joseph Walsh, of Massachusetts, made the point of order that such matters could be discussed only when the committee had reported them to the House.

The Chairman [7] sustained the point order.

2490. On June 6, 1921,[8] while the House had under consideration the bill (S. 86), amending the Federal reserve act, Mr. T. Frank Appleby, of New Jersey, and Mr. Edward J. King, of Illinois, engaged in a colloquy relating to the length of time the bill had been under consideration in the Committee on Banking and Currency before being reported.

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[1] Frank D. Currier, of New Hampshire, Chairman.

[2] Second session Sixty-third Congress, Record, p. 3543.

[3] John J. Fitzgerald, of New York, Speaker pro tempore.

[4] First session Sixty-fifth Congress, Record, p. 3141.

[5] Champ Clark, of Missouri, Speaker.

[6] First session Sixty-sixth Congress, Record, p. 2897.

[7] Cassius C. Dowell, of Iowa, Chairman.

[8] First session Sixty-seventh Congress, Record, p. 2169.

Mr. William H. Stafford, of Wisconsin, raised a question of order on the right of Members to discuss transactions in the committee not reported to the House.

The Speaker pro tempore [1] sustained the point of order.

2491. On April 18, 1924,[2] Mr. Samuel E. Winslow, of Massachusetts, was addressing the House under a special order granting him 30 minutes for that purpose.

In the course of his remarks Mr. Winslow read verbatim from the minutes of the Committee on Interstate and Foreign Commerce.

Mr. John E. Raker, of California, made the point of order that these minutes of the committee had not been reported to the House and could not be read or discussed in debate in the House.

The Speaker [3] ruled:

The Chair has always supposed that the main purpose of the rule forbidding the disclosure of what transpired in committees was to protect the membership of the committee so that discussions in the committee, where members were forming their opinions upon legislation, might be absolutely free and unembarrassed. Whereas, in this House men are making records, in a committee men ought to act with a consciousness that their attitude would not be published, so that they could consult and discuss with perfect freedom and the committee would have the first as well as the final judgment of all the members of the committee without fear of seeming inconsistent. The Chair has always supposed that was the real purpose, and it is extremely important that the members of the committee should in its proceedings be mutually confidential. But the Chair in inspecting the decisions finds that they go much further than that, and they hold not that simply what was said in the committee was confidential but that the records of the committee could not be quoted without the previous authorization of the committee. Now, it has been argued, and very plausibly, that the new rule makes it important for the House to know what transpired in the committee in order that the House could judge better whether or not action should be taken under the rule, and the Chair recognizes that certainly in equity that is very impressive; in fact, the Chair can not conceive of a case where the equities would seem to be more strongly in favor of citing the proceedings in committee than in this, where a member of the committee has made charges on the floor against the neglect of the committee and followed up those charges here by filing a petition under the new rule, and then when the chairman of the committee proposes to answer those charges to have the point of order raised that he can not state what the proceedings of the committee have been.

If it was a new question the Chair would be strongly inclined to hold that it is in order. But the decisions are very conclusive, from 1884, to the effect that the records of the committee are not available for comment in the House, and therefore the Chair under the precedents feels constrained to sustain the point of order.

2492. On April 25, 1930,[4] the river and harbor bill was being considered in the Committee of the Whole House on the state of the Union.

During the debate, Mr. S. Wallace Dempsey, of New York, referred in detail to proceedings in the Committee on Military Affairs had at a night session on April 11.

Mr. Fiorello H. LaGuardia, of New York, made a point of order against reference in debate to committee proceedings.

The Chairman [5] held:

The point of order is well taken, and the Chair sustains the point of order. The gentleman will proceed in order.

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[1] James W. Husted, of New York, Speaker pro tempore.

[2] First session Sixty-eighth Congress, Record, p. 6659.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Seventy-first Congress, Record, p. 7773.

[5] William P. Holaday, of Illinois, Chairman.

2493. On May 14, 1930,[1] it being Calendar Wednesday, Mr. Gilbert N. Haugen, of Iowa, by direction of the Committee on Agriculture, called up the bill (S. 108) to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce.

During debate on the bill in the Committee of the Whole House on the state of the Union, Mr. Fred S. Purnell, of Indiana, referred to proceedings had in the sessions of the Committee on Agriculture and not reported to the House.

Mr. James B. Aswell, of Louisiana, made the point of order that it was not permissible to refer to committee proceedings of which the House had no official knowledge.

The Chairman[2] sustained the point of order and admonished Members to proceed in order.

2494. The rule prohibiting reference in debate to proceedings of a committee not reported to the House applies to proceedings in Committee of the Whole as well as in other committees.

On March 21, 1908,[3] the House was considering the fortifications appropriation bill. The first amendment recommended by the Committee of the Whole was read by the Clerk, when Mr. Swagar Sherley, of Kentucky, asked that the language originally in the bill but stricken out by the committee amendment be read for the information of the House.

The Speaker[4] said:

> The Chair knows nothing about what took place in committee except the report of the chairman of the committee. It could only be by unanimous consent.

2495. Instance in which a Member rising to a question of privilege was permitted in refutation of charges made against him to detail happenings in committee not reported to the House.

On December 7, 1911,[5] Mr. Reuben O. Moon, of Pennsylvania, rose to a question of privilege and requested the Clerk to read an article appearing in a Washington newspaper under the following heading:

> Near fight in House—Moon and Thomas separated before blows are stuck—Former starts the row—Calls Kentuckian "anarchist" during committee debate on contempt bill, and is told he might be considered clever if he were not a Republican—Fists shaken, but neither is injured.

Mr. Moon, being recognized, addressed himself to the question of privilege and, in denying the accuracy of the published statement, related the circumstances actually occurring during the session of the committee.

Mr. David E. Finley, of South Carolina, made the point of order that it was not permissible to discuss what had taken place in the committee unless reported to the House.

The Speaker[6] overruled the point of order and held it in order to detail actual occurrences in committee in refutation of charges based on unreported committee proceedings.

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[1] Second session Seventy-first Congress, Record, p. 8931.

[2] Scott Leavitt, of Montana, Chairman.

[3] First session Sixtieth Congress, Record, p. 3741.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Second session Sixty-second Congress, Record, p. 112.

[6] Champ Clark, of Missouri, Speaker.

2496. The House authorized the clerk of a committee to produce committee records in response to legal process.

On August 23, 1921,[1] Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules, reported the following resolution authorizing the clerk of the Ways and Means Committee and the Clerk of the House of Representatives to appear before competent tribunal and produce the records and files of the committee in response to legal process:

Whereas in a case of libel now pending in the Circuit Court of Putnam County, Tenn., at Cookeville, styled Cordell Hull against Oscar Clark and Wynne F. Clouse, in which, among other questions, the vote of the said Cordell Hull, who was a Member of the Sixty-sixth and prior Congresses, with respect to proposed bonus legislation for the benefit of certain American ex-soldiers and sailors of the World War is involved; and in which also it is the contention of defendants that the vote or votes of said Cordell Hull as a member of the Ways and Means Committee of said House during the second session of the Sixty-sixth Congress in the executive sessions of said committee with respect to the said proposed soldier and sailor bonus legislation, and particularly with reference to the consideration and reporting out by said committee of H. R. 14089, is material to the issues raised in the above-styled case; and in which it is the contention of the plaintiff that if testimony as to his said votes in the executive sessions of said committee is offered it then becomes material for the entire context to be shown in evidence, viz, the various motions, bills considered, questions arising on each, and votes of each member of said committee thereon with respect to all of the said proposed soldier and sailor bonus legislation and tax measures to pay for same pending before the said committee during the said Sixty-sixth Congress: Now, therefore be it

Resolved, That the clerk of the Ways and Means Committee of the House of Representatives of the Sixty-sixth and Sixty-seventh Congresses of the United States and the Clerk of the House of Representatives be authorized to respond to any subpoena or subpoena duces tecum, or to appear before any person authorized by law to take depositions, at the instance of either party to the above-styled case, but neither of said clerks shall take with him any book, document, or paper on file in his office or under his control or in his possession as such clerk;

That either of the parties to the above-styled lawsuit have full permission to take the depositions of either or both of the said clerks in respect to any and all phases of the executive and other proceedings of the said Ways and Means Committee in connection with its consideration of each and all the proposed soldier and sailor bonus measures referred to said committee under H. Res. 470 during the Sixty-sixth Congress, including evidence as to all motions made, questions arising, measures considered, and votes of each member thereon, the purpose and effect of each, and to this end permission to either party to the lawsuit aforesaid is given to take copies of any documents or papers in possession or control of either of said clerks so as, however, the possession of said documents and papers by the said clerk or clerks shall not be disturbed, or the same shall not be removed from their place of custody under said clerk or clerks.

Mr. Snell said in explanation:

Mr. Speaker, the reason for this resolution has been fully stated in the preamble. It seems that a present Member of the House has been sued by a former Member of the House, and the material evidence of the case is in the possession of the clerk of the Committee on Ways and Means and the Clerk of the House, and it can not be used in this case without a resolution of this kind. I understand that both parties to the suit are desirous of getting possession of this evidence, and it seems to the Committee on Rules that no harm will be done to anyone to allow the truth to be made public in regard to this matter.

The resolution was agreed to without further debate and without division.

2497. It is not in order in debate to refer to the President of the United States in terms of opprobrium.

[1] First session Sixty-seventh Congress, Record, p. 5572.

Remarks in debate charging the President with "persistent defamation" of an officer was held by the House to constitute a breach of order.

Under the practice of the House it was held that the Committee of the Whole might, at its option, take action on a point of order against words spoken in debate or might rise and report them to the House.

A motion that a Member called to order for words spoken in debate be allowed to proceed in order being rejected, the Member was required to take his seat.

A question of the privilege of the House is properly raised through presentation of a resolution.

The principles of decorum and courtesy governing the relations of the two Houses should extend to the relations of the House with the President.

Debate in the House may refer to the motives of the President but personal criticism, innuendo or ridicule are not in order.

The right to criticise official acts and policies of the President in debate in the House should not be denied or abridged but such debate is subject to proper rules requiring decorum in debate.

A select committee appointed to consider the propriety of remarks made by a Member in debate invited him to submit suggestions in writing.

Instance wherein the House struck from the Record a speech containing language reflecting personally on the President of the United States.

On January 18, 1909,[1] while the pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, Mr. William Willett, Jr., of New York, in the course of his remarks in discussing official actions of the President of the United States, used the phrase:

"The persistent defamation of Admiral Schley, who really fought the battle of Santiago Bay."

Mr. Augustus P. Gardner, of Massachusetts, made the point of order that this language transgressed the rules of the House.

The Chairman[2] ruled:

The gentlemen will please permit the Chair to rule. In few of the other remarks that the gentleman has made, and in the general tenor of his remarks respecting the President of the United States, the Chair has already expressed an opinion, and has requested the gentleman to proceed in order, but the Chair will now ask the gentleman, if he sees proper, to explain what he means.

Mr. James R. Mann, of Illinois, rose to a point of order and called attention to the rule providing that when a Member is called to order for words spoken in debate the words objected to shall be taken down and reported.

The Chairman said:

The Chair will state his recollection as to the application of the rule. That rule is enforced where some punishment is proposed, but ordinarily it is not enforced. The gentleman simply

[1] Second session Sixtieth Congress, Record, p. 1047.

[2] Thomas S. Butler, of Pennsylvania, Chairman.

takes his seat until some gentleman moves that he be permitted to proceed in order. Will the gentleman from New York kindly take his seat?

Mr. Ezekiel S. Candler, Jr., of Mississippi, moved that Mr. Willett be allowed to proceed in order.

The question being submitted to the committee by the Chairman, the vote, by tellers, was yeas 78, nays 126, and the Chairman said:

The committee has concluded that the gentleman from New York shall not proceed.

Mr. John J. Fitzgerald, of New York, made the point of order that the Committee of the Whole could take no action save to report the words to which objection had been made to the House.

The Chairman said:

The practice of the House is the practice of the committee. If the committee had desired more stringent action, the words might have been taken down and reported to the House; but as the gentleman from New York quoted his language, and has been dealt with, therefore it would seem to the Chair that the committee having already acted it is not necessary to refer the subject to the House. The committee has authority to report the words to the House if they were taken down. No gentleman asked that the words be taken down until we had proceeded with business, on the question of order, which is now disposed of. It is simply a question of order, and the committee has now disposed of it. The Chair is of the opinion that the committee has jurisdiction, and the committee had authority to act just as the committee did act.

On the following day [1] Mr. James A. Hughes, of West Virginia, rising to a question of the privileges of the House, moved to expunge Mr. Willet's speech from the Record.

The Speaker [2] held:

The Chair will call the attention of the gentleman to the fact that nor resolution has been offered. It seems to the Chair that a resolution should be offered reciting what is proposed to be stricken out. The House is entitled to something, either a motion or a resolution, that will disclose the breach of privilege, if it be a breach of privilege, that has been referred to. At present there is just the bare motion to strike out the speech of the gentleman from New York. Unless gentlemen heard the speech, and unless perchance that is the only speech the gentleman from New York has made, there is nothing to identify it. It seems to the Chair something should be offered in shape of a motion or a resolution that would show that this is a matter of privilege, so that the House could deal with it as may seem proper.

Mr. Hughes thereupon offered the following:

Whereas the speech of Mr. Willett printed in the Congressional Record of January 18, 1909, contains language improper and in violation of the privilege of debate: Be it

Resolved, That a committee of five Members be appointed to consider the remarks aforesaid and report to the House within ten days.

Mr. Oscar W. Underwood, of Alabama, made the point of order that the resolution was not privileged because it failed to set forth the language deemed improper and to specify wherein the privileges of the House were alleged to be involved.

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[1] Record, p. 1105.

[2] Joseph G. Cannon, of Illinois, Speaker.

The speaker said:

The Chair will again read the resolution, as well as the whereas, as follows:

"Whereas the speech of Mr. Willett, printed in the Congressional Record of January 18, 1909"—

That identifies the speech—

"contains language improper and in violation of the privileges of debate: Be it

"Resolved, That a committee"—

And so forth.

The gentleman recollects the legal maxim, "Certum est quod certum reddi potest"—that is certain which may be rendered certain. This refers to remarks of Mr. Willett in the Record of yesterday. And when the Chair turns to the Record, it refers to the whole speech.

The Chair again reads:

"Whereas the speech of Mr. Willett, as printed in the Congressional Record of January 18, 1909, contains language improper and in violation of the privileges of debate"—

Now, that refers to the whole speech, and alleges that it contains language that is in violation of the privileges of debate, and then follows the resolution, providing for a special committee to investigate. It seems to the Chair that the resolution is sufficiently definite to enable the Chair to say that it is the duty of the Chair to entertain it as a question of privilege.

The gentleman is aware that there are many precedents. Where there is a question of rumor or allegation in a journal or a magazine the House has entertained from time to time resolutions not exactly in the words, but in substance as contained in this resolution. Of course it is for the House to dispose of the resolution as it may see fit. It is only for the Chair to determine whether the resolution on its face does present a question of privilege upon the point of order made, and the Chair thinks it does.

The question being taken, the resolution was agreed to.

On January 27[1] the unanimous report of the select committee was presented by Mr. James R. Mann, of Illinois.

The committee reported that in response to their invitation to submit in writing any suggestions he desired to make, Mr. Willett had filed the following statement:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 22, 1909.

To the Honorable Special Committee having in Charge the Matter Contained in House Resolution No. 494, Adopted January 19, 1909.

GENTLEMEN: I have received information through your chairman that your committee will meet on Monday next to consider any statement in writing I may desire to present, and in pursuance therewith I desire to respectfully submit the following:

It is my serious and earnest contention that I was entirely within my rights to make the speech, under the order of general debate, and in availing myself of the freedom of debate and the uniformly recognized latitude of discussion I but followed the established custom and practice of the House, and did in nowise transcend the rules of the House as they have always heretofore been understood by the Members of the House.

It will serve no useful purpose for me to cite numerous instances where personal reference has been made by Members to nonmembers, Members to Members, and Members to the Chief Executive in the course of debate in language, taken separately or collectively, infinitely stronger than my own—this committee is composed of Members of long service in this House—and a citation of cases is unnecessary.

Freedom of speech has always been held so sacred that the utmost latitude has been allowed in debate, and I respectfully submit that to strike my speech from the Record in this instance will establish a precedent extremely dangerous, because it will mean, in the light of past precedents, that the House has at last surrendered to the proposition that no Member can discuss any subject the discussion of which happens to displease the majority.

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[1] Record, p. 1465.

Urging again my sincere conviction that my speech should remain on record, I assure the committee of my

Sincere respect,

WM. WILLETT, Jr.

Replying to Mr. Willett's argument with reference to freedom of speech, the report says:

The freedom of speech in debate in the House of Representative should never be denied or abridged, but freedom of speech in debate does not mean license to indulge in personal abuse or ridicule. The right of Members of the two Houses of Congress to criticise the official acts of the President and other executive officers is beyond question, but this right is subject to proper rules requiring decorum in debate. Such right of criticism is inherent upon legislative authority. The right to legislate involves the right to consider conditions as they are and to contract present conditions with those of the past or those desired in the future. The right to correct abuses by legislation carries the right to consider and discuss abuses which exist or which are feared.

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

The report then draws an analogy between the relations of the two Houses and the relations of the House and the President as follows:

It has been constantly decided that it was not in order in debate in the House to refer in criticism to a speech in the Senate or to the proceedings or motives of the Senate. This is upon the well-established principle that legislative proceedings dependent upon two coordinate branches might be greatly impeded if personal and improper reflections were allowed in one body concerning the Members of the other.

The two Houses of Congress are independent in the action to be taken by each, but each House is dependent upon the other for final results of legislation. The relationship of the two bodies is such that animosity, undue friction, or antagonism between them might easily prevent wise legislation and result in serious consequences.

The Constitution requires the President from time to time to give to Congress information of the state of the Union and to recommend such measures as he shall judge necessary and expedient. It also provides that every bill which shall pass the two Houses of Congress shall, before it becomes a law, be presented to the President of the United States, and gives the President the right to veto. The Constitution also confers upon the House of Representatives power of impeaching the President. In matters of legislation the Constitution therefore makes the House of Representatives, the Senate, and the President coordinate, dependent, and interdependent powers, and the principles of proper decorum and due courtesy governing the relations of the two Houses of Congress should also, to a certain extent, govern the relations of the House of Representatives and the President.

The committee maintain the right of the House to discuss in debate the acts, conduct, and motives of the President, but draws this distinction between such discussion and criticism of a merely personal nature:

Since the House of Representatives has the sole power of impeaching the President, it follows that his acts and conduct must be subject to free and full debate in the House, and since the President's motives may be involved in impeachment, debate in the House may refer to his motives. In this respect the House has a function and privilege peculiar to itself and peculiar to the subject. The House may not enter into discussion of the motives of Senators in their official acts, nor may the Senate or the President in official capacity properly discuss the motives of Representatives in their official acts or debates. It would seem, however, that the peculiar constitutional duties of the House in relation to the power of impeaching the President do not preclude a clear line of distinction between that criticism of acts and conduct necessary for performance of the constitutional duties of the House and a criticism merely personal and

irritating, having no legitimate connection with the duties or powers of the House and tending only to produce ill feeling, estrangement, and loss of respect between two coordinates branches of the Government which should, for the public good and the upholding of the Government, stand before the people in relations of personal courtesy, mutual respect, and proper dignity.

The committee therefore conclude:

Since, under the Constitution the Members of the House may not be questioned elsewhere for speeches in the House, and the President ought not therefore to criticise or comment officially upon speeches in the House, it becomes especially the duty of the House itself to protect the President from that personal abuse, innuendo, or ridicule tending to excite disorder in the House itself and to create personal antagonism on the part of the President toward the House, and which is not related to the power of the House under the Constitution to examine into the acts and conduct of the President.

Applying this conclusion to the case presented, the committee find:

Your committee has carefully considered the remarks of the gentleman from New York, as directed by the resolution, and, testing the same by the foregoing principles, find that his remarks concerning the President are not justified by any considerations of the constitutional duties or powers of the House; that they transcend proper limits of criticism in debate; that they are destructive of that courtesy, respect, and dignity which ought to be preserved, and that they ought not to remain in the permanent official record of the proceedings in the House.

Your committee finds it impossible to separate those portions of the gentleman's remarks which are open to objection from those which may be parliamentary, and that the only way to eliminate from the record the remarks which were improper and out of order is to strike the entire speech from the record.

The committee then refer to precedents and, in conformity with the practice of the House thus established, recommend the adoption of the following resolution:

Resolved, That the speech of Mr. Willett, printed in the daily Congressional Record of January 18, 1909, contains language improper and in violation of the privileges of debate, and that the same be stricken from the permanent Record.

The resolution was agreed to by the House without division or debate.

2498. It is a breach of order in debate to refer to the President disrespectfully.

On January 23, 1933,[1] Mr. Louis T. McFadden, of Pennsylvania, rose to a question of personal privilege. Having been recognized to discuss the question of privilege, Mr. McFadden said in the courses of his remarks:'

Under Hoover the United States has lost its financial independence. Under him the United States Treasury has been looted and the control of United States Treasury funds has passed into the hands of foreign nations and foreign central banks of issue.

Mr. Beck submitted the following question of order:

Mr. Speaker, I rise to another point of order. The gentleman from Pennsylvania who is now addressing the House has on more than one occasion in the course of his address referred to the President of the United States as "Hoover." My point of order is that it does not accord with the dignity of this House that the President of the United States should be contemptuously referred to by his last name.

The Speaker pro tempore[2] ruled:

The gentleman is correct in his position, and the Chair sustains the point of order. The gentleman from Pennsylvania will proceed in order on the matters embraced in his resolution.

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[1] Second session Seventy-third Congress, Record, p. 2297.

[2] Thomas L. Blanton, of Texas, Speaker pro tempore.

2499. Criticism of the manner in which the President discharged the duties of his office was decided by the House not to violate the rules of decorum in debate.

A statement made in debate to the effect that the President considered himself the Government and used pork as the crude material of his administration was held not to involve a breach of order.

A resolution providing for investigation of the propriety of language referring to the President of the United States and said to violate the privileges of debate was considered as privileged.

A newspaper statement that remarks of a Member on the floor "were said at the White House" to be inspired by the President's opposition to a measure favored by the Member was held not to give rise to a question of privilege.

A select committee appointed to consider the propriety of remarks delivered in the House reported that they contained no language in violation of the privileges of debate, and asked to be discharged.

On February 25, 1909,[1] during consideration of the sundry civil appropriation bill, Mr. George W. Cook, of Colorado, having the floor in debate, said:

> President Roosevelt seems to think that he alone is the Government and that his ipse dixit must rule everybody, including the poor and friendless black soldiers of Brownsville, who were insulted, dismissed, and degraded without proof or trial by executive order and without any warrant of reason or law.
>
> President Roosevelt runs the Government on the same principle that the beef trust runs its sausage factory, from a personal standpoint, using legislative and judicial pork as the crude material of his fantastic administration. While imitating Rienzi and Cromwell in fooling the people, he is practicing the hypocrisy and dictatorship of Cleon and Dionysius.

On February 26,[2] Mr. James A. Tawney, of Minnesota, offered as privileged the following resolution:

> Whereas the speech of the Hon. George W. Cook of Colorado, delivered in the House of Representatives on February 25, 1909, and printed in the Congressional Record on pages 3203 and 3204, contains language in violation of the privileges of debate:
>
> *Resolved,* That a committee of five Members be appointed to consider the remarks aforesaid and report to the House not later than the calendar day of Monday, March 1, 1909.

Mr. John J. Fitzgerald, of New York, made the point of order that the resolution did not present a question of privilege in that it did not specify in what manner the remarks referred to violated the rules of debate or the privileges of the House.

The speaker[3] overruled the point of order.

The question on agreeing to the resolution being submitted to the House, it was decided in the affirmative and the speaker appointed as members of the committee thus authorized, Mr. James R. Mann, of Illinois, Mr. James B. Perkins, of New York, Mr. David J. Foster, of Vermont, Mr. Henry D. Clayton, of Alabama, and Mr. William M. Howard, of Georgia.

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[1] Second session Sixtieth Congress, Record, p. 3132.

[2] Record, p. 3260.

[3] Joseph G. Cannon, of Illinois, Speaker.

On the following day[1] Mr. Cook rose to a question of privilege and sent to the desk an article from a Washington newspaper reading in part:

It was said at the White House yesterday that Mr. Cook's recent outburst may have been inspired by the President's opposition to a measure which he has been endeavoring to have become a law, dealing with a question of the boundary of Colorado. It was pointed out to Mr. Cook that, under the Constitution it was necessary to have affirmative action of the Colorado legislature, before Congress could act in the matter, but that difficulty did not seem to appeal to him as of sufficient weight.

Mr. Sereno E. Payne, of New York, submitted that no question of privilege was raised by any statement in the article.

The Speaker held that the article did not reflect upon Mr. Cook in his representative capacity and sustained the point of order.

On March 1, Mr. James R. Mann, of Illinois, submitted the following report from the select committee:

The select committee appointed to consider the remarks of Hon. George W. Cook, delivered in the House on February 25 last and printed in the Congressional Record, on pages 3203 and 3204, and alleged to be in violation of the privileges of debate, beg leave to report that we have carefully and critically examined the speech of Mr. Cook referred to, and are of the opinion, and so report, that said speech does not, when treated as a whole, contain language in violation of the privileges of debate, and does not call for further action by the House; and your committee, therefore, respectfully requests to be discharged.

JAMES R. MANN.
JAMES B. PERKINS.
DAVID J. FOSTER.
HENRY D. CLAYTON.
WILLIAM M. HOWARD.

On motion of Mr. Mann, the select committee was discharged.

2500. It has been held in order to refer in debate to the President of the United States in terms of criticism provided such reference be in language conformable to the rules of the House.

On February 13, 1925,[2] the legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

Mr. Fred M. Vinson, of Kentucky, in the course of his remarks, read from a newspaper article entitled:

Coolidge rides on "Horse"—Mechanical mount got wires twisted, but he's good again for exercise.

Mr. Vinson then proposed to read an improvised poem captioned:

Cal's "Hobbyhorse."

Mr. Robert Luce, of Massachusetts, made the point of order that the title of the verses indicated an intention to cast ridicule upon the President and therefore was in violation of the established practice of the House.

The Chairman[3] ruled:

Under Jefferson's Manual, there is the following:
"In Parliament, to speak irreverently or seditiously against the King, is against order."

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[1] Record, p. 3384.

[2] Second session Sixty-eighth Congress, Record, p. 3667.

[3] Bertrand H. Snell, of New York, Chairman.

Under that is this comment:

"This provision of the parliamentary law is manifestly inapplicable to the House of Representatives; and it has been held in order in debate to refer to the President of the United States or his opinions, either with approval or criticism, provided that such reference be relevant to the subject under discussion and otherwise conformable to the rules of the House."

The gentleman from Kentucky, Mr. Vinson, obtained unanimous consent to proceed out of order, so that there is no special subject before the House. Under these references the Chair would not undertake to rule the mater out of order. There is another way open to the gentleman from Massachusetts. He can ask that the words be taken down and then that the House may decide. At present, the Chair overrules the point of order.

2501. It is not permissible in debate to read from the Record reports of debate in the other House relating to the subject under discussion.

Jefferson's Manual is recognized, in as far as applicable, as a part of the rules of the Senate.

On August 26, 1912,[1] in the Senate during consideration of the conference report on the deficiency appropriation bill, Mr. Charles A. Culbertson, of Texas, having the floor in debate, said:

I ask that the Secretary may read from the Record the marked paragraph which I send to the desk, from page 13016, in the debate in the House of Representatives.

The Secretary read as follows:

Mr. FITZGERALD. Mr. Speaker, I move the House adhere——

Mr. John Sharp Williams, of Mississippi, made the point of order that under the rules of the Senate it was not permissible to animadvert upon the proceedings of the other House.

The President pro tempore[2] said:

The Chair thinks it will be found in Jefferson's Manual, not in the rules of the Senate.

Mr. Culbertson submitted that Jefferson's Manual, while persuasive in determining procedure, was not in fact a part of the rules of the Senate.

The President pro tempore ruled:

The Chair always has been of opinion that Jefferson's Manual, so far as it is pertinent, is and has been recognized as a part of the rules of this body, and the Chair finds in Jefferson's Manual this statement:

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

While undoubtedly in debate in this body, and perhaps in the other body, that rule has not been strictly adhered to, yet, the point of order having been made, the Chair feels constrained to sustain it.

2502. On February 20, 1933,[3] the House was considering the joint resolution (S. J. Res. 211) proposing an amendment to the Constitution of the United States repealing the eighteenth amendment.

Mr. Henry T. Rainey, of Illinois, having been recognized for debate announced that he would read a brief extract from a speech delivered in the Senate on July 30,

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[1] Second session Sixty-second Congress, Record, p. 11878.

[2] Jacob H. Gallinger, of New Hampshire, President pro tempore.

[3] Second session Seventy-second Congress, Record, p. 4508.

1917, when the joint resolution proposing the eighteenth amendment was under consideration.

Mr. John E. Rankin, of Mississippi, objected that reference to proceedings in the Senate was not admissible.

The Speaker [1] sustained the point of order.

2503. It is a breach of order in debate to refer to proceedings in the other House whether reported in the Congressional Record or elsewhere.

Reference to reprints inserted inserted in the Senate proceedings involves reference to Senate debates, and is not in order.

Each House exercises exclusive control of the report of its proceedings in the Record.

On May 11, 1932,[2] the joint resolution (H. J. Res. 149) to correct the spelling of the name of the island of Puerto Rico was under consideration in the Committee of the Whole House on the state of the Union, when in the course of debate, Mr. Fred A. Britten, of Illinois, proposed to read the following excerpt from the Record reporting the proceedings of the Senate on the preceding day:

> When the Congress granted that inappreciable measure of branch banking which is contained in the so-called McFadden bill, the most strenuous opposition came from the bankers in Chicago outside the loop. They hired a skillful and persuasive professional lobbyist and paid him a high salary to come here to Washington—worse than that, they hired some Congressmen, to my positive documentary knowledge—to oppose even that small measure of branch banking.

Mr. Thomas L. Blanton, of Texas, objected that it was not in order to read a report of the debate in the Senate.

The Chairman [3] sustained the point of order.

Mr. Charles L. Underhill, of Massachusetts, submitted that while it was not in order to read reports of debate in the proceedings of the other House, the rule did not apply to reprints inserted in the Senate proceedings.

The Chairman ruled that comments on such reprints were in effect comments on speeches in the Senate and were therefore not in order.

Mr. Britten explained that the matter referred to had been widely printed in the morning newspapers, and inquired if it was in order to read such reports from the daily papers.

The Chairman held that reference to Senate debates whether reported in the Record or elsewhere were not in order.

Mr. Leonidas C. Dyer, of Missouri, inquired if under the rules it would be in order to expunge from the Record statements made in the Senate in criticism of Members of the House.

The Chairman held:

> The House has no control over the proceeding of the Senate or what they put in the Record.

2504. It is a breach of order in debate to refer to debate or votes on the same subject in the other House.

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[1] John N. Garner, of Texas, Speaker.

[2] First session Seventy-second Congress, Record, p. 10019.

[3] Gordon Browning, of Tennessee, Chairman.

On July 15, 1911,[1] Mr. William W. Rucker, of Missouri, having unanimous consent to make a personal statement, sent to the Clerk's desk to be read in his time an excerpt from the Congressional Record reporting a colloquy in the Senate.

The Clerk read as follows:

Mr. BORAH. Mr. President, I desire to call attention to another matter for a moment. I should like to ask, if proper to do so, and I presume it is, whether the conference committee on House joint resolution 39 can advise me if there is likely to be a report from that committee soon?

The VICE PRESIDENT. The chairman of the conference committee is not in the Senate Chamber at the present time.

Mr. John Dalzell, of Pennsylvania, made the point of order that it was not proper to discuss in the House the proceedings of the Senate.

The Speaker pro tempore[2] sustained the point of order.

2505. It is a breach of order in debate to refer to debate or votes on the same subject in the other House.

On January 31, 1929,[3] the House was considering the resolution (H. Res. 303) to send the first deficiency appropriation bill with Senate amendments to conference.

In the course of debate, Mr. Louis C. Cramton, of Michigan, said:

Now, as to the amendment. What is this thing? It is to increase the prohibition enforcement fund by $24,000,000, to be allocated as the President desires, "to the departments or bureaus charged with the enforcement of the national prohibition." That was adopted in the Senate with the vote of 13 Republicans, most of them fairly unfriendly to Secretary Melon, and 39 Democrats and 1 Farmer-Labor. I will put them all in in the extension of my remarks. Against the amendment were 3 Democrats and 29 Republicans, the vote being as follows:

Among those Republicans opposing this extravagance in the Senate, this ill-considered spending of $24,000,000 were Senator Curtis—no fairer, truer dry in the country; Senator Jones of Washington, who in his last election was fought by the wets because of his dryness.

Mr. John C. Schafer of Wisconsin, interrupted and raised the question of order that reference to Members of the other House by name was not in order.

The Speaker pro tempore[4] held:

Under the rules of the House it is a breach of order to refer to debates or votes on the same subject in the other House.

The gentleman from Wisconsin is within his rights when he rises to make a point of order. It will not be taken out of the gentleman's time. The Chair wishes to state that it is a breach of the rules of the House to refer to the votes on the same subject in the other House. The Chair wishes to direct the attention of the Members of this House to the rule on this subject. It is found in the House Rules and Manual, paragraph 364, which reads:

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

In the opinion of the Chair the point of order is well taken. The gentleman from Michigan will proceed in order.

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[1] First session Sixty-second Congress, Record, p. 2945.

[2] Thetus W. Sims, of Tennessee, Speaker pro tempore.

[3] Second session Seventieth Congress, Record, p. 2554.

[4] C. William Ramseyer, of Iowa, Speaker pro tempore.

2506. It is not in order in debate to read from the record of the proceedings of the Senate or to refer in terms to action taken in the Senate.

On June 19, 1930,[1] Mr. Robert G. Simmons, of Nebraska, called up the District of Columbia appropriation bill and asked unanimous consent that the House further disagree to Senate amendments thereto.

Mr. Louis C. Cramton, of Michigan, under reservation of the right to object, inquired if it would be in order to read excerpts from the Senate proceedings in considering the bill.

The Speaker[2] held that it was not in order to read in the House any record of proceedings in the Senate.

Thereupon, Mr. Cramton inquired if it would be in order to refer to the proceedings of the Senate in the consideration of the bill.

The Speaker said:

> The Chair will read the rule. Under the existing conditions the Chair thinks it is the duty of the Chair not only to adhere to the spirit of the rule but also to the letter. I read:
>
> "It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there, because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the Houses."
>
> The Chair thinks that there should be at least one House observing the rule.

2507. The inhibition against the reading in debate of the Record of proceedings in the other House does not extend to decisions of presiding officers on questions of procedure and parliamentary law or to proceedings in another Congress.

On January 20, 1913,[3] in the Senate, Mr. Henry Cabot Lodge, of Massachusetts, called up the conference report on the bill S. 3175, the immigration bill.

During the debate a question arose as to certain modifications agreed to by the conferees, and Mr. William J. Stone, of Missouri, made the point of order that matter not committed to the conferees by either House had been included in their report.

Mr. Lodge took issue with this contention and proposed to read an extract from the Record giving the decision of the Speaker of the House rendered on August 14, 1911, on a similar point of order.

Mr. James O'Gorman, of New York, made the point of order that the rules of the Senate did not permit the introduction in debate of records of proceedings transpiring in the other House.

After brief debate, Mr. Lodge was permitted to incorporate in the Record as a part of his remarks the rulings of Speakers of the House on the jurisdiction of conferees and debate adducing the decisions.

2508. While it is not in order to discuss the functions or criticize the acts of the other House, it was held admissible to identify certain remarks reported in the Record and cited as precedents by mentioning the name of the Senator delivering them.

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[1] Second session Seventy-first Congress, Record, p. 11197.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Third session Sixty-second Congress, Record, p. 1766.

On August 15, 1912,[1] Mr. Theron Akin, of New York, in speaking to a resolution proposing to strike from the Record certain remarks he had made in the House on a former occasion, said:

I, for one, would like to know where the line is to be drawn. Will you condemn a few sentences and tolerate the balance of a speech? If you assume the power and right to expunge from the Record my remarks, why should you stop there? Why not expunge from the Record the unjust attack of Representative Moss upon me some little time ago? Why not remove from the permanent Record the speeches of Representatives Mondell, Bartholdt, and Norris on the Chicago convention, where the principal text was, "Thou shalt not steal, or if in stealing, steal lots of it"? Why leave in the Record of August 10 the letter of B.B. Cohoon, Sr., in which he slurs Representative Cannon and alleges that Taft is politically corrupt and a fraud or a fool? Why allow Senator La Follette in the Record to accuse the postal authorities with rifling his letters?

Mr. Marlin E. Olmsted, of Pennsylvania, raised a question of order and said:

Mr. Speaker, I make the point of order that it is not in order for any Member of the House to mention by name any Member of this body, and particularly it is out of order to mention the name of a Member of the body at the other end of the Capitol.

Mr. Speaker, against the gentleman from Virginia I read the language from a gentleman of fully as great renown, one Thomas Jefferson, who said, as will appear on page 184 of the Manual:

"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; nor to digress from the matter to fall upon the person, by speaking, reviling, nipping, or unmannerly words against a particular Member."

Now, I want the gentleman from New York to be permitted to make his own defense, fully and freely and at length; but I do not think he is warranted in making his defense in calling other gentlemen by name and accusing them of violating the rules of the House. He does not point to any page in the Record, but makes accusations.

The Speaker[2] pro tempore ruled:

While the Chair is clearly of opinion that the statement made by the gentleman from Pennsylvania, Mr. Olmsted, is correct and is the rule now being applied, still the gentleman from New York, Mr. Akin, is referring to the Record, and he must of necessity have the right, if he refers to the Record and a name is there which refers to a particular speech, and he undoubtedly has the right to use that name, because it is in the Record. [Applause.] The Chair is of opinion, therefore, that the point of order is not well taken. The gentleman from New York will proceed.

2509. It is not in order to refer to a Member of the other House even for the purpose of complimenting him.

On June 27, 1918,[3] Mr. Ben Johnson, speaking by unanimous consent, in discussing the bill H. R. 9248, the antiprofiteering rent bill, referred to Mr. Atlee Pomerene, a Member of the Senate from Ohio.

Mr. Oscar William Swift, of New York, made the point of order that it was not permissible to refer to a Senator in debate.

Mr. Johnson argued that the rule applied to criticism only and was not applicable to his remarks in praise of the Senator.

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[1] Second session Sixty-second Congress, Record, p. 11019.

[2] John E. Raker, of California, Speaker pro tempore.

[3] Second session Sixty-fifth Congress, Record, p. 8360.

The Speaker[1] ruled:

The rule is that a Member of the House can not discuss a Senator at all, not even compliment him, because if you do compliment him somebody might jump up and say he was the grandest rascal in the country, and you would then have on your hands a debate of a very acrimonious nature.

2510. The rule governing reference to Members of the other House in debate was held to apply to language used on the floor of the House only and not to statements made elsewhere.

A Member having referred to the Senate in a public address, it was held in order to reply on the floor of the Senate, avoiding personalities and criticism of the other House.

On March 24, 1924,[2] Mr. Allen T. Treadway, of Massachusetts, rose to a question of privilege and offered a resolution declaring improper and unparliamentary the following statement, made in the Senate on March 22 preceding, by Mr. T.H. Caraway, of Arkansas:

I think the New York Times is without justification in its criticism of the Speaker of the House on his violating the proprieties and the rules of the body over which he presides, because I never knew that anyone thought that the Speaker understood or had any regard for the rules of the body over which he presides. He never has given any evidence that he knew what the rules were or that he had any respect for them.

After speaking briefly to the question of privilege, Mr. Treadway, in compliance with a request from the Speaker, withdrew the resolution.

Whereupon Mr. John E. Rankin, of Mississippi, asked for an interpretation of the rule forbidding reference in debate to Members of the other House.

The Speaker[3] said:

Well, the Chair thinks a person attacked has a right outside to say what he pleases and has a right also on the floor of the House to answer any argument or attack, provided he does not violate the rule as to personalities. As to them the Chair thinks the rules apply, no matter what the provocation may be.

2511. Instance wherein a Member in discussing the practice of extending remarks in the Record was permitted to refer to a Member of Congress without naming him.

On May 14, 1914,[4] Mr. Henry A. Barnhart, of Indiana, chairman of the Joint Committee on Printing, speaking by unanimous consent, said:

Mr. Speaker, I rise to call the attention of the membership of the House to the edition of the Congressional Record under date of Tuesday, May 12, which came to you this morning as a separate volume from the regular daily publication. It contains the speech and extension of remarks of one Member of Congress and covers 368 pages, mostly printed in fine, solid type. The cost of this publication as computed by the Government Printing Office is $9,941.85, and the additional necessary cost for the permanent and bound edition will be $3,819, a total cost to the taxpayers of the country of $13,760.85. If each of the 531 Members of the Congress were to pad the Congressional Record like that, it would cost the country $7,307,011.35, and to this could safely be added several more thousands as the cost of the wrapping and franking necessary to get this publication out to the reading public—in all a colossal expense.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-eighth Congress, Record, p. 4813.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-third Congress, Record, p. 8592.

The publication is made up almost entirely of communications from individuals and organizations on the railroad freight-rate question.

As to the merits of the question involved I have nothing to say, as that is not here under consideration. But as to the justice and propriety of such printing and franking extravagance I want to be heard. There has never been such an abuse of the Congressional Record printing and franking privilege since I have been a Member of this House. That the substance of the communications and the names of the authors would have been all sufficient any sensible man can readily see. That the purpose of the bulky publication is to exploit a name or an issue many will surmise; and that the unnecessary, extravagant expense is an outrage upon the taxpayers of the country everybody will admit.

Mr. Victor Murdock, of Kansas, made the point of order that reference to a Member of another body is in violation of the rules of debate.

The Speaker [1] ruled:

If he were commenting on what a Senator said, if the rule were strictly construed, it would shut him out, and yet I have Senators quoted here time and again, and have referred to them myself without objection. It is against the rule; but in this case the House has as much jurisdiction over the Congressional Record as has the Senate, and the gentleman from Indiana was not discussing any gentleman in the Senate by name. He is discussing what he finds in the Congressional Record. The gentleman from Indiana did not say he was a Senator, but he said he was a Member of Congress. The point of order is overruled, and the gentleman from Indiana has the floor.

2512. Reference to a Member of the Senate in terms of criticism is not in order even though the Senator referred to is not mentioned by name.

A statement by a Member in debate that "a gentleman in another body" had made an "unwise and unwarranted attack on the Commander in Chief of the Army and Navy" was held to be a breach of order.

On September 12, 1918,[2] during consideration on the revenue bill in the Committee of the Whole House on the state of Union, Mr. J. Thomas Heflin, of Alabama, said in debate:

A gentleman in another body makes an attack upon the war program of the administration. Gentlemen, you and I know that you have to do things in war times that you would not think of doing in time of peace. It is necessary to mobilize the forces of the country, to call the boys to the colors, and to take over the great public utilities of the country when a strike might paralyze the arm of the Government and render it unable to carry on the war.

Gentlemen, will the patriotic people of Illinois stand for that unwise and unwarranted attack upon the Commander in Chief of the Army and Navy?

Mr. Edward E. Denison, of Illinois, made the point of order that the remarks referred to a Senator from Illinois.

Mr. Heflin submitted that he had not named a Member of another body.

The Chairman [3] said:

The rule on that subject is as follows:

"A Member may not in debate in the House read the record of speeches and votes of Senators in such connection of comment or criticism that might be expected to lead to recrimination, and it was even held out of order to criticize words spoken in the Senate by one not a Member of that body in the course of an impeachment trial.

"While the Senate may be referred to properly in debate it is not in order to discuss its functions or criticize its acts to refer to a Senator in terms of personal criticism."

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 10232.

[3] Edward W. Saunders, of Virginia, Chairman.

Such references should not be made in this body to another body which would lead to recrimination on the part of other Members and to ill feeling between the two bodies. The gentleman will proceed in order. The Chair said that the gentleman from Alabama must proceed in order and avoid such references to another body as would impinge upon this rule.

2513. It was held out of order in the Senate to refer to a Member of the House in opprobrious terms or to impute to him improper conduct or unworthy motives.

It was held out of order to read in the Senate, or to insert in the Record without reading, a letter reflecting upon the honor, integrity, or good faith of a Member of the House.

On July 31, 1917,[1] the Senate, as in Committee of the Whole, had under consideration the joint resolution (S. J. Res. 17) proposing an amendment to the Constitution prohibiting the sale, manufacture, and transportation of intoxicating liquor.

Mr. Wm. H. Thompson, of Kansas, being recognized for debate, proposed to have read at the desk a letter certifying that Mr. Jacob E. Meeker, a Representative for Missouri, was formerly a Congregational minister and had resigned under censure.

Mr. Lee S. Overman, of North Carolina, made the point of order that the rules of the Senate did not permit the introduction of matter reflecting upon a Member of the House of Representatives.

The Presiding Officer[2] sustained the point of order and said:

There is a rule that would make it improper and out of order to refer to a Member of the House of Representatives in opprobrious terms and to impute to him unworthy motives. No Senator ought to make any statement that would be a reflection upon any Member of the House or impute to him improper conduct or an unworthy motive. He is not here to defend himself. It would seem to the present occupant of the chair unfair for any Senator to make any comment upon the life or character or political conduct of a Member of the House of Representatives that would reflect upon his honor or his integrity or his good faith. The point of order is sustained.

Mr. Thompson submitted that Mr. Meeker had himself on a previous occasion violated the privileges of debate by inserting in the Record an extension of remarks reflecting on the State of Kansas.

The Presiding Officer said:

The Chair will say that an infraction of the rules of the House by a Member of the House would not, in the opinion of the Chair, warrant an infraction of the rules of the Senate by an attack upon a Member of the House. In the opinion of the Chair nothing should be stated by a Senator that would be a reflection upon the integrity or moral character of a Member of the other House or impute to him improper or unworthy motives. The Chair hopes the Senator will conform to that view.

Mr. Thompson then proposed to insert the letter as a part of his remarks without having it read.

In passing upon a point of order raised by Mr. Overman, the Presiding Officer rule:

The Chair is of opinion that an attack may be made upon the honor or the integrity of a Member of the other House by having read an article to the same extent as if the attack were made orally by a Senator. The point of order is sustained.

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[1] First session Sixty-fifth Congress, Record, p. 5597.

[2] William H. King, of Utah, Presiding pro tempore.

2514. Criticism of a Senator by Member in debate was held by the House to be in violation of its rules and the Public Printer was directed to exclude it from the permanent Record.

A manager on the part of the House on the disagreeing votes of the two Houses on a bill in conference having addressed the House in criticism of the Senate member so the committee of conference, the Senate notified the House that conferees on the part of the Senate had been excused from further service on the committee.

A communication from the Senate designating as "untrue" statements made by a Member of the House in debate and requesting action upon the part of the House relative thereto, was respectfully returned to the Senate with a message characterizing it as a breach of privilege.

On June 22, 1918,[1] Mr. Ben Johnson, of Kentucky, having leave, by unanimous consent, to address the House, read an article from a Washington newspaper reporting that the conferees on the part of the Senate would refuse to hold conference on the antiprofiteering rent bill while Mr. Johnson remained a member of the committee of conference, and that it was proposed to deny him the privileges of the floor of the Senate.

Mr. Johnson then read portions of a letter which he had addressed to each of the Senate conferees and inserted a copy in the Record as a part of his remarks.

On June 24,[2] the Senate transmitted to the House the resolution (S. Res. 266), reading, in part, as follows:

Whereas H.R. 9248, a bill "To prevent extortion, to impose taxes upon certain incomes in the District of Columbia, and for other purposes," duly passed by the House of Representatives March 12, 1918, was considered in the Senate and passed with a reported amendment in the nature of a substitute May 11, 1918; and

Whereas on said May 11, 1918, a conference was asked and managers on the part of the Senate were appointed thereon; and

Whereas of June 14, 1918, the chairman of the Committee on the District of Columbia of the House of Representatives called said bill from the Speaker's table, and made thereon certain remarks seriously reflecting upon the honor and integrity of the Senate, as appears on pages 8452 to 8457 of the Congressional Record; and

Whereas subsequently on said June 14, 1918, managers were appointed on the part of the House of Representatives, of whom said chairman of said committee was one; and

Whereas said chairman of said House committee subsequently sent to each manager on the part of the Senate under date of June 19, 1918, the following letter:

* * * * * * *

And

Whereas on June 21, 1918, said chairman of said House committee sent to each of the managers on the part of the Senate the following letter:

COMMITTEE ON THE DISTRICT OF COLUMBIA,
HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, DC., June 21, 1918.

To the Senate Conferees on H.R. 9248

(the antiprofiteering rent bill),
Washington, DC

GENTLEMEN: The Washington newspapers of yesterday contained the statement that at least some of the Senate conferees on the antiprofiteering rent bill contemplated having one denied

[1] Second session Sixty-fifth Congress, Record, p. 8139.

[2] Record, p. 8202.

the privileges of the Senate floor because of the criticism made by me of the Senate amendment which has come to be known as the "Pomerene bill."

I do not care a continental about that—run along and get through with it, and then permit the Senate to vote on a measure that will prevent the profiteers from driving nearly a thousand war workers out of Washington every week. I am not interested in the least in your undertaking to deny me the privileges of the Senate Chamber, but I am deeply concerned for the war worker, who is being robbed and then sent out of Washington and because of which our boys in France must suffer.

The newspaper articles referred to state also at least some of the Senate conferees may decline to go into conference because I am one of the House conferees. May I not suggest that by such a course, either intentionally or unintentionally, you play right into the hands of the profiteers, as delay in the passage of a good bill is what they seek?

May I not also suggest that your skins should be thicker, or your bill better? I not only invite the severest criticism of all my official acts, but I am quite anxious, indeed, to have the acid test applied to my endeavors in this particular matter, and you will not only not offend me but you will do me a favor by wading into both me and it without gloves, since I, and not the landlords, am its author.

This is not a time for "senatorial dignity' but one for action. Rearing back on your "pastern joint" don't bet the opposed anything. I do not intend to permit your attitude toward me, because of my criticism of your "rotten" bill, to in the least deter me in my efforts to prevent the profiteer from fattening off of your country's needs.

Your amendment—the Pomerence bill—had to be criticized, "senatorial dignity" to the contrary notwithstanding.

My contempt for such of you as may resort to pretext to evade full responsibility for not giving our war workers protection from the miserable profiteers in just as great as yours may be for me; but as I said, that shall not stop me from following my plain duty in the premises.

Let us get to work on the bill, and then you can have your revenge on me to your hearts' content. You have my full consent to deny me the privileges of the Senate Chamber, or even to take our spite out of my hide, if you will only go ahead and let the Senate vote on a good bill instead of a subterfuge.

While I am sending this letter to each of the conferees, it is really intended for those only who are responsible for the article in yesterday afternoon's local newspapers.

Very truly, yours,

(SIGNED) BEN JOHNSON,

And

Whereas on June 22, 1918, the said chairman of said House committee presented the foregoing letters to the House of Representatives, and in presenting them used the following language:

"I take if for granted that the thought of 'ousting' me from the Senate Chamber is the result of a close association with those who have been 'ousting' the Government workers from houses in the District of Columbia."

Therefore be it

Resolved, That the conferees on the part of the Senate on said bill be, and they are hereby, excused from further service as such conferees until otherwise ordered by the Senate; and that the Secretary of the Senate is directed to transmit a copy of this resolution to the House of Representatives.

Attest:

JAMES M. BAKER, *Secretary.*

On June 27, Mr. Johnson, by direction of the Committee on the District of Columbia, submitted as a report [1]thereon:

The Committee on the District of Columbia, to whom was referred the resolution (S. Res. 266) excusing the conferees on the part of the Senate on the bill (H. R. 9248) to prevent

[1] Report No. 707.

extortion, to impose taxes upon certain incomes in the District of Columbia, and for other purposes, from further service until otherwise ordered by the Senate, having considered the same, re-refers it to the House, with the recommendation that it do lie upon the table.

On June 24, 1919,[1] Mr. Johnson, in discussing the bill (H.R. 1713) to appoint a commission to investigate the water supply for the District of Columbia, said:

There is another matter which I wish to mention. When the war came on, and when clerks to serve our Nation in time of war were called here by the thousands, profiteering commenced and it has run rampant from that day until this. I introduced a bill to curb it, and I proposed in that measure to levy an income tax of 100 per cent on all over and above a fair rental value for property set out in the bill. The real-estate people objected to that very strenuously, for the very good reason that it struck at profiteering. Then the real-estate people went before the District of Columbia committee at the other end of the Capitol. There they presented a bill of their own drafting.

The measure was fostered, as I said, by an eminent gentleman from the State of Ohio. That in my judgment was the most infamous piece of contemplated legislation that has ever been offered to the American people. I say that profiteering was running rampant in this city while thousands of the poor and hundreds among the rich were compelled either to sleep in the railroad station on their arrival here or spend the last cent for a few nights' lodging in the house of a profiteer. The man who became responsible for that condition hailed from the State of Ohio. I say that the facts justify me in asserting that his conduct fully warrants the statement that he, by his friendly attitude toward the profiteer and his extortion, stands to-day as the worst internal enemy that America had during the war. I say deliberately, and I say it thoughtfully, that when our boys were in France he stood against their mothers and sisters who were driven from houses here into the stormy night.

And yet, as the result of that man's protection of and friendship for the profiteer; as the result of his deliberate and preconceived purpose to oppress the poor and drive the war workers into the street, he became even worse than the Hun who threw the bomb in this city only a few weeks ago. The latter sought to destroy only one person, while this Ohio criminal sought to starve and freeze thousands for the benefit of the profiteers.

On June 26,[2] the Senate transmitted to the House this resolution:

Resolved, That the language published in the Congressional Record Tuesday, June 24, 1919, pages 1785 and 1786, in the report of an address to the House of Representatives by the gentleman from Kentucky, Mr. Johnson, imputing dishonorable motives and conduct to the Senator from Ohio, Mr. Pomerene, is unwarranted, unjust, and untrue, and that said language constitutes a breach of privilege and is calculated to create unfriendly relations and conditions between the House or Representatives and the Senate.

Resolved further, That a copy of this resolution be transmitted to the House of Representatives and that the House be requested to take appropriate action concerning the subject.

On June 28,[2] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported the following resolution, which was agreed to by the House:

Resolved, That Senate resolution 94 be respectfully returned to the Senate, with the advice that, without passing upon the question as to whether the matter therein complained of constitutes, as is therein alleged, a breach of privilege, the House must courteously decline to predicate any action on the same for the reason that said Senate resolution itself involves a breach of privilege by declaring that language used by a Member of the House is untrue.

The House then agreed to this resolution also reported by the Committee on Rules:

Resolved, That the House of Representatives deems that portion of the remarks of the Hon. Ben Johnson, a Representative from the State of Kentucky, made in the House the 24th day of

[1] First session Sixty-sixth Congress, Temporary Record, p. 1785.

[2] Record, p. 1825.

[3] Record, p. 2016.

June, 1919, and published in the Record of that date, beginning with the words "There is another matter which I wish to mention," being the third paragraph in column 1 on page 1785, and ending with the word "profiteers" at the conclusion of the sixth paragraph in column 1 on page 1786, to be in violation of the rules of the House. It is therefore ordered that the Public Printer be directed to exclude that portion of said remarks from the permanent Congressional Record.

2515. It is not in order in debate to name a Senator in terms of personal criticism of actions outside the Senate but connected with his representative capacity.

Reference in debate to actual or probable action of the Senate is not in order.

Reflection upon the motives actuating the Chairman of the Committee of the Whole in rendering a decision constitutes a breach or order.

It is the duty of the Chairman of the Committee of the Whole to call to order a Member violating the privileges of debate in criticism of the Senate or its Members.

On February 5, 1929,[1] the agricultural appropriation bill was being considered in the Committee of the Whole House on the state of the Union. Mr. J. Thomas Heflin, of Alabama, having the floor in debate, said:

When the President called an extra session of Congress and it was announced that the treaty providing for an international tribunal to prevent the cruel and useless slaughter of human beings would soon be submitted for ratification to the Senate of the United States, this same Senator Lodge, of Massachusetts, sent a telegram to Senators requesting them not to pledge their support to the league treaty that had been made to conform to the objections that he and they had made. He requested them to remain silent until a secret caucus could be held to determine the fate of this nonpartisan and great international question that vitally affects the welfare and destiny of the whole human race. That was the conduct of Republican Leader Lodge upon that serious occasion. God forgive him and those who have followed him in delaying and playing politics with this all-important world question. The American people will not forgive them.

The Chairman[2] interposed:

The gentleman will proceed in order and refrain from mentioning Members of the other body by name or from indulging in remarks that can be construed as a criticism upon that branch.

Mr. Heflin inquired:

Does the Chair hold that I can not refer to what a Senator does outside of the Senate? If the Chair so holds, I will appeal from the decision of the Chair.

The Chairman replied:

The Chair rules that the gentleman must desist from making remarks that consist of criticisms of Members of the other body.

Mr. Heflin said:

I hold that I have not transgressed the rule in that regard. So there is a difference of opinion between myself and the Chair, but, of course, I can understand how the Chair, who is a good parliamentarian, will every now and then be a little partisan, and especially so when you go to treading upon the toes of some who hail from the same State.

The Chairman called Mr. Heflin to order and said:

The gentleman will suspend. The gentleman will either proceed in order or will yield the floor.

[1] Second session Sixty-sixth Congress, Record, p. 2521.

[2] Joseph Walsh, of Massachusetts, Chairman.

Mr. Otis Wingo, of Arkansas, rose to a point of order and insisted that under the rules the proper procedure was to demand that words objected to be taken down and reported to the House.

The Chairman ruled:

The Chair would state that if a Member on the floor charges the Chair with improper conduct, it is not necessary for a Member on the floor to ask that those words be taken down. The Chair understood the remarks of the gentleman from Alabama to be clearly reflective upon the ruling of the Chair. The Chair has no desire to be partisan, but the rules of the House provide the limit within which Members may go in discussing matters upon the floor of the House. The Chair feels that when it involves the prerogatives of the house, as well as the prerogatives of the coordinate branch of the Congress, it is not necessary for the Chair to have the matter called to his attention by a Member on the floor, but it is the duty of the Chair to direct the gentleman's attention to that matter and to caution him to proceed in order. That the Chair had done, and he was then charged with indulging in a partisan bias, which the Chair thinks is a reflection upon the Chair, and is not a proper remark for a Member to indulge in under the circumstances. The Chair is not the occupant of his position as a partisan. It is the duty of the Chair to enforce the rules of the House free from any partisan or political bias or interpretation. He is here as the presiding officer of this committee, and he feels that it is his duty to interpret those rules fairly and free from political partisan bias. So far as the Chair has ruled, he has shown no such bias. The remarks of the gentleman from Alabama clearly involve the action of the Senate, and whether it referred to the attitude or action taken by Senators outside of the Senate, a Senator was mentioned by name, and the attitude and action of the Senate as such was further referred to by the gentleman from Alabama, and a criticism was involved in the remarks of the gentleman. The Chair would ask the gentleman from Alabama to proceed in order.

2516. A Senator having assailed a Member in debate, the House messaged to the Senate a resolution declaring the language a breach of privilege.

A message received from the House protesting against unparliamentary references to one of its Members in Senate debate was not acted upon by the Senate, but the language objected to was subsequently stricken from the Record.

On August 18, 1921,[1] in the Senate, Mr. James A. Reed, of Missouri, during consideration of the House amendments to Senate amendments to the bill (H. R. 7294), amending the national prohibition act, said in debate:

But the Constitution does not disturb the gentleman who proposes this measure. until the other day I never had the pleasure of seeing the distinguished author of the Volstead Act. His brief biography states that he was born in the United States. I am, however, informed he speaks a very broken English. I do not know what his ancestry may be, but I do know that I have gazed upon pictures of the celebrated conspirators of the past, the countenances of those who have led in fanatical crusades, the burners of witches, the executioners who applied the torch of persecution, and I saw them all again when I looked at the author of this bill.

I have no respect for a man, whether he be a Member of the House of Representatives or elsewhere, who proposed to whittle down the Constitution of the United States, who tries to leave it, as does this amendment of the House, so that an officer can go into every building except a residence, who puts the discovery of a bottle of beer above the Constitution, who in the pursuit of his favorite pastime of hunting somebody who may take a drink, is willing to destroy that Constitution which he held up his hand and before Almighty God swore he would maintain, protect, and preserve.

[1] First session Sixty-seventh Congress, Temporary Record, p. 5605.

On August 23,[1] in the House, Mr. Walter H. Newton, of Minnesota, rising to a question of privilege, offered the following:

Resolved, That the language published in the Congressional Record on Thursday, August 18, 1921, pages 5605 and 5606, in the report of an address to the Senate by the Senator form Missouri, Mr. Reed, is improper, unparliamentary, and a reflection on the character of a Member of the House, the gentleman from Minnesota, Mr. Volstead, and constitutes a breach of privilege and is calculated to create unfriendly relations and conditions between the House of Representatives and the Senate.

Resolved, further, That a copy of this resolution be transmitted to the Senate and that the Senate be requested to take appropriate action concerning the subject.

The resolution was agreed to, yeas 181, nays 3, and being messaged to the Senate was referred to the Senate Committee on Rules, which made no report thereon.

However, on November 23,[2] Mr. Charles Curtis, of Kansas, rising in the Senate, preferred this request:

Mr. President, I ask unanimous consent to expunge from the permanent Congressional Record the language of the Senator from Missouri, Mr. Reed, in which that Senator made personal reference to Representative Volstead, as published in the Congressional Record of Thursday, August 18, 1921, pages 5605 and 5606. I will state that I have a telegram from the Senator from Missouri stating that he wants the matter eliminated, and I ask unanimous consent that be done.

The request was agreed to and the language objected to does not appear in the permanent Record.

2517. A Senator having referred without innuendo to debate in the House and a point of order being made that it was not permissible to refer to proceedings in the other branch of the Congress, it was held that respectful reference to such proceedings was within the discretion of Senators.

Although not formally adopted as a part of the rules of the Senate, Jefferson's Manual has been cited as authoritative in Senate decisions on parliamentary procedure.

On January 7, 1915,[3] the Senate, as in Committee of the Whole, resumed consideration of the District of Columbia appropriation bill. In the course of debate Mr. William S. Kenyon, of Iowa, quoted from a report made to the House and referred to proceedings in the House on the occasion of its consideration.

Mr. Jacob H. Gallinger, of New Hampshire, raised the question of order that adverse criticism of the other branch of Congress was in violation of the rules of the Senate as set forth in Jefferson's Manual.

The Vice President[4] said:

This is the statement of Jefferson's Manual:

"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. 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."

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[1] Record p. 5563.

[2] Record p. 8157.

[3] Third session Sixty-third Congress, Record p. 1162.

[4] Thomas R. Marshall, of Indiana, Vice President.

It is further stated that—

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

The Chair does not think that the Senate of the United States has adopted Jefferson's Manual as part of the rules of the Senate, but thinks that it is a better authority than the present presiding officer. Still, in the opinion of the present officer, it certainly must be left to the discretion of Members of the Senate as to what they will or will not say, provided they do not speak disrespectfully of the proceedings of the other House.

2518. It is not in order in debate to criticize actions of Members of the Senate in connection with their legislative duties.

Members may not in debate reflect upon the actions or speeches of Senators, or upon the proceedings of the Senate.

It is permissible, however, in discussing questions of order to refer to parliamentary decisions of the Senate.

Discussion of the importance of Jefferson's Manual as an authority in congressional procedure.

On May 6, 1930,[1] Mr. Fiorello H. LaGuardia, of New York, having obtained consent to address the House for five minutes, said in the course of his remarks:

This brings to mind what happened after the Geneva conference, when a great deal of misinformation was sent throughout the country. The misinformation was so startling that the other body of Congress created a committee to investigate. The committee was appointed on September 12, 1929, commenced its hearings on September 20, 1929, and closed the hearings on January 11, 1930.

Now, the information obtained is public property; it is useful at this time. I should like to know what pressure is being brought on Senator Shortridge that he is improperly withholding this information.

Mr. Bertrand H. Snell, of New York, made the point of order that the reference to a Senator and to Senate proceedings was in violation of the rules and was calculated to disturb the comity existing between the two Houses.

The Speaker[2] in an exhaustive opinion ruled:

Since the ruling of the Vice President just referred to by the gentleman from New York, Mr. LaGuardia, on April 21 of this year, in which he specifically overruled the decision of the President pro tempore of the Senate made on July 31, 1917, on the subject, the Chair has regarded it as inevitable that a situation would speedily arise of which this House must take cognizance. A comparatively recent decision of the Senate is directly in point as to whether the rules of Jefferson's Manual do or do not, impliedly at least, govern the proceedings of that body, certainly with reference to matters spoken in derogation of the actions or attitudes of Members of another body, or of that body itself.

The Chair has taken the pains to look up a number of these decisions, some of which he will quote, because as the Chair has already said, he was morally certain that a situation would speedily arise in which a final, definite ruling might have to be made in the House.

On August 26, 1912, in the Senate during the consideration of the conference report upon the deficiency appropriation bill, Mr. Charles A. Culberson, of Texas, having the floor in debate, said:

"I ask that the Secretary may read from the Record the marked paragraph which I send to the desk, from page 13016, in the debate in the House of Representatives."

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[1] Second session Seventy-first Congress, Journal, p. 11; Record, p. 8454.

[2] Nicholas Longworth, of Ohio, Speaker.

"The Secretary read as follows:

"'Mr. FITZGERALD. Mr. Speaker, I move the House adhere'"—

At that point Mr. John Sharp Williams, of Mississippi, made the point of order that under the rules of the Senate it was not permissible to animadvert upon the proceedings of the other House. The President pro tempore, Mr. Jacob H. Gallinger, of New Hampshire, said:

"The Chair thinks it will be found in Jefferson's Manual, not in the rules of the Senate."

Mr. Culberson submitted the Jefferson's Manual, while persuasive in determining proceedings, was not in fact part of the rules of the Senate. The President pro tempore ruled:

"The Chair has always been of opinion that Jefferson's Manual, so far as it is pertinent, is, and has been, recognized as a part of the rules of this body, and the Chair finds in Jefferson's Manual this statement"—

And here he quotes from the precedent referred to by the gentleman from New York, Mr. Snell:

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

He then proceeded with his decision:

"While undoubtedly in debate in this body, and perhaps in the other body, that rule has not always been strictly adhered to, yet, the point of order having been made, the Chair feels constrained to sustain it."

On July 31, 1917—and this is the last decision of the Senate that the Chair has been able to find, and he is not aware that there has been any other decision on the subject up to the one recently made on April 21 of this year—the Senate, as in Committee of the Whole, had under consideration the joint resolution proposing an amendment to the Constitution prohibiting the sale, manufacture, and transportation of intoxicating liquor.

Mr. Joseph B. Thompson, of Oklahoma, being recognized for debate, proposed to have read at the desk a letter certifying that Jacob E. Meeker, a Representative from Missouri, was formerly a Congregational minister and had resigned under censure. Mr. Lee S. Overman, of North Carolina, made the point of order that the rules of the Senate did not permit the introduction of matter reflecting upon a Member of the House of Representatives.

The Presiding Officer, President pro tempore, sustained the point of order and said:

"There is a rule that would make it improper and out of order to refer to a Member of the House of Representatives in opprobrious terms and to impute to him unworthy motives. No Senator ought to make any statement that would be a reflection upon any Member of the House or impute to him improper conduct or an unworthy motive. He is not here to defend himself. It would seem to the present occupant of the Chair unfair for any Senator to make any comment upon the life or character or political conduct of a Member of the House of Representatives that would reflect upon his honor or his integrity or his good faith. The point of order is sustained."

Mr. Thompson submitted that Mr. Meeker had himself, on a previous occasion, violated the privileges of debate by inserting in the Record an extension of remarks reflecting on the State of Kansas. The Presiding Officer said:

"The Chair will say that an infraction of the rules of the House by a Member of the House would not, in the opinion of the Chair, warrant an infraction of the rules of the Senate by an attack upon a Member of the House. In the opinion of the Chair, nothing should be stated by Senators that would be a reflection upon the integrity or moral character of a Member of the House, or impute to him improper or unworthy motives. (Record, 65th Cong., 1st sess., 5597.)"

On April 21, 1930, the Senate was considering a resolution (S. Res. 245) which provided that the Vice President should appoint a committee of five Senators to investigate the delay of the Speaker of the House of Representatives in not referring S. J. Res. 3 to a committee of the House and to report to the Senate what action, if any, should be taken in the premises.

Mr. George W. Norris, of Nebraska, in speaking on the resolution, criticized the Speaker and imputed to him unworthy motives in not referring the joint resolution to a committee.

Mr. Simeon D. Feses, of Ohio, made the point of order that under section 17 of Jefferson's Manual it was not in order for a Member of the Senate to criticize the actions of the Speaker of the House or of any Member of the House.

The Vice President overruled the point of order and said:

"The Chair is willing to rule on the question. The Senate has not adopted Jefferson's Manual as a part of the rules of the Senate. It is left to the discretion of Senators as to what they may or may not say about the proceedings of the House in connection with the resolution under consideration."

Mr. Fess objected to the ruling and said:

"That is not a rule."

The Vice President replied:

"The Chair makes that ruling now."

The Chair has no hesitation in quoting these decisions in extenso, because it is a recognized principle that one House may refer to the parliamentary decisions of the other House in deciding questions of order. (See 2507, Cannon's Precedents.)

So far as the Chair knows, the decision of Mr. President pro tempore King is the last decision up to the recent one by Vice President Curtis which involves the question of how far the Senate is bound by Jefferson's Manual, and while it is true that the Senate never by express rule has made Jefferson's Manual a part of the Senate rules, as the House has done, nevertheless it has been fair for the House to assume, certainly up to 1917, and if the Chair is not greatly in error, up almost to the present moment, that in the absence of a specific rule to the contrary Jefferson's Manual did wherever applicable govern the proceedings of the Senate.

In the note of introduction to Jefferson's Manual of Parliamentary Practice it is stated, on page 93 of the House Rules and Manual, as follows:

"Jefferson's Manual was prepared by Thomas Jefferson for his own guidance as President of the Senate in the years of his Vice Presidency, from 1797 to 1801. In 1837 the House, by rule which still exists, provided that the provisions of the manual should 'govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House.' In 1880 the committee which revised the rules of the House declared in their report that the manual compiled as it was for the use of the Senate exclusively and made up almost wholly of collations of English parliamentary practice and decisions, it was never especially valuable as an authority in the House of Representatives, even in its early history,and for many years past has been rarely quoted in the House.' (V, 6757.) This statement, although sanctioned by high authority, is extreme, for in certain parts of the manual are to be found the foundations of some of the most important portions of the House's practice."

But that was back in 1880. That statement or sanction by high authorities is strengthened, for certain parts of the manual are found to be the foundation of our parliamentary practice, and the Chair thinks that is daily growing more important as time goes on.

The parliamentary practice of the House of Representatives emanates from our sources: First the Constitution of the United States; second, Jefferson's Manual; third, the rules adopted by the House itself from the beginning of its existence; and, fourth, the decisions of the Speakers of the House and decisions of the Chairman of the Committee of the Whole.

Scarcely a day passes in this House when Jefferson's Manual is not a basis for some of our legislative proceedings. On all matters relating to appointment of standing committees and designation of duties of chairmen, the Committee of the Whole, risings of the Committee of the Whole for various reasons, reports from the committee, and amendments of the committee, most of the provisions relating to the decorum and debate, many matters relating to bills and committees, to amendments in the House, to amendments between the Houses, and particularly to all matters dealing with amendments and conferences between the two Houses, the provisions of Jefferson's Manual are basic.

There is no doubt then that even if the House had not specifically provided that Jefferson's Manual should govern in all cases where applicable, it could be safely laid down as a general proposition that Jefferson's Manual should so govern.

In fact, it must be conceded that Jefferson's Manual is the primary authority for all parliamentary proceedings in this country, and the Chair thinks that if Thomas Jefferson had never done anything except to write this monumental manual he would merit the thanks of his countrymen.

The Chair will not attempt to comment upon any phase of this question except that which relates to the rules of comity between the two Houses. There are three provisions, at least, of Jefferson's Manual which are particularly relative to this question. I read:

"SEC. 301. It is highly expedient, says Hatsel, for the due preservation of the privileges of the separate branches of the legislature that neither should encroach on the other, or interfere in any matter depending before them, so as to preclude, or even influence, that freedom of debate which is essential to a free council. They are, therefore, not to take notice of any bills or other matters depending, or of votes that have been given, or of speeches which have been held, by the members of either of the other branches of the legislature, until the same have been communicated to them in the usual parliamentary manner. (2 Hats., 252; 4 Inst. 15; Seld. Jud. 53.)

"SEC. 364. it is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there; because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses. (8 Grey, 22.)

"SEC. 367. Where the complaint is of words disrespectfully spoken by a Member of another House it is difficult to obtain punishment, because of the rules supposed necessary to be observed (as to the immediate noting down of words) for the security of Members. Therefore it is the duty of the House, and more particularly of the Speaker, to interfere immediately and not to permit expressions to go unnoticed which may give a ground of complaint to the other House, and introduce proceedings and mutual accusations between the two Houses, which can hardly be terminated without difficulty and disorder. (3 Hats., 51.)"

The effect of the recent decision of the Vice President is to hold that the three sections of Jefferson's Manual just quoted do not govern the proceedings of the Senate, and that Senators may use their own discretion in making any comment, insinuation, or attack upon any Member of the House or any proceeding of the House.

The Chair makes not criticism whatever of the decision of the Vice President. He wants that clearly understood. But he thinks it is clear that under these changed conditions relating to the comity of the two Houses the House must take some action one way or the other.

Concerning those precedents in Jefferson's Manual, Mr. Speaker Clark went so far as to say that it is not in order even to compliment Members of the Senate. From Cannon's Precedents I quote the following:

"SEC. 2509. It is not in order to refer to a Member of the other House even for the purpose of complimenting him.

"On June 27, 1918, Mr. Ben Johnson, speaking by unanimous consent, in discussing the bill H. R. 9248, the antiprofiteering rent bill, referred to Mr. Atlee Pomerene, a Member of the Senate from Ohio.

"Mr. Oscar William Swift, of New York, made the point of order that it was not permissible to refer to a Senator in debate.

"Mr. Johnson argued that the rule applied to criticism only, and was not applicable to his remarks in praise of the Senator.

"The Speaker ruled:

"'The rule is that a Member of the House can not discuss a Senator at all, not even to compliment him, because if you do compliment him somebody might jump up and say he was the grandest rascal in the country, and you would then have on your hands a debate of a very acrimonious nature.'"

There would seem to be but two alternatives for us to adopt in dealing with this situation. If the House desired to retaliate, it might, by rule, provide that these rules in Jefferson's Manual relating to comity between the two Houses should not apply to proceedings in the House. In other words, to say that Members of the House should be guided solely by their own discretion in making any comment, insinuation, or attack upon any Senator, or any proceeding of the Senate.

The other alternative is to rigidly insist upon strict adherence to both the spirit and letter of Jefferson's Manual.

In the opinion of the Chair, the adoption of the first alternative would be violative of the spirit in which the House for 140 years has followed the precepts of Thomas Jefferson in our manner of association and dealing with the other legislative body. After all, Jefferson's general precepts are but a restatement of the manner in which all legislative bodies, particularly the British parliament, have dealt with each other for centuries. They are but a restatement of what is and ought to be true sportsmanship in the dealings between the legislative branches of great governments.

The Chair is firm, and he believes that the House will remain firm in our adherence to the rules of sportsmanship and comity as laid down in Jefferson's Manual.

A situation arose sooner than the Chair expected where he was called upon to rule upon at least one phase of this question. On April 28, one week after the decision of the Vice President, the gentleman from Massachusetts, Mr. Luce, offered, as a matter of privilege, a resolution providing that a respectful message be sent to the Senate calling attention to certain remarks of a Member of the Senate in which he criticized certain proceedings in the House. The debate upon this resolution, and the ruling of the Chair, are to be found on pages 8158 and 8159 of the Record, and the Chair will not quote them here.

Having had no notice in advance that such a resolution was to be brought up, the Chair had not then been able to give such investigation to this question as he has since. Nevertheless, he ruled that the resolution was not privileged in that the House, under Jefferson's Manual, had not the right to criticize the remarks of any Senator or occurrence on the floor of the Senate. Since then the Chair has had the opportunity to make more careful investigation of the principles and precedents governing this question, in anticipation that the question might again be brought up, and has already quoted what he believes to be the general rules underlying.

The remarks of the gentleman from New York, Mr. LaGuardia, raise a question which, while it differs in form from that upon which the Chair has previously ruled, pertains to the same general governing principles.

The question raised by the gentleman from New York is whether a Member may reflect in any way on the floor of the House against the actions, speeches, or proceedings of another Member or of the body itself.

To put it in another way, Shall the House, notwithstanding any adverse action by the other body, adhere to the provisions laid down in Jefferson's Manual which have always governed?

The answer of the Chair is emphatically "Yes." Indeed, it appears to the Chair that it has become all the more necessary, if the rules of comity between the two Houses are to be at all preserved, that members of the House should be limited even more rigidly than ever by Jefferson's rules prohibiting reference in terms of the slightest disparagement of the remarks or actions of Members or any of the proceedings of the other body.

If no rules of comity are to be followed in either House, then legislation may become chaos indeed.

In conclusion the Chair will say that so long as he remains Presiding Officer of this body he will see to it that the rules of Jefferson's Manual, in so far as they apply to the friendly relations between the Members of the two Houses and the Houses themselves, shall be enforced with the utmost rigidity, not only in the letter but in the spirit.

The Chair therefore sustains the point of order.

2519. It is not in order in debate for a Member to refer to a Member of the Senate by name, nor may the Speaker entertain a request for unanimous consent to proceed in violation of this rule.

A resolution offered in the House requesting the Senate to expunge from the Record statements in criticism of a Member of the House was held to be in violation of the rule prohibiting reference to the Senate in debate.

The rule interdicting criticism of Members of the Senate in debate also applied to remarks extended in the Record.

The rule against criticism of Senators in debate applies only to words spoken on the floor and does not extend to speeches and interviews outside the House.

On February 3, 1931,[1] Mr. Allen T. Treadway, of Massachusetts, rising to a parliamentary inquiry, called attention to speech recorded in the Senate proceedings of the Record for the preceding day, referring to Members of the House by name in terms of criticism. Mr. Treadway inquired if it would be in order in the House to reply to statements made in speech and in that connection to refer to Members of the Senate by name.

The Speaker[2] held:

The Chair has recently made a decision about this matter.

Of course, it is very difficult to answer the question in a word or two. The Chair thinks it is of such fundamental importance that he will ask the indulgence of the House to refer to and repeat some of the things he said in a ruling made comparatively recently upon this subject.

On May 6, 1930, the question arose as to whether Members of the House could comment upon any statement made in the Senate reflecting in any way upon the motives or conduct of a Member of the House. On a previous occasion the Vice President, overruling a number of decisions which the Chair then quoted, which he will not quote now, held the technical question being whether Jefferson's Manual governs the proceedings of the Senate in this regard or in any other regard—

"The Senate has not adopted Jefferson's Manual as a part of the rules of the Senate. It is left to the discretion of Senators as to what they may or may not say about the proceedings of the House in connection with the resolution under consideration.,"

Mr. Treadway further inquired whether Members had any recourse when referred to by Members of the other House.

The Speaker replied:

The Chair does not believe he is under the necessity of saying that a Member may not do that outside of this House, but the Chair holds that he may not do it in the House.

The Speaker replied:

Mr. Earl C. Michener, of Michigan, asked if it would be in order to request unanimous consent to reply to a speech delivered in the Senate in criticism of Members of the House.

The Speaker reminded:

There is a rule in Jefferson's Manual which seems to apply in this case:

"Where the complaint is of words disrespectfully spoken by a member of another House, it is difficult to obtain punishment because of the rules supposed necessary to be observed (as to the immediate noting down of words) for the security of Members. Therefore it is the duty of the House, and more particularly of the Speaker, to interfere immediately, and not permit expressions to go unnoticed which may give a ground of complaint to the other House."

So long as Jefferson's Manual governs the proceedings of the House, the Chair thinks it is impossible to take any official notice of such remarks as are now complained of. Of course, the alternative is to change the rules.

Mr. Leonidas C. Dyer, of Missouri, then inquired if it would be in order to introduce a resolution asking the Senate to expunge from its records remarks derogatory to the House and its Members.

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[1] Third session Seventy-first Congress, Record, p. 3882.

[2] Nicholas Longworth, of Ohio, Speaker.

The Speaker held that the rule precluded recognition for that purpose.

Of course, that decision entirely nullifies Jefferson's Manual, there being no rules in either House specifically on this question.

With regard to the entire question of dealings between the House and Senate, and preserving some sort of sportsmanship and comity, the present occupant of the chair referred then and will refer again to two of the rules in Jefferson's Manual which govern this case if the rules apply.

In section 301:

"It is highly expedient, says Hatsel, for the due preservation of the privileges of the separate branches of the legislature that neither should encroach on the other, or interfere in any manner depending before them, so as to preclude, or even influence, that freedom of debate which is essential to a free council. They are, therefore, not to take notice of any bills or other matters depending, or of votes that have been given or of speeches which have been held, by the Members of either of the other branches of the legislature, until the same have been communicated to them in the usual parliamentary manner."

Then in section 364:

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

At that time the Chair held that whether these rules with regard to comity prevailed in the Senate or not they did prevail in the House, and if the Chair may be indulged, because he thinks it is perhaps worth while, he will read a few sentences from his decision on that occasion:

"There would seem to be but two alternatives for us to adopt in dealing with this situation."

And precisely the same situation is before us now as was then.

"If the House desired to retaliate, it might, by rule, provide that these rules in Jefferson's Manual relating to comity between the two Houses should not apply to proceedings in the House. In other words, to say that Members of the House should be guided solely by their own discretion in making any comment, insinuation, or attack upon any Senator, or any proceeding of the Senate.

"The other alternative is to rigidly insist upon strict adherence to both the spirit and letter of Jefferson's Manual.

"In the opinion of the Chair, the adoption of the first alternative would be violative of the spirit in which the House for 140 years has followed the precepts of Thomas Jefferson in our manner of association and dealing with the other legislative body. After all, Jefferson's general precepts are but a restatement of the manner in which all legislative bodies, particularly the British Parliament, have dealt with each other for centuries. They are but a restatement of what is and ought to be true sportmanship in the dealings between the legislative branches of great governments.

"The Chair is firm, and he believes that the House will remain firm in our adherence to the rules of sportsmanship and comity as laid down in Jefferson's Manual."

Later on the Chair said:

"The question raised by the gentleman from New York, Mr. LaGuardia, is whether a Member may reflect in any way on the floor of the House against the actions, speeches, or proceedings of another Member or of the body itself.

"To put it in another way, shall the House, notwithstanding any adverse action by the other body, adhere to the provisions laid down in Jefferson's Manual, which have always governed?

"The answer of the Chair is emphatically 'Yes.' Indeed, it appears to the Chair that it has become all the more necessary, if the rules of comity between the two Houses are to be at all preserved, that Members of the House should be limited even more rigidly than ever by Jefferson's rules prohibiting reference in terms of the slightest disparagement of the remarks or actions of Members or any of the proceedings of the other body.

"If no rules of comity are to be followed in either House, then legislation may become chaos indeed.

"In conclusion, the Chair will say that so long as he remains Presiding Officer of this body he will see to it that the rules of Jefferson's Manual, in so far as they apply to the friendly relations

between the Members of the two Houses and the Houses themselves, shall be enforced with the utmost rigidity, not only in the letter but in the spirit."

The Chair reaffirms those views upon this occasion. The Chair thinks that there is possibly an alternative and that it might be carefully considered under these conditions. That is to change the rule which provides that Jefferson's Manual shall govern the proceedings of this House; but in the absence of such change the Chair will hold that Members of the House are not permitted to refer in any way disparagingly or in criticism of anything said by Members of the body on the opposite side.

2520. It is not in order in debate for a Member to impugn the motives or criticize the actions of Members of the Senate.

It is the duty of the Chair, without suggestion from the floor, to interfere when statements are made in debate which might give Senators ground for complaint.

On January 31, 1931,[1] the House was in the Committee of the Whole House on the state of the Union for the consideration of the legislative appropriation bill.

The Committee was considering a paragraph providing for funds for inquiries and investigations ordered by the Senate, when Mr. Charles L. Underhill, of Massachusetts, said in debate;

One investigator travels from Washington to Boston and return and puts in a bill of approximately $75 for transportation. Another one who made a stop-over in New York puts in a bill for approximately $50. As a matter of fact, on the "Senator," an extra-fare train, including chair accommodations, round-trip fare from Washington to Boston is approximately $50. Of course, I know how the item of $75 was incurred. The investigator hired a drawing room or a stateroom and went in style at the expense of the taxpayer.

I do not question the honesty of this report in any way, shape, or form, but I do question the ethics, and I do question the judgment of allowing a relative of one of the Members of this committee—

At this point the Chairman[2] interrupted and said:

The gentleman will suspend. The Chair is obliged by parliamentary precedent to protect Members of the other branch from any statements in this body impugning motives or criticizing their action. The Chair finds himself somewhat embarrassed by the fact that before the committee is a bill containing appropriations for the contingent fund of the Senate. In view of that fact he is inclined to permit a greater latitude than would be permitted in the ordinary course of affairs. The Chair, however, cautions the gentleman from Massachusetts that he is treading close to the line when he animadverts upon the conduct of a Senator.

Mr. Fiorello H. LaGuardia, of New York, rose to a point of order and questioned the right of the Chair to interrupt without suggestion from the floor.

The Chairman said:

For the benefit of the gentleman the Chair will read part of one paragraph in Jefferson's Manual:

"Therefore, it is the duty of the House, and more particularly of the Speaker, to interfere immediately and not to permit expressions to go unnoticed which may give a ground of complaint to the other House, and introduce proceedings and mutual accusations between the two Houses which can hardly be terminated without difficulty and disorder."

The Chair does not recall any other place in parliamentary law where it is clearly set forth that it is "more particularly" the duty of the presiding officer to protect the orderly transaction of business.

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[1] Third sessions Seventy-first Congress, Record, p. 3708.

[2] Robert Luce, of Massachusetts, Chairman.

2521. It is the duty of the Speaker to prevent expressions offensive to the other House.

On September 16, 1919,[1] during general debate on the urgent deficiency appropriation bill in the Committee of the Whole House on the State of the Union, Mr. J. Thomas Heflin, of Alabama, having the floor, referred to Mr. Henry Cabot Lodge, a Senator from the State of Massachusetts, as one who "puts party success above the welfare of his country."

The Chairman,[2] without suggestion from the floor, said:

The Chair desires to call the gentleman's attention to the rule that precludes a Member of the House from referring in terms of criticism to a Member of the coordinate body. If the gentleman's remarks as a Member of the House reflect upon or criticize a Member of the coordinate branch, it is a breach of the rule.

2522. It is a breach of order to refer in disparaging terms to a State of the Union.

On May 14, 1920,[3] while the Senate was considering the joint resolution (H. J. Res. 327) terminating the state of war between the Imperial German Government and the United States, Mr. Morris Sheppard, of Texas, in addressing the Senate, used this language:

The prohibition amendment was submitted to the States under the method prescribed in the Constitution itself, under the method prescribed by the States themselves when they created the Constitution. That amendment was ratified by 45 of the 48 States of this Union, and the assertion that it is in violation of State rights seems to me to border upon the absurd. It seems to me that the State of New Jersey, in resisting the action of 45 of the 48 States of the Union in ratifying an amendment proposed under the Constitution, and adopted in accordance with its solemn terms, has put itself on the side of revolution and anarchy.

The Vice President[4] said:

There is a rule of the Senate that prevents a Senator from making remarks about a State of the Union. The Senator must withdraw that remark or take his seat.

2523. On February 15, 1919,[5] in the Senate, during consideration of the river and harbor bill, Mr. William H. King, of Utah, inquired:

I understand that there are a few States in the Union that have recognized the propriety and justice of the situation and have had the honor to do something with respect to the improvement of streams within their borders, some of which have been purely local. May I ask the Senator from Massachusetts, Mr. Weeks, whether his State is on the roll of honor or on the roll of dishonor in respect to these appropriations?

The Vice president[6] interposed:

The Chair must call the attention of the Senator from Utah to the fact that the rule does not permit a Senator to refer disparagingly to a State of the Union.

Mr. King continued:

On the roll of honor or on the roll of dishonor. I submit that it is not honorable for a State to fail to make appropriations for purely local purposes, and to impose upon the Federal

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[1] First session Sixty-sixth Congress, Record, p. 5543.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 7039.

[4] Thomas R. Marshall, of Indiana, Vice President.

[5] Third session Sixty-fifth Congress, Record, p. 3423.

[6] Thomas R. Marshall, of Indiana, Vice President.

Government duties and burdens which rest upon them, and that when States do make appropriations for rivers and harbors it is an honorable thing; and I ask the Senator whether his State has done the honorable thing?

The Vice President said:

The Chair holds that is out of order, and a violation of the rule. There is not any showing in this bill that any State of the Union has come here and asked for anything, and the Senator from Utah is speaking offensively about States of the Union.

2524. On February 17, 1919,[1] the Senate had under consideration the bill (H. R. 13462) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors.

In debating the bill, Mr. John Sharp Williams, of Mississippi said:

There is no State in this Union which has gotten more out of the National Treasury for its own benefit than Pennsylvania, playing fast and loose from early in the history of this country, first Federalist and then Democratic, next Whig, and then Democratic, and fastening its policies entirely upon the proposition of sucking pap from the public teat. There is no State equal to it.

There is no State, from Virginia, the mother of States—

The president pro tempore[2] interrupted and said:

The Chair suggests to the Senator from Mississippi that the question of the course of the State of Pennsylvania may not properly be impugned in the senate. It is not in order to assais the course of the State of Pennsylvania or any other State under the rule of the Senate, and the Chair respectfully suggests to the Senator from Mississippi that in the opinion of the present occupant of the chair his remarks are of that character.

2525. On February 16, 1931,[3] the Senate was considering the district of Columbia appropriation bill, when Mr. Millard E. Tydings, of Maryland, interrupted Mr. Cameron Morrison, of North Carolina, who was discussing the enforcement of the prohibition laws, with the following inquiry:

I should like to ask the Senator, in view of the fact that in the State of Maryland there are 23 counties and one big city, and that the county laws for each of those counties are much more drastic than the Volstead Act, carrying penalties heavier than the Volstead Act provides, preventing the sale, possession, manufacture, and any contact whatsoever with liquor, if he does not feel that the State could do little by way of addition to those laws which are already more drastic than the Volstead Act? I will say to the Senator that is the condition of the State of Maryland.

Mr. Morrison replied:

The Senator has testified to the flagrant and shameless and open violation of the law in his State.

The Vice President[4] interposed:

The Chair will inform the Senator that he must not, in debate, reflect upon a State.

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[1] Third session Sixty-fifth Congress, Record, p. 3576.

[2] Joseph T. Robinson, of Arkansas, President pro tempore.

[3] Third session Seventy-first Congress, Record, p. 5010.

[4] Charles Curtis, of Kansas, Vice President.