

Chapter CCLVII.¹

GENERAL PRINCIPLES AS TO VOTING.

1. Provisions of the parliamentary law. Sections 3065–3067.
 2. Debate not in order after division begins. Section 3068.
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3065. Debate may continue, the previous question not having been ordered, until the ‘Speaker has put the negative side of the question.’—On Wednesday, February 2, 1910,² the House resumed consideration of the bill (H. R. 18813) to amend the act of August 28, 1894, relating to the compensation of store-keepers and gaugers, on which the House was dividing and on which the affirmative had been taken to adjournment on the previous Wednesday.

The previous question not having been ordered and the negative vote not having been taken on the passage of the bill, Mr. James R. Mann, of Illinois, took the position that debate was still in order, Mr. Mann said:

The previous question was not ordered on this bill, having been a report from the Committee on the Whole House on the state of the Union. While the affirmative of the question was put on last Wednesday and the negative of the question was put on last Wednesday, it will be necessary in any event to put the affirmative on the question again to-day if the bill proceeds to a vote. And under the rule, as I understand it, even after the affirmative should be put to-day, it would be in order for any gentleman to rise and ask to be recognized in debate. What took place the other day, so far as the vote is concerned, is wiped out by the fact that there was no quorum present; and hence that point being raised it was not within the power of the House to vote, and all of those proceedings must necessarily be gone over gain. The previous question not having been ordered on the bill, it seems to me that up to the time that the negative of the vote is ordered to-day it is in order to address the Chair and receive recognition in debate.

The Speaker³ said:

The Chair will read from the Digest, on page 237, as follows:

“After the Speaker has put the affirmative part of the question, any Member who has not spoken before to the question can rise and speak before the negative be put”—

That is, where the previous question has not been ordered—“because it is no full question until the negative part be put.”

Now, the affirmative was put and the negative was put, but upon the negative being put immediately the point of no quorum was made, and it was ascertained that no quorum was present.

¹Supplementary to Chapter CXXVII.

²Second session Sixty-first Congress, Record, p. 1389.

³Joseph G. Cannon, of Illinois, Speaker.

A quorum is absolutely necessary for the transaction of business. The Chair would be inclined to hold that everything that transpired in the House when no quorum was present would be void. The point of no quorum was not put when those who were in the affirmative voted, but it was put immediately when those who were in the negative voted, and it was ascertained that no quorum was present. There being no quorum present when the negative vote was put, it occurs to the Chair that the whole matter is void so far under the rule. Therefore, the Chair, within the language, would say that debate is in order, because "any Member who has not spoken before the question may arise and speak before the negative be put." The negative was put, but immediately it was disclosed that there was no quorum, and the putting of the negative to less than a quorum, it seems to the Chair, is void. There was a quorum present so far as the Journal disclose up to the time that the negative was put. Then it was immediately disclosed for the first time that there was no quorum, and therefore it occurs to the Chair that the House had no power to transact business.

Acting on the letter of the rule and the Manual, the Chair would say that when the affirmative was put there was a quorum and when the negative was put there was no quorum; and it seems to the Chair, from the Journal, that the negative would have to be put again; and the Chair recognizes the gentleman who desires to talk.

3066. After the Chair has put the affirmative, debate is still in order before the negative is put unless the previous question has been ordered.—

On September 12, 1919,¹ the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 8778) to amend the war risk insurance act, with the question pending on agreeing to an amendment proposed by Mr. John J. Esch, of Wisconsin.

The Chairman² having put the question the vote was taken on the affirmative, when Mr. Henry W. Temple, of Pennsylvania, addressed the Chair and being recognized engaged in a colloquy with Mr. Sam Rayburn, of Texas.

Mr. William B. Bankhead, of Alabama, made the point of order that the committee was dividing and debate was not in order.

The Chairman held:

The Chair must overrule the point of order made by the gentleman from Alabama upon the state of facts known to the Chair to exist, that the affirmative vote had just been ordered and not completed. The negative vote had not been taken at all. Under these conditions the gentleman rose and was recognized, and the Chair believes was properly recognized. The point of order made by the gentleman from Alabama is therefore overruled.

3067. Unless the previous question is operating, debate is in order after the third reading and pending the vote on the passage of the bill.—

On December 1, 1919,³ the bill (S. 183) providing additional time for the payment of purchase money under homestead entries of lands within the former Fort Peck Indian Reservation had been read the third time and the Speaker pro tempore announced the question on the passage of the bill.

Mr. Frank W. Mondell, of Wyoming, addressed the Chair and being recognized proceeded in debate.

Mr. Frederick C. Hicks, of New York, made the point of order that debate was no longer in order.

¹ First session Sixty-sixth Congress, Record, p. 5312.

² John Q. Tilson, of Connecticut, Chairman.

³ Second session Sixty-sixth Congress, Record, p. 13.

The Speaker pro tempore¹ overruled the point of order and said:

The previous question had not been ordered; and if there is anything before the House, the gentleman has the right to discuss it.

3068. Debate is not admitted after roll call has begun and it is not in order for a Member to explain or otherwise discuss his vote.—On July 22, 1919,² prior to the pronouncement of the vote by yeas and nays on a motion to adjourn, Mr. John T. Watkins, of Louisiana, said:

Mr. Speaker, in view of the unsettled condition of affairs in the city, and the anxiety of some members to be at home with their families, I change my vote from “nay” to “yea.”

The Speaker³ admonished:

The gentleman must not debate it.

3069. After a vote has been announced by the Speaker it is not in order for a Member to change or withdraw his vote even though inadvertently cast in violation of a pair.—On December 19, 1911,⁴ Mr. J. Hampton Moore, of Pennsylvania, being recognized to make a personal explanation, said:

Mr. Speaker, on Saturday last I voted on the mileage question, overlooking the fact that I was paired with the gentleman from Alabama, Mr. Hobson. I voted “no.” In fairness to the gentleman from Alabama, as well as to myself, I now ask that I may be permitted to withdraw that vote and to be recorded “present.”

The Speaker⁵ ruled:

The Chair will state that this question has arisen twice, and it seems to the Chair that it would be an extremely dangerous precedent to set, to allow a member, after two or three days, to come in and change a roll call.

3070. Before the result of a vote has been finally and conclusively pronounced by the Chair, but not thereafter, a Member may change his vote.

The purpose of a recapitulation is the verification of the vote as cast, and a Member failing to vote on the roll call may not be recorded on recapitulation.

A decision holding that recapitulation of a vote may be requested prior to final announcement of the result but not thereafter.

Members failing to vote on the roll call may not be recorded on recapitulation.

On March 1, 1919,⁶ the House was considering the contested-election case of Britt against Weaver and the question was pending on the resolution reported by the Committee on Elections deciding Zebulon Weaver, the sitting Member, entitled to his seat.

Mr. Cassius C. Dowell, of Iowa, offered a substitute declaring that James J. Britt had been elected.

¹ John Q. Tilson, of Connecticut, Speaker pro tempore.

² First session Sixty-sixth Congress, Record, p. 3015.

³ Frederick H. Gillett, of Massachusetts, Speaker.

⁴ Second session Sixty-second Congress, Record, p. 511.

⁵ Champ Clark, of Missouri, Speaker.

⁶ Third session Sixty-fifth Congress, Record, p. 4801.

The yeas and nays being demanded and ordered on the question of agreeing to the substitute, the roll was called and the Speaker announced:

There is only 2 difference in the vote—181 to 179.

Mr. Joseph Walsh, of Massachusetts, reminded the Speaker¹ that while he had stated the vote he had not announced which side had the majority.

The Speaker explained that after announcement of the vote recapitulation was not in order, and said: Until a final announcement is made any Member has the right to call for a recapitulation, but if the Chair has announced which side carries it, he can not demand recapitulation or change his vote. It is a fine distinction, but that is it.

In response to a further inquiry from Mr. J. Thomas Heflin, of Alabama, the Speaker said:

Until the final announcement is made any gentleman has the right to change his vote if he wants to.

Mr. Charles R. Crisp, of Georgia, asked that the vote be recapitulated.

The Speaker acquiesced:

We will see how close it is. The Chair thinks the gentleman is entitled to a recapitulation.

The vote having been recapitulated, Mr. Jerome F. Donovan, of New York, submitted a parliamentary inquiry as to whether Members who had failed to vote when the roll was called might be recorded on recapitulation.

The Speaker said:

Of course not. The recapitulation is only to verify what is here.

3071. In determining whether the personal interest of a Member in the pending question is such as to disqualify him from voting thereon a distinction has been drawn between those affected individually and those affected as a class. The question as to whether a Member's personal interest is such as to disqualify him from voting is a question for the Member himself to decide and the Speaker will not rule against the constitutional right of a Member to represent his constituency.—On December 22, 1914,² the question was pending on agreeing to the resolution (H. J. Res. 168) proposing an amendment to the Constitution prohibiting the manufacture, transportation, and sale of intoxicating liquor.

Mr. Richmond P. Hobson, of Alabama, as a parliamentary inquiry, asked if the pecuniary interest of Members owning stocks in breweries, distilleries, or saloons was such as to disqualify them from voting on the pending question.

The Speaker said:³

The rule about that is Rule VIII:

"Every Member shall be present within the Hall of the House during its sittings unless excused or necessarily prevented; and shall vote upon each question put, unless he has a direct, personal, or pecuniary interest in the event of such question."

¹ Champ Clark, of Missouri, Speaker.

² Third session Sixty-third Congress, Record, p. 615.

³ Champ Clark, of Missouri, Speaker.

It was decided after a bitter wrangle in the House in the case of John Quincy Adams, who came back to the House after he had been President, that you could not make a Member vote unless he wanted to. It has practically been decided by Speaker Blaine in a most elaborate opinion ever rendered on the subject that each Member must decide the thing for himself, whether he is sufficiently interested pecuniarily to prevent his voting. It must affect him directly and personally and not as a member of a class. If it were not so long, the Chair would read it in full. It arose in this way. They had a bill about national banks before the House and Mr. Hooper, of Massachusetts, who was the president of a national bank, voted. Somebody raised the point of order that his vote ought to be stricken from the Record. Speaker Blaine made this kind of a ruling of which I will give the substance; that where it affected an individual he could not vote, but that where it affected a class he could vote. He cited two different classes, one of which was national banks—a law that affected every national bank in the country, and a great number of Members of the House were more or less interested in national banks. Another class he cited was the old soldiers, of whom there were many in the House, and bills were constantly coming up at that time providing for pensions and bounties. He said that nobody would claim that these old soldiers should not be permitted to vote on that kind of a bill. He would up finally with the suggestion that knowing the fine constitution of the mind of the gentleman from Massachusetts and his high sense of honor, and how jealous he was of his reputation, he would suggest to him whether he would withdraw his vote or not, and he withdrew the vote.

Now, if there was a bill here affecting one institution, if you call it that, the Chair would be inclined to rule that a Member interested in it pecuniarily could not vote, but where it affects a whole class he can vote.

3072. Where the subject matter before the House affects a class rather than individual, the personal interest of Members who belong to the class is not such as to disqualify them from voting.

The power of the House to deprive one of its Members of the right to vote on any question is doubtful.

On April 5, 1928,¹ the House agreed to a special order providing for the consideration of the bill (H. R. 8927) to amend the act entitled "An act to promote export trade," approved April 10, 1918.

Thereupon Mr. Fiorello H. LaGuardia, of New York, propounded as a parliamentary inquiry the following:

Mr. Speaker, I rise to propound a parliamentary inquiry relative to the disqualification of certain Members of the House to vote upon this measure.

The bill under consideration permits an association of individuals or corporations for the purpose of engaging in certain import trade. Import trade as described in the bill itself means solely trade or commerce in crude rubber, potash, sisal, or other raw materials certified by the Secretary of Commerce as coming within the definition of the bill, to wit, to be controlled by any foreign government, combination, or monopoly. When we come to the crude rubber, we know exactly who this bill will affect. The reason we know this is that the pool or association which would be legalized under this bill is now in existence.

The bill, if enacted into law, will result in a direct benefit to certain now known corporations. This bill does not affect all corporations in the United States, but its conceded purpose will bring advantages and privileges to a certain small group of corporations now in existence. I desire to inquire whether a Member directly interested in that corporation as a stockholder comes within the prohibition and intent of section 1 of rule 8 of the rules of this House. In this connection I desire to call attention to the ruling of Mr. Speaker Hunter of February 28, 1873, found in section 5955 of Hinds' Precedents.

¹First session Seventieth Congress, Record, p. 5973.

That ruling seems to me to be directly in point, and with the indulgence of the Speaker I will read it in full:

“A bill affecting a particular corporation being before the House, the Speaker held that a Member directly interested in that corporation as a shareholder had no right to vote.

“Instance wherein the Committee of the Whole reported a question of order to the House for decision.”

It strikes me, Mr. Speaker, that in the case just cited, the decision applied to one corporation, while the bill under consideration will affect six or seven corporations. I will, of course, concede that in the ruling of Mr. Speaker Blaine the particular corporation was named in the bill, while the bill under consideration does not mention by name any particular corporation. I submit, however, that the purpose of the rubber pool is so clear, its existence so certain, its activities so gigantic that there can be no doubts of its existence and component members.

Now, it will be argued that it would be impossible to disqualify a large class of the membership of the House when the bill is general in its terms. But I submit, Mr. Speaker, that this bill, while at the first glance it may give the impression that it is general, its purpose, I repeat, is so well known and established that there can be no doubt as to the corporations directly affected and benefited. That being so, clearly it brings it within the purview and ruling by the Speaker of the House in 1873.

I want to submit, Mr. Speaker, that when it is argued that the Speaker can not go beyond the bill, that he is limited by the fact that the bill does not mention any particular corporation—such an argument is not in keeping with modern sense of legislative propriety.

The question here is one of propriety, one of public decency. For instance, the attitude of Members of the New Jersey delegation in 1839—when the question of seating the entire New Jersey delegation was under consideration each Member voted to seat his colleagues but did not vote on his own matter—might have been technically proper in those days, but to-day it would not be so accepted. Such action would be considered poor taste and indelicate in our time. There is a new standard of requirement in the exercise of public duty, and the question is not whether by looking at the bill a Member may be involved; the question is whether the Member who votes can turn around and face his 434 colleagues and look them square in the eye.

The Speaker ¹ replied:

The Chair is glad to answer the inquiry of the gentleman from New York. The gentleman was kind enough to notify the Chair some days ago that he would probably present a parliamentary inquiry such as he has just made. The Chair has had some opportunity to examine the precedents, and is quite familiar with the precedents, even without this particular examination.

The gentleman from New York raises the question whether any Member of this House who happens to be interested as a stockholder in any of the corporations which may be affected by the legislation provided for in H. R. 8927 is qualified to vote on the bill. The gentleman from New York quoted a decision of Mr. Speaker Blaine, announced in 1873, which hinged upon the question as to whether a Member who was at that time a stockholder in the Central Pacific Railroad had the right to vote on a bill which might directly affect that road. Mr. Speaker Blaine in rendering that decision laid stress upon the proposition that this was one single corporation and not a class of corporations. In section 5955, Hinds' Precedents, the summary of the decision is as follows:

“A bill affecting a particular corporation being before the House the Speaker held that a Member directly interested in that corporation as a shareholder had no right to vote.”

A year later the question was raised as to whether Members interested in banks should have the right to vote on legislation which might possibly affect the financial condition of those banks. The summary of the decision on that question as announced in Hinds' Precedents, section 5952, is as follows:

“Where the subject matter before the House affects a class rather than individuals, the personal interest of Members who belong to the class is not such as to disqualify them from voting.

“The power of the House to deprive one of its Members of the right to vote on any question is doubtful.”

¹Nicholas Longworth, of Ohio, Speaker.

At that time the point was raised by Mr. Speer, of Pennsylvania, that certain Members holding stock in national banks were not entitled to vote, "being personally interested in the pending question," and he referred to three Members of the House who had stock in national banks.

That decision, so far as the Chair knows, stands to-day, and has never been overruled or controverted.

On December 22, 1914, it was quoted with approval by Mr. Speaker Clark. Precisely the same question arose then.

The gentleman from Alabama, Mr. Hobson, raised the question as to whether Members of the House interested in a certain class of corporations had the right to vote, and after quoting the ruling of Mr. Speaker Blaine with approval Speaker Clark said:

"If there was a bill here affecting one institution, if you call it that, the Chair would be inclined to rule that a Member interested in it pecuniarily could not vote, but where it affects a whole class he can vote."

Unquestionably the bill before us affects a very large class. The Chair has no information as to how many stockholders there may be in these various rubber companies. The Chair would be surprised if there were not hundreds of thousands of American citizens who were stockholders in these companies specifically referred to by the gentleman from New York, and possibly there may be a very large number of others who are directly interested in the outcome of this legislation.

Following the decision of Speaker Blaine and Speaker Clark the Chair is very clear upon the question that Members, whether they may be stockholders or not in any of these corporations, have a perfect right to vote. The Chair would be in some doubt as to whether it would be within the power of the Speaker to say whether a Member interested might vote or not in any case. Certainly it would not be within the power of the Chair to deny a Member the right to vote except in the case where the legislation applied to one and only one corporation. In this case it applies to a large class. The Chair is absolutely clear in his mind, and in response to the inquiry of the gentleman from New York holds that in his opinion the Members of the House, whether interested or not, have the right to vote on this particular measure.

3073. The rule prohibiting Members from voting on questions affecting their direct personal or pecuniary interest was held not to apply to votes on propositions increasing the salaries of Members elect.—On February 20, 1925,¹ the previous question was ordered on agreeing to a Senate amendment to the legislative, executive, and judicial appropriation bill reading as follows:

That on and after March 4, 1925, the compensation of the Speaker of the House of Representatives, the Vice President of the United States, and the heads of the executive departments who are members of the President's Cabinet shall be at the rate of \$15,000 per annum each, and the compensation of Senators, Representatives in Congress, Delegates from Territories, Resident Commissioner from Porto Rico, and Resident Commissioners from the Philippine Islands shall be at the rate of \$10,000 per annum each.

Mr. Clarence Cannon, of Missouri, made the point of order that Members who had been elected to the Sixty-ninth Congress had a direct personal and pecuniary interest in the increase of salaries for that Congress and under Rule VIII were not entitled to vote on the pending question.

The Speaker² said:

The Chair thinks that provision is in conflict with the provision of the Constitution which says that the House shall fix its own salaries, and the Chair is of opinion that the universal practice has been to hold it in order. The Chair overrules the point of order.

¹ Second session, Sixty-eighth Congress, Record, p. 4266.

² Frederick H. Gillett, of Massachusetts, Speaker.

3074. Instance wherein a Member submitted his resignation from a committee on grounds of disqualifying personal interest.

The request of a Member that he be relieved from service on a committee is submitted to the House for approval.

On May 17, 1911,¹ the Speaker² laid before the House the following communication:

WASHINGTON, D.C., *May 17, 1911.*

Hon. CHAMP CLARK,

Speaker of the House of Representatives.

MY DEAR MR. SPEAKER: Not anticipating that any business would be transacted by the House yesterday beyond the debate upon the resolution providing for the approval of the constitutions of New Mexico and Arizona, I withdrew from the Hall to attend to other matters. During my absence the House paid me the compliment of a unanimous election to membership on the select committee provided for by House Resolution 148, for the investigation of the affairs of the United States Steel Corporation and other corporations. That election, coming without solicitation or suggestion from me, I very much appreciate, but I find that the resolution includes, by name, the Pennsylvania Steel Co. and calls for an inquiry whether it has any relations or affiliations, in violation of law, with the so-called Steel Corporation.

The Pennsylvania Steel Co. is located in my district. I have no financial interest in it of any kind and have never represented it professionally or in any other way. I have, however, a great interest in its welfare because so many of my constituents are dependent upon it for support and some of its officers are my warm personal friends. I do not believe that it has any relations or affiliations in violation of law with the United States Steel Corporation or anybody else, but it will avoid any appearance of partiality if the finding to that effect be made by others than myself. I therefore beg to be excused from service upon the committee.

Very respectfully,

M. E. OLMSTED.

The Speaker having submitted the question to the House and there being no objection, Mr. Olmsted was relieved from further service on the committee.

3075. The Speaker is not required to vote unless his vote would be decisive.

Recapitulation of a vote by which a bill had been passed by a majority of one having shown the actual vote to be a tie, the Speaker cast the deciding vote.

The Speaker's vote is properly recorded at the end of the roll call.

On December 12, 1908,³ the vote being taken on the passage of the bill (H. R. 11733) punishing conspiracies to intimidate persons in the exercise of rights under the Constitution, it was announced that the vote was, yeas 101, nays 100, and the bill was passed.

A recapitulation being demanded and had, the Speaker announced that the vote was, yeas 100, nays 100, and thereupon cast his vote in the affirmative.

Mr. David A. De Armond, of Missouri, made the point of order that the Speaker was subject to the requirement applying to other Members and was not entitled to vote after the vote on the question had been announced.

¹ First session, Sixty-second Congress, Record, p. 1296.

² Champ Clark, of Missouri, Speaker.

³ Second session, Sixtieth Congress, Record, p. 174.

The Speaker¹ overruled the point of order and said:

This is a very plain matter. The Speaker is not required to vote unless his vote would be decisive. The vote as announced by the Speaker showed that the bill passed by a majority of 1. Then the demand for recapitulation was made and the order to recapitulate was also made and recapitulation was had. Now, then, that recapitulation showed that the vote was a tie. The very object of the recapitulation was to see whether or not the announcement of the Speaker was correct, or whether there had been a mistake at the Clerk's desk, and that threw the matter open, so that the Speaker was entitled to vote. And years ago the Chair is informed that there is a precedent of this kind, that where there is a mistake in a vote taken to-day, or, say, on one day and that mistake is corrected on another legislative day so as to make a tie, the Speaker in that case votes the day after. In other words, it is an ascertainment of the vote. Under the rule and under the practice such ascertainment shows that the vote was a tie upon recapitulation, and the Speaker is very clear as to the question of practice as well as the question of right that he is entitled to vote, and therefore votes "aye."

3076. In the early days of the Congress the practice of pairing was the subject of severe adverse criticism.

Discussion of the origin of the practice of pairing in the House and Senate.

On August 1, 1914,² on motion of Mr. Jeremiah Donovan, of Connecticut, by unanimous consent, the Clerk read the following excerpt³ from *Thirty Years in the United States Senate*, by Thomas Hart Benton:

At this time, and in the House of Representatives, was exhibited for the first time the spectacle of Members "pairing off," as the phrase was; that is to say, two Members of opposite political parties agreeing to absent themselves from the duties of the House, without the consent of the House and without deducting their per diem pay during the time of such voluntary absence. Such agreements were a clear breach of the rules of the House, a disregard of the Constitution, and a practice open to the grossest abuses. An instance of the kind was avowed on the floor by one of the parties to the agreement, by giving as a reason for not voting that he had "paired off" with another Member, whose affairs required him to go home. It was a strange annunciation and called for rebuke; and there was a Member present who had the spirit to administer it; and from whom it came with the greatest propriety on account of his age and dignity and perfect attention to all his duties as a Member, both in his attendance in the House and in the committee rooms. That Member was Mr. John Quincy Adams, who immediately proposed to the House the adoption of this resolution: "*Resolved*, That the practice, first openly avowed at the present session of Congress of pairing off, involves, on the part of the Members resorting to it, the violation of the Constitution of the United States, of an express rule of this House, and of the duties of both parties in the transaction to their immediate constituents, to this House, and to their country." This resolve was placed on the calendar to take its turn, but not being reached during the session was not voted upon. That was the first instance of this reprehensible practice, 50 years after the Government had gone into operation; but since then it has become common, and even inveterate, and is carried to great length. Members pair off, and do as they please—either remain in the city refusing to attend to any duty, or go off together to neighboring cities, or separate, one staying and one going; and the one that remains sometimes standing up in his place and telling the Speaker of the House that he had paired off, and so refusing to vote. There is no justification for such conduct, and it becomes a facile way for shirking duty and evading responsibility. If a Member is under a necessity to go away, the rules of the House require him to ask leave; and the Journals of the early Congresses are full of such applications. If he is compelled to go, it is his misfortune, and should not be communicated to

¹ Joseph G. Cannon, of Illinois, Speaker.

² Second session Sixty-third Congress, Record, p. 13125.

³ *Thirty Years' View*, Vol. II, p. 178.

another. This writer had never seen an instance of it in the Senate during his 30 years of service there; but the practice has since penetrated that body, and "pairing off" has become as common in that House as in the other, in proportion to its numbers, and with an aggravation of the evil, as the absence of a Senator is a loss to his State of half its weight. As a consequence, the two Houses are habitually found voting with deficient numbers—often to the extent of a third—often with a bare quorum.

In the first age of the Government no Member absented himself from the service of the House to which he belonged without first asking and obtaining its leave; or, if called off suddenly, a colleague was engaged to state the circumstances to the House, and ask the leave. In the Journals of the two Houses for the first 30 years of the Government there is in the index a regular head for "absent without leave," and turning to the indicated page every such name will be seen. That head in the index has disappeared in later times. I recollect no instance of leave asked since the last of the early Members—the Macons, Randolphs, Rufus Kings, Samuel Smiths, and John Taylors of Caroline—disappeared from the Halls of Congress.

3077. Pairs are personal contracts the terms of which are determined by the contracting Members who may provide for commencement and termination of the pair on definite dates or for exceptions thereto, and may indicate if desired the attitude of each Member on questions on which paired.—On February 1, 1919,¹ on the vote on the passage of the agricultural appropriation bill the following pairs were announced:

On this vote:

Mr. Tinkham (for) with Mr. Gallivan (against).

Until further notice:

Mr. Scully with Mr. Bacharach.

Mr. Davey with Mr. Griest.

Mr. Sears with Mr. Ramsey.

Mr. Littlepage with Mr. Cooper of West Virginia (commencing January 29, 1919, ending February 3, 1919).

Mr. Saunders of Virginia with Mr. Walsh (except road appropriation).

Mr. Drane with Mr. Husted.

Mr. Godwin of North Carolina with Mr. Kiess of Pennsylvania.

3078. Instance wherein pairs were not published in the Record because of the unanimity of the vote on the question.

Discussion of the practice of the pair clerks in pairing without authorization all Members failing to vote.

On January 15, 1920,² Mr. Thetus W. Sims, of Tennessee, rising to a parliamentary inquiry, desired to know why the usual publication of pairs had been omitted in connection with the vote taken several days previous on the exclusion of a Member elect.

The Speaker³ said:

The Chair has no information on the subject. Has the gentleman inquired of the pair clerk?

Mr. Thomas L. Blanton, of Texas, explained that the vote was on a question on which it was impossible to find a pair on the opposite side, and Mr. Frank W. Mondell,

¹Third session Sixty-fifth Congress, Record, p. 2527.

²Second session Sixty-third Congress, Record, p. 1575.

³Frederick H. Gillett, of Massachusetts, Speaker.

of Wyoming, said that he had considered it wise not to have the pairs appear on the question under the circumstances.

Mr. Sims insisted that regardless of the nature of the question the pairs should have been published in conformity with the custom and the rules.

Mr. John N. Garner, of Texas, criticized the practice of the pair clerks in pairing without their authorization all Members failing to vote and suggested that no member should be paired without expressed instructions in writing.

The Speaker said:

The Chair was not aware there was any such practice. The Chair thinks that strictly, of course, the pairs should be formally made.

The pairing is done for the convenience of Members. It occurs to the Chair very likely the men who had regular pairs would have preferred not to have them appear on that vote.

A request by Mr. Sims for unanimous consent that the pairs be published in connection with the vote in the permanent Record was, on objection of Mr. Mondell, refused.

3079. Failure of the Congressional Record to record a pair is subject to correction as any other error in the Record.—On January 8, 1910,¹ following the reading of the Journal, Mr. Sereno E. Payne, of New York, said:

Mr. Speaker, I desire to correct the Record. A pair was filed yesterday with the pair clerk between Mr. Hill of Connecticut and Mr. Randell of Texas. Through some inadvertence it was omitted from the Record. I ask to have the Record corrected so as to show that pair.

The Speaker² submitted the question:

Without objection, the Record will be corrected in accordance with the statement of the gentleman from New York.

There being no objection the request was agreed to.

3080. Correction of errors in the recording of pairs as reported in the Congressional Record are made by Members without action on the part of the House.—On February 11, 1910,³ Mr. George W. Norris, of Nebraska, rising in his place, stated that an error had been made in the Record of the pairs on the vote taken in the House on the previous day, in that he was recorded⁴ as having been paired in the affirmative when as a matter of fact he was paired in the negative.

Thereupon Mr. John A. Moon, of Tennessee, called attention to a similar error in the recording of his pair on the same vote.

The Speaker² said:

Under the rules of the House these corrections could be made without being called to the attention of the House; but in the case of these pairs, the statement of the gentleman from Nebraska will enable any other gentlemen who are not correctly paired in the Record to correct it themselves, and, without objection, that order will be made. The Chair hears no objection.

¹Second session Sixty-first Congress, Record, p. 412.

²Joseph G. Cannon, of Illinois, Speaker.

³Second session Sixty-first Congress, Record, p. 1768.

⁴Record, p. 1752.

3081. Pairs do not excuse from attendance or exempt from arrest under a call of the House.—On March 18, 1910,¹ the House was considering the resolution (H. Res. 502) proposing to amend the rules of the House by taking from the Speaker the appointment of the Committee on Rules and making him ineligible to membership thereon.

A quorum not being present, on motion of Mr. Oscar W. Underwood, of Alabama, a call of the House was ordered.

During the proceedings, Mr. David A. Hollingsworth, of Ohio, appearing on the floor in the custody of the Sergeant at Arms, said:

Mr. Speaker, I desire to state that before I left the Chamber, at about 12 o'clock, I consulted the "whip" and understood if I got a pair it would be all right. I made a pair in the regular way with a live Democrat, the gentleman from Nebraska, Mr. Latta, and then went to my room at the Willard Hotel, and went to bed, just where all good Republicans ought to be at this hour in the morning. I want to know by what right when a Member has taken this precaution and gone to his hotel and retired like a gentleman, the Sergeant at Arms shall be sent to his rooms in a public hotel to announce in the early hours of the morning in loud tones that he is under arrest, and that he must appear, without the usual courtesy of a call by telephone. I am here. If my pair is not good, I will stay here, and if it is good I want to go back to my hotel, where Republicans ought to be at this time in the morning.

The Speaker pro tempore² replied:

The gentleman would be liable to arrest if he left the House now. His presence is necessary in order to make a quorum.

3082. On a question requiring a two-thirds vote two Members favoring the affirmative are paired with one Member favoring the negative.

The House exercises no jurisdiction over pairs.

On August 11, 1911,³ during an interval in the business of the House, Mr. James R. Mann, of Illinois, the minority leader, announced:

I would like to make this observation; it is a matter of interest to the Members of the House: It looks as though we would have one or more veto messages from the President on bills originating in the House. A very common practice, as everyone knows, is for gentlemen going away to make pairs. Pairs on even terms on a veto measure mean two to one, and not one to one. We are giving notice on this side of the House, that we will make no pairs and will ask all pairs to be canceled that are made on the basis of one to one, so far as veto messages are concerned. While I do not object to this request in itself, if the gentleman is paired with some Republican, and only one Democrat to a Republican, I shall ask to have the pair canceled at the proper time and the gentleman recalled, if they desire to recall him from that side of the House.

Mr. Speaker, I thought it was fair to this side of the House to make this statement in reference to the matter, because we do not desire to lose out on a veto proposition by losing on pairs, and we serve notice that two and one will be required, so far as veto messages are concerned.

The Speaker⁴ said:

The Chair is of the opinion that the House has nothing to do with this pair business.

¹ Second session Sixty-first Congress, Record, 3394.

² John Dalzell, of Pennsylvania, Speaker pro tempore.

³ First session Sixty-second Congress, Record, p. 3833.

⁴ Champ Clark, of Missouri, Speaker.

3083. On December 17, 1971,¹ on the vote on the passage of the joint resolution (S.J. Res. 17) proposing an amendment to the Constitution, prohibiting the manufacture, sale, or transportation of intoxicating liquor, Members were paired on the question, two in the affirmative to one in the negative as follows:

Mr. Goodwin of Arkansas and Mr. Miller of Washington (for) with Mr. Tague (against).
 Mr. Neely and Mr. Stephens of Nebraska (for) with Mr. Gallivan (against).
 Mr. Taylor of Colorado and Mr. George W. Fairchild (for) with Mr. Curry of California (against).

3084. Reservations may be appended in signing for a pair and when so made are announced by the Clerk and appear in the Record.— On August 12, 1911,² in connection with the record of the yeas and nays vote on a motion to lay on the table an appeal by Mr. James R. Mann, of Illinois, from a decision of the Speaker, pairs were published as follows:

Until further notice:
 Mr. Hobson with Mr. Fairchild (transferable).
 From August 8 to 11:
 Mr. Jones with Mr. Slemp (not to apply to vote on vetoes).
 From 21st of June to end of session:
 Mr. Maher with Mr. Calder.
 For the day:
 Mr. Peters with Mr. McCall (not to apply to vote on vetoes).
 For balance of the session:
 Mr. Hensley with Mr. Thistlewood (reserving the right to vote to make a quorum and all questions affecting vetoes of the President).
 From August 12 until further notice:
 Mr. Hamilton of West Virginia with Mr. Barchfeld (reserving the right to vote to make a quorum and all questions affecting the veto of the President).
 From 11th until Tuesday noon:
 Mr. Oldfield with Mr. Moon of Pennsylvania.

3085. Unless specifically provided, a pair does not indicate the attitude of a Member on the pending question.

Neither the House nor the Speaker takes cognizance of complaints relating to pairs.

General pairs may be arranged for Members desiring to be recorded as absent without leave, and it is customary for the pair clerks to arrange such pairs without specific authorization from Members.

On April 14, 1917,³ on the vote taken on the passage of the bill (H. R. 2762) authorizing an emergency bond issue, the yeas were 390 and the nays were 0.

In connection with the vote the Clerk announced a number of general pairs, when Mr. John Q. Tilson, of Connecticut, inquired:

Mr. Speaker, I rise to make an inquiry concerning the propriety of marking up the pairs on a vote of this sort, where there have been no votes in the negative whatsoever, unless there has been some positive request to the contrary. It would appear that these men are one paired against the other, whereas the other Members of the House have voted all one way.

¹ Second session Sixty-fifth Congress, Record, p. 470.

² First session Sixty-second Congress, Record, p. 3873.

³ First session Sixty-fifth Congress, Record, p. 690.

The Speaker¹ said:

They are only general pairs, the pair clerk informs the Chair. As a matter of fact, neither the Speaker nor the House has anything to do with the pairs. It is a kind of excrescence that has grown up on the body politic.

Mr. James R. Mann, of Illinois, added:

Mr. Speaker, the question was asked me, as everybody was voting for this bill, How about pairs? Members go away and asked to be paired on a bill. A number of such requests were made. It was not possible to pair Members on this bill for and against. I requested the pair clerks to put up general pairs only, which do not indicate how Members would vote on the bill and do not indicate that either of the gentlemen paired would vote against the bill, but which would give some excuse for their being absent. I may say that I was asked by a large number of gentlemen, some of whom are absent on a funeral, some of whom are absent on account of illness, and for various other reasons, that they be paired in favor of the bill. I think everyone is in favor of the bill. They can not be paired in favor of the bill with anyone who is against it, because there is no one who is against the bill.

I think the pairs ought to show in the Record as evidence that Members were attending to business enough to endeavor to secure a pair. I wish to make the statement that all gentlemen on this side who are paired would have voted for the bill if they had been present.

3086. Under a long-established practice the pair clerks, unless otherwise instructed, pair all absent Members.—On September 14, 1917,² Mr. William W. Rucker, of Missouri, speaking by unanimous consent, said:

Mr. Speaker, when the bill known as the war-risk insurance bill was voted on yesterday evening I was, just before the vote, called temporarily out of the building, and I was not here to vote. The very efficient and courteous pair clerk, seeking to do me a kindness, no doubt, paired me with an absent Member. I mean no criticism against anyone, but under the circumstances, if the press conveys the truth to us at this particular time, if I had been consulted I would not have consented to the pair that was made by the pair clerk. I simply desire that to go into the Record.

3087. Members favoring the same side of the question having been paired without their authorization under the practice of pairing all Members known to be absent, permission was asked and secured for a correction of the Record in accordance with the facts.

An instance wherein the House declined to interfere with the custom of pairing Members without signed requests from the Members proposed to be paired.

Neither the House nor the Speaker take cognizance of complaints relating to pairs.

On August 24, 1918,³ Mr. Walter M. Chandler, of New York, rising in his place, said:

Mr. Speaker, I wish to have the Record corrected. Both the gentleman from New York, Mr. Caldwell, and I have discovered that we were paired, seemingly against each other, though we favored the increase in the postal employees' salary. I ask unanimous consent to have the Record corrected to show that Mr. Caldwell and I both favored the increase in salary.

The Speaker having submitted the question to the House there was no objection and it was ordered that the Record be corrected accordingly.

¹ Champ Clark, of Missouri, Speaker.

² First session Sixty-fifth Congress, Record, p. 7135.

³ Second session Sixty-fifth Congress, Record, p. 9507.

Thereupon Mr. John N. Garner, of Texas, moved that the pair clerks be instructed to make no pairs for which requests has not been submitted in writing over the signature of both Members proposed to be paired, and said:

Mr. Speaker, that is one of these pairs that go into the Record without the consent of the Members, and I desire to again call the Speaker's attention to the fact that he promised some time ago that he would write a letter or give directions that this should not occur again. Here is one of these universal pairs put up by the gentleman from New York, Mr. Caldwell, and the gentleman from New York, Mr. Chandler, on the opposite side. Now, I insist that this matter ought to be corrected, because it is putting gentlemen in a wrong attitude. It ought to be stopped, and I do hope the Speaker will give directions accordingly. I ask unanimous consent that in the future no pairs be put up unless signed by the Members.

The Speaker¹ said:

The Chair doubts very much whether he has the right to do it or not. I have announced here three or four times, and will announce again, that neither the House nor the Speaker has anything to do with this pair business. It is an excrescence that has grown up on the body politic. If gentlemen want to find out the philosophy of the thing, they ought to read Benton's Thirty Years in Congress. The gentleman asks unanimous consent that in the future no pairs be put up unless actually signed by the Members.

Objection having been made the motion was rejected.

3088. The House takes no cognizance of questions relating to pairs as such.

A Member may discuss questions arising out of a pair by unanimous consent or by raising a question of personal privilege.

Discussion of an alleged violation of a pair made in a statement issued by the pair clerk and printed in the Record.

The pair clerks decline to alter a pair unless authorized to do so by all Members signatory thereto.

On questions requiring a two-thirds majority Members are paired two in the affirmative against one in the negative.

On January 9, 1918,² Mr. Thomas A. Chandler, of Oklahoma, was granted leave to extend his remarks in the Record by printing the following statement:

HOUSE OF REPRESENTATIVES UNITED STATES,
Washington, D.C., January 8, 1918.

Messrs. THOMAS L. BLANTON, M. C., AND T. A. CHANDLER, M. C.,

House of Representatives, Washington, D.C.

MY DEAR SIR: On day before yesterday you requested me, as pair clerk of the House of Representatives, to make you a statement in writing as to the facts concerning the pair made between you and Hon. James C. Wilson, giving the reason why the pair was not observed and did not appear in the Congressional Record.

About two weeks before the vote was taken on the constitutional amendment for national prohibition, Hon. Thomas Blanton, Member of Congress from the sixteenth Texas district, came to me and stated that he had a pair upon the votes to be taken upon the constitutional questions of national prohibition and woman suffrage, Mr. Blanton stating that he was for both these propositions and that Mr. Wilson would be against both, and that they would secure some other Member

¹ Champ Clark, of Missouri, Speaker.

² Second session Sixty-fifth Congress, Record, p. 725.

who would vote as Mr. Blanton would in the matter. (Pairs upon these constitutional questions are in the same proportion as the vote, and as it requires a two-thirds majority for legislation of this character, it would take two Members for either of these amendments to protect one Member voting against.) On the next day Mr. Blanton came to me with Mr. T. A. Chandler, Member of Congress from Oklahoma, and handed to me a pair which was out of the ordinary for the reason that it was a type-written agreement, with the names of Messrs. Blanton and Chandler voting for the prohibition amendment and Mr. Wilson voting against the prohibition amendment inserted in the pair and duly signed by each of them, and I told them, as pair clerk, that the pair would go into the Record.

Two or three days before the vote was taken on the prohibition amendment Mr. Wilson came to me and said he had expected to leave the city, but that as he had not he desired to have the pair changed to someone else who would vote as he would in order that he might vote.

Now, pairs are simply agreements between Members of Congress, the idea being that one vote will offset the other, and should one or all Members concerned in a pair or an agreement made between Members be absent, these agreements and pairs are observed. After such an agreement is made it is never altered by the pair clerks, except by the consent or permission of those concerned.

Therefore, when Mr. Wilson requested the pair clerks to release him we had nothing to do with it, as the matter was between Messrs. Blanton of Texas, Chandler of Oklahoma, and Mr. Wilson of Texas. I told Mr. Wilson that if he would communicate with Messrs. Blanton and Chandler, and they would agree to do so, of course it would be all right; otherwise I would put the pair up for the Record.

In the meantime Hon. Claude Kitchin, the Democratic floor leader, handed me a telegram from Mr. Blanton, which is as follows:

"Am making three speeches a day in my district, embracing 58 counties, in effort to wipe out all disloyalty and force absolute support behind Government. If Wilson of Texas will support prohibition amendment, then change my pair to benefit cause, or if necessary I will return immediately."

Mr. Wilson came back to see me and said so far as Mr. Blanton was concerned he was willing to release him (Mr. Wilson) from the pair. Mr. Hollingsworth, who represents the minority in the matter of pairs, who was present, asked Mr. Wilson how he expected to protect Mr. Chandler. Mr. Wilson said that he had no agreement with Mr. Chandler, and then we cited Mr. Wilson to the signed agreement, with all names filled in, and which is as follows:

"Mr. SPEAKER: We, the undersigned, have paired on the resolutions for the national prohibition amendment and the national woman suffrage amendment, Thomas L. Blanton, of Texas, and T. A. Chandler, of Oklahoma, each voting both for national prohibition and national woman suffrage and James C. Wilson, of Texas, voting against both of these said resolutions, and we request that this agreement be printed in the Record.

(Signed)

"THOMAS L. BLANTON, of Texas.

"T. A. CHANDLER, of Oklahoma.

"JAMES C. WILSON." (Name later erased.)

Mr. Wilson then said that he intended to vote anyway. I went to Mr. Ferris, of Oklahoma, and although it was late we made an effort to communicate with Mr. Chandler as to whether he wanted to hold Mr. Wilson to the pair, as it was my plain duty as pair clerk to have the pair as made announced for printing in the Record. Mr. Wilson came to the pair clerk's desk again, and with him was Mr. Morgan, of Oklahoma, who stated that he was not willing to state whether or not Mr. Chandler would be willing to release Mr. Wilson from the pair, after the matter had been explained to him. Mr. Wilson then left and returned after a few minutes and said that he was going to vote and asked to see the signed pair, which he took and said as he intended to vote, would not have his name on it, and then erased his name from the agreement, which he had, according to his own statement, signed.

Mr. Blanton's telegram released Mr. Wilson from pair, provided he intended to vote for the prohibition amendment, and on the final vote he voted against the amendment, so that he had no release from Mr. Blanton and did not claim to have any from Mr. Chandler. We, the pair clerks,

could not put the pair into the Record because Mr. Wilson had erased his name and there was nothing to hold him to the agreement, as he had announced his intention of voting.

This is now the matter happened, and no one regrets as much as do the pair clerks that you both were left unprotected on the vote, as we knew when you left the city it was with the understanding that you would be taken care of.

With highest personal regard, I am,
Very respectfully, yours.

W. E. SMALL, Jr.,
Pair Clerk, House of Representatives.

The Speaker¹ volunteered:

The Chair will take occasion to state that the House has absolutely nothing to do with pairs. It has gone as far as to allow them to be made a matter of record, but it is a private transaction. A good many Members think that the House has something to do with it, but it has not. If any-body wishes to know all about pairs, let him get Benton's Thirty Years in the United States Senate and see what he had to say about it when it was first begun.

On January 31, 1918,² Mr. James C. Wilson, of Texas, addressed the Speaker and said:

Mr. Speaker, some weeks ago the gentleman from Texas, Mr. Blanton, and the gentleman from Oklahoma, Mr. Chandler, placed a statement in the Record undertaking to show that I had violated a pair agreement. I do not know that I would have cared to make any reply if it had not been that I now hear—

Mr. Frederick H. Gillett, of Massachusetts, here interposed a point of order. The Speaker sustained the point of order and said:

The Chair desires to state once more, and hopes that the Members present will convey the statement to others, that the House has nothing on earth to do with pairs.

Thereupon Mr. Wilson asked and secured unanimous consent to extend his remarks in the Record³ on the subject.

On February 4, 1918,⁴ Mr. Thomas L. Blanton, of Texas, being recognized to present a question of personal privilege, discussed the statement made by Mr. Wilson in the extension of his remarks.

3089. Neither the Speaker nor the House exercises jurisdiction over pairs, and the only cognizance of them taken by the rules is the provision for their announcement and publication.

The practice requires that pairs be reduced to writing and be signed by the contracting Members.

Unless specifically provided, pairs do not indicate the attitude of Members on questions for which paired.

On August 27, 1918,⁵ following the approval of the Journal, the Speaker⁶ said:

The Chair wishes to make a statement. Two or three times lately there has been a commotion about pairs. The Chair has stated half a dozen times that the Chair has nothing on earth

¹ Champ Clark, of Missouri, Speaker.

² Record, p. 1567.

³ Appendix, p. 61.

⁴ Record, p. 1655.

⁵ Second session Sixty-fifth Congress, Record, p. 9583.

⁶ Champ Clark, of Missouri, Speaker.

to do with pairs and neither has the House except as stated in the rules. The other morning the gentleman from Texas, Mr. Gardner, asked unanimous consent that the Speaker inform the pair clerks that they must not pass up any pairs except those signed by the Members. That is precisely what the rule provides now. It is one of those things that the Chair does not have always in mind unless attention is called to it. The rule provides:

“Pairs shall be announced by the clerk after the completion of the second roll call from a written list furnished him and signed by the Member making the statement to the clerk, which list shall be published in the Record as a part of the proceedings, immediately following the names of those not voting, provided pairs shall be announced but once during the same legislative day.”

And then in Rule XV it provides—

“and thereafter the Speaker will not entertain a request to record a vote or announce a pair unless the Member’s name has been noted under clause 3 of this rule.”

The Chair knows, and everybody else knows, that as a matter of practice a Member will go to the pair clerk and say “Pair me with Representative Jones, Smith, or Brown,” or whoever the Member may be. The difficulty comes where the pairs do not indicate which way the Member would vote if he was here. The Chair does not see how a man can tell what is going to come up in the three or four weeks that he may be absent when making a pair for that length of time. He can not go off and expect the pair clerk to know how he would vote.

In old times, when everything was political, Democrats and Republicans, two Members could make a pair, and the clerk would know that the Republicans voted with the Republican and the Democrat with the Democrats, but lately you can not tell “tother from which.” And many times they are not very far apart.

3090. An instance wherein a Member, being unable to secure a pair, explained his attitude on the vote through an extension of remarks in the Record.—On February 21, 1920,¹ Mr. Fred L. Blackmon, of Alabama, by unanimous consent, extended his remarks in the Record as follows:

Mr. Speaker, I was compelled to go home some days before the vote was reached on the railroad bill, on account of my own illness.

On February 17 I sent the following telegram to one of my colleagues:

ANNISTON, ALA., *February 17, 1920.*

S. H. DENT, Jr.

House of Representatives, Washington, D.C.:

Please pair me against conference report on Cummings-Esch bill. If no record vote, read this message into the Record.

FRED L. BLACKMON.

I am informed by my colleague that on account of an unusually large number of Members present on the occasion of this vote, he was unable to obtain a pair, so that the Record would show that had I been present I would have voted against the conference report.

I therefore take occasion, under leave to extend remarks, granted while this conference report was under discussion, to state my position in the Record.

The conference report as finally drafted contains many objectionable features, and on account of these objectionable features, had I been present my vote would have been cast in the negative.

3091. An instance in which the record of pairs was revised on a day subsequent to that on which the vote was taken.—On January 24, 1923,² Mr. William R. Green, of Iowa, speaking by consent, said:

Mr. Speaker, I ask unanimous consent to address the House for one minute in reference to a correction that should be made in the Record.

¹ Second session Sixty-sixth Congress, Record, p. 8849.

² Fourth session Sixty-seventh Congress, Record p. 2327.

This morning the gentleman from New York, Mr. Cockran, called me over the telephone and asked me how he came to be paired against the resolution which was voted upon yesterday. I told him I had not looked over the pair list, and he asked me if I had not received his telegram, and I told him that I had not. After I came into the House just a moment ago the following telegram was handed me:

NEW YORK, *January 23, 1923.*

Representative W.R. GREEN,

Washington, D.C.

Regret can not reach Washington in the evening. Please pair me for the resolution.

W. BOURKE COCKRAN.

I regret very much that I did not receive this telegram until today. I knew the gentleman from New York was in favor of the resolution. I had seen him a few days prior to the time it was taken up, and he told me he was in favor of it, and that he expected to be here and vote for it.

Mr. Speaker, I would ask, somewhat in the name of a parliamentary inquiry, whether the pair list can be corrected now?

The Speaker¹ said tentatively:

The Chair at first blush thinks the pair list is like the roll call in that respect.

Mr. John N. Garner, of Texas, argued:

Mr. Speaker, the pair list is a private matter. It is of no concern to the House of Representatives. If the gentleman from New York could find somebody to pair with him, somebody against the resolution, and wanted to ask unanimous consent that it be inserted in the Record, I can see no objection to that.

The Speaker held:

Of course that is true. The Chair thinks it is like correcting the Record; it can be done by unanimous consent. But of course this publicity practically accomplishes the same thing.

The gentleman from New York asks unanimous consent that the pair be canceled. Is there objection?

There being no objection the request was agreed to.

3092. Questions relating to a pair have been discussed in the House under a request for correction of the Record.

Following a long-established custom that pair clerks, unless otherwise instructed, ordinarily pair all Members absent and not voting.

It frequently happens that on account of the large majority vote on the pending question the pair clerks are unable to secure regular pairs and are forced to pair Members favoring the same side of the question. For this reason some Members instruct the clerks not to pair them during their absence without explicit instructions.

A pair may be made "until further notice" and unless abrogated remains in force during the entire session.

The ordinary announcement of pairs in the Record does not indicate the attitude of Members on the question on which paired.

On May 16, 1912,² following the approval of the Journal, Mr. Augustus P. Gardner, of Massachusetts, rising to request a correction of the Record, said:

Mr. Speaker, I ask unanimous consent that where my name appears as paired on the Clayton anti-injunction bill on Tuesday, May 14, it may be stricken out of the Journal and the Record.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² Second session Sixty-second Congress, Record, p. 6564.

I also ask permission to insert two telegrams explanatory of this request. I have standing order that under no circumstances am I to be paired during my absence without my explicit instructions, because I do not think the pairs made up at the Clerk's desk are proper as showing the Member's attitude. On May 6, 1912, I telegraphed the pair clerk, "Please pair me in favor of the Clayton bill for trial by jury in injunction cases. This is the bill that comes up on Thursday." It was then thought that the bill would come up at that time. I telegraphed my secretary in the same way. The pair clerk being unable to get a live pair for me proceeded to make an ordinary party pair between absentees. On the first vote he paired me with the gentleman from South Carolina, Mr. Ellerbe, and on the second vote with the gentleman from Kentucky, Mr. Stanley. Without a doubt both Mr. Ellerbe and Mr. Stanley favored the Clayton bill. As I also was in favor of the Clayton bill, the pair made by the pair clerk not only was absurd, but also was contrary to my instructions. If I had been present, I should have voted for the Clayton bill and against the substitute.

The pairs made up by the pair clerks nowadays mean absolutely nothing. They do not show whether a Member is "for" or "against" a measure. They merely show that one Member of the pair is a Republican and the other a Democrat. The only pair which means anything is a written pair which shows whether a Member is "for" or "against" a measure. That is the kind of pair which I telegraphed for.

Mr. James R. Mann, of Illinois, supplemented:

Mr. Speaker, the matter of pairs is not so easy of solution as one might think. The other day when the pension bill was about to be voted upon one of the pair clerks came to me and said that he had a number of requests to be paired in favor of the bill, but that he had no one to pair against the pension bill. The question, was whether to put in pairs as is usually done, without saying for or against, or whether he should leave the Members unpaired who were absent.

The matter was not free from difficulty. I did not desire to impose the obligation upon the pair clerk of deciding the question, and I said to one of the Republican pair clerks that I would assume the responsibility, and suggested to him that he pair absent Members in the usual way, not being able to secure the pairs that Members desired; and that, if objection was made to it, hereafter we would not be able to pair Members unless the pairs were actually made at the desk.

It is absolutely impossible for many Members of the House to be present upon every roll call, and sometimes it is desirable from their standpoint and from the public standpoint to pair specifically on a bill. On the other hand, it is often very desirable for Members to have what is called a standing pair, a permanent pair, or a pair until further notice, so that Members, if they can not be present at the time, know that they are taken care of by the pair clerk.

Mr. Speaker, I never have had occasion myself to make use of pairs at many times. In my first term in Congress I had a permanent pair with a gentleman on the other side who was called home by illness in his family, and during the entire session of Congress, a long session, I think I never voted at all.

I do not believe publication of pairs should be discontinued. On the contrary, I think at the end of every roll call every Member of the House who had a pair would rise and say that he voted so-and-so, that he was in favor of such-and-such a proposition, but that some gentleman with whom he was paired was absent, who, if present, would voted the other way; and instead of having a short statement of pairs as we do now in the Record, it would cover a page every time we had a roll call, as it does practically every time they have a roll call in the Senate, where there is a much smaller number of Members than in the House. You can not avoid giving that courtesy to Members in some way.

3093. The pairing of a Member without his authorization gives rise to a question of personal privilege.

The House takes no cognizance of complaints arising out of the making or construing of pairs.

The Congressional Record is not subject to correction after the permanent edition has been printed.

On July 23, 1912,¹ Mr. Theron Akin, of New York, rising to a question of personal privilege, said:

Mr. Speaker, I have a matter of personal privilege. I have been recorded for some time past as being paired with different Members of this House. I have never given my permission to be paired with any man in this House. I have never wanted to be paired.

It is noted here on May 12, 1911, that I was paired with Mr. Gordon, of Tennessee, who is now dead. That is not so. I never was paired. On May 18, 1911, I am recorded as having been paired with Mr. Aiken, of South Carolina. I never gave permission to be paired with him, or he with me. And so on, through the different items where I have been paired, I want to say it is absolutely false, and I have been misrepresented. I have never asked yet to be paired with any man on the floor of this House, and I ask that the Record be corrected.

The Speaker² held:

The gentleman evidently had a right to rise to a question of personal privilege about it, although the chair has absolutely no control whatever over the matter of pairing. That is a private arrangement.

The question of correcting the Record being raised, the Speaker continued:

The Record clerk informs the Chair that the permanent Record has been made up, and it would be a physical impossibility to change the permanent Record of May 12, 1911, or of any date approximating thereto.

Debate on the subject continued until the Speaker interposed:

This whole discussion is out of order. The Chair will state, in justice to the pair clerks, that of course they do not undertake to pair people who do not want to be paired. They must have fallen into some honest error about the matter. The pair clerks have absolutely no right to pair a man unless he wishes to be paired. That is the end of that.

3094. Inadvertent violation of a pair agreement does not give rise to a question of personal privilege.—On March 24, 1908,³ Mr. Joseph H. Gaines, of West Virginia, submitted as involving a question of personal privilege the following statement:

Mr. Speaker, I think it is a matter of personal privilege, but it is so unimportant that I hardly wish to take the attention of the House to this extent. On yesterday, after the first roll call, I paired with the gentleman from Texas, Mr. Gillespie. When the point of no quorum was made and there was a call of the House I voted. I should instead have answered "present." I have explained the matter to the gentleman from Texas, and he does not care about it. I think however, when one makes such a mistake, mention of it should be made in the House.

The Speaker⁴ held that the matter explained did not give rise to a question of privilege but recognized Mr. Gaines to prefer a unanimous-consent request for correction of the Record.

3095. The rules of the Senate do not recognize pairs.—On May 11, 1911,⁵ in the Senate, the question being on the election of a President pro tempore, Mr.

¹ Second session Sixty-second Congress, Record, p. 9493.

² Champ Clark, of Missouri, Speaker.

³ First session Sixtieth Congress, Record, p. 3846.

⁴ Joseph G. Cannon, of Illinois, Speaker.

⁵ First session Sixty-second Congress, Record, p. 1185.

Joseph M. Dixon, of Montana, announced that he was paired with Mr. Albert Cummins, of Iowa, and declined to vote.

Mr. Porter J. McCumber, of North Dakota, having a pair with Mr. Le Roy Percy, of Mississippi, likewise excused himself from voting.

Mr. Weldon B. Heyburn, of Idaho, entered an objection and submitted that under Rule XII the question of excusing Senators from voting should be decided by the Senate.

Mr. Joseph W. Bailey, of Texas, made the point of order that the rule was not applicable.

The Presiding Officer¹ ruled:

The Chair is of opinion that pairs are not recognized by the rules anywhere, and that they are only a reason for not voting.

¹Henry Cabot Lodge, of Massachusetts, Presiding Officer.