

Chapter CIII.

SELECT AND JOINT COMMITTEES.

1. Nature and duration of select committees. Sections 4393–4400.¹
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4393. A select committee, when created by the House, is additional to and apart from the regular standing committees provided in the rules.— On February 25, 1882,⁴ Mr. Thomas B. Reed, of Maine, as a privileged question, reported from the Committee on Rules the following resolution:

Resolved, That a select committee of nine Members be appointed, to whom shall be referred all petitions, bills, and resolves asking for the extension of suffrage to women or the removal of their legal disabilities.

Mr. William M. Springer, of Illinois, made the point of order that the resolution changed Rule X⁵ by increasing the number of committees therein named.

The Speaker⁶ overruled the point of order on the ground that the resolution provided only for the appointment of a select committee and did not increase or decrease the number of standing committees provided for in Rule X.

4394. A select committee expires at the end of a session, unless continued by order of the House or revived by the reference of a matter to

¹ See also sections 5521–5528 of Vol. V.

² See also sections 5569 et seq. of Vol. V.

³ Two Houses sometimes appoint separate committees to confer and report. (Sec. 1936 of Vol. III and sec. 3 of Vol. I.)

A joint committee of investigation. (Sec. 1763 of Vol. III.)

The joint committee of 1821 to consider the admission of Missouri to the Union. (Sec. 4471 of this volume.)

The joint committee of 1877 to consider the conduct of the electoral count. (Sec. 1953 of Vol. III.)

⁴ First session Forty-seventh Congress, Journal, p. 668; Record, pp. 1447, 1448.

⁵ For this rule see section 4448 of this volume.

⁶ J. Warren Keifer, of Ohio, Speaker.

it by the House.—On January 22, 1877,¹ Mr. Speaker Randall stated his opinion as to the duration of a select committee:

Under parliamentary rule a select committee expires at the end of a session of Congress; the appointment does not run through two sessions, as in the case with other committees, yet it has been uniformly held that the reference of any matter to a select committee that has expired has the effect to revive that committee, which is substantially the same as the creation of a new committee.

4395. On May 30, 1866,² the House recommitted a bill to the Select Committee on the Wax Debts of the Loyal States, and at the same time ordered, on motion of Mr. James G. Blaine, of Maine, that the committee be continued as organized, with leave to report during the next session by bill or otherwise.

4396. On December 4, 1873,³ at the beginning of a Congress, the Senate continuing by motion certain select committees.

4397. Select committees are quite commonly designated as for the Congress by the resolution creating them. Thus, an instance on December 19, 1885.⁴

4398. On July 7, 1838,⁵ the House granted leave to two select committees “to adjourn at the close of the present session, and to resume their investigation and report at the next session of Congress.” The report would be made at a session of the same Congress.

4399. On June 25, 1860,⁶ a message having been received from the President protesting against certain action of the House, it was—

Ordered, That the said message be referred to a select committee of five Members, who shall report to the House at the next session of Congress.

4400. The continuance of a select committee revives all the business before it.—On May 26, 1868,⁷ the House agreed to a resolution reviving the functions of the managers of the impeachment of the President so that they might continue the investigation of the charges that corrupt means had been used to influence the action of the court of impeachment.

Mr. Charles A. Eldridge, of Wisconsin, made the point of order that the revival of the committee did not give it jurisdiction of the matter which it was considering, as the adjournment of the court of impeachment terminated the functions of the managers.

The Speaker said:⁸

The Chair overrules the point of order on the ground that the continuance of any committee will revive all of its business. This has been the uniform decision of all Speakers and Congresses. For example, a special committee which expires with a session, revived at a succeeding session of that Congress, has all of its business revived, and has the same jurisdiction of business as was authorized by the original resolution.

¹ Second session Forty-fourth Congress, Record, p. 815.

² First session Thirty-ninth Congress, Journal, p. 775.

³ First session Forty-third Congress, Record, p. 57.

⁴ First session Forty-ninth Congress, Journal, p. 129.

⁵ Second session Twenty-fifth Congress, Journal, p. 1274.

⁶ First session Thirty-sixth Congress, Journal, p. 1225.

⁷ Second session Fortieth Congress, Globe, p. 2590.

⁸ Schuyler Colfax, of Indiana, Speaker.

4401. Instance wherein a select committee was authorized by the adoption by the House of a motion to refer.—On March 11, 1904,¹ the House was considering a resolution providing for an investigation of the conduct of certain Members of the House in relation to the Post-Office Department. This resolution had been reported from the Committee on the Post-Office and the Post-Roads.

Mr. Samuel W. McCall, of Massachusetts, submitted the following motion, which was agreed to:

To commit the pending report of the Committee on the Post-office and Post-Roads and all accompanying papers and communications contained in House Report No. 1395, so far as same relates to Members of the House, to a select committee of seven, to be appointed by the Speaker, with instructions to consider said report and said papers and communications, so far as they relate to Members, and the origin of the said papers and communications, and that said select committee be authorized hilly to investigate the same, to hear Members and other persons named in said report, and any official of the Post-Office Department in respect to matters affecting Members of the House contained in said report, papers, and communications, and as soon as may be to report to the House the result of said investigation; and that said select committee is authorized to sit during the sessions of the House, examine witnesses on oath, compel the attendance of witnesses and the production of papers, and to employ such clerical assistance as may be necessary, and have such printing done as the needs of the committee may require.

4402. A motion to refer may specify that the reference be to a select committee of a stated number of Members, and may endow this committee with power to send for persons and papers.

Instance wherein a President's message was referred on motion to a select committee.

On January 24, 1877,² Mr. Fernando Wood, of New York, submitted the following resolution, and demanded the previous question thereon:

Resolved, That the message of the President and the accompanying documents, in answer to the resolution of the House calling for copies of all dispatches, orders, etc., relating to the use of troops in the States of Virginia, South Carolina, Louisiana, and Florida since the 1st August last, be referred to a select committee of eleven members, with instructions to report whether there has been any exercise of authority not warranted by the Constitution and laws of the United States in the use of the troops in the States referred to within the period stated, for which the President is justly responsible, with power to send for persons and papers, to administer oaths, and to report at any time.

Mr. Nathaniel P. Banks, of Massachusetts, made the point of order that the last clause of the resolution, viz, "to send for persons and papers," changed the rules of the House, and was not now in order.

After debate, the Speaker³ overruled the point of order, on the ground that on the motion to commit or refer it was in the power of the House to commit or refer with instructions, and that conferring that power upon a committee was merely directing its mode of procedure. The Speaker said:

The Chair desires to read from the Manual in connection with this point:

"A motion to commit may be amended by the addition of instructions, also by striking out one committee and inserting another."

That is found decided in various places in the Journals of the House:

"A division of the question is not in order on a motion to commit with instructions, or on the different branches of instructions." (Journals, first session Seventeenth Congress, p. 507; first session Thirty-first Congress, pp. 1395, 1397; first session Thirty-second Congress, p. 611.)

¹ Second session Fifty-eighth Congress, Record, pp. 3151, 3153.

² Second session Forty-fourth Congress, Journal, p. 297; Record, p. 926.

³ Samuel J. Randall, of Pennsylvania, Speaker.

And further on in the Manual it is stated that “on a motion to commit the whole question is open to debate,” and therefore open to instructions and open to amendments. The Chair thinks the House, having the power to commit a subject to a committee, has the power to instruct such committee how they shall proceed; and the Chair, if he had time, thinks he could show many instances of such action by the House. The question as to the right to report at any time is a very different one, because the question of the right to report at any time changes the order of committee reports and interferes with the rights of committees in that respect. Therefore he holds that the rule of the House which recognizes the order of reports from committees would be interfered with by permitting a special committee to report at any time, and such change of the rule would require a suspension of the rules.

The Chair overrules the point of order raised by the gentleman from Massachusetts (Mr. Banks) that it is not within the power of the House to commit with instructions.

Mr. Banks appealed from the decision of the Chair in so far as he decided that that part of the pending resolution which grants the power “to send for persons and papers” was in order.

The Speaker stated the question to be, Shall the decision of the Chair stand as the judgment of the House?

Mr. Cox moved that the appeal be laid on the table; and the question being put, it was decided in the affirmative, yeas 146, nays 78.

The resolution was then agreed to by the House.

4403. When a select committee reports in full on the subject committed, it is thereby dissolved; but it may be revived by a vote.—Jefferson’s Manual, in Section XXVII, provides:

The report being made, the committee is dissolved, and can act no more without a new power. (Scob., 51.) But it may be revived by a vote, and the same matter recommitted to them.¹ (4 Grey, 361.)

4404. A select committee that has reported finally and become dissolved may be revived as to all its original powers by the action of the House in referring in open House a new matter to it.

Where a matter is recommitted with instructions the committee must confine itself within the instructions.

Where a committee had made a report which exceeded its instructions the Speaker ruled out the excess portion, but permitted the remainder of the report to stand.

On June 17, 1862,² Mr. James K. Moorhead, of Pennsylvania, under a call for reports from select committees, having proposed to report a joint resolution from the Select Committee on a National Armory, Mr. Charles Delano, of Massachusetts, made the point of order that the committee having heretofore made its report was thereby dissolved, and no matter having subsequently been referred to it by a vote of the House, it was not competent for the committee to make a report.

The Speaker³ made inquiry as to whether, since the first report had been made, anything had been referred to the select committee in open House. Ref-

¹This refers to special committees. The standing committees continue. On January 30, 1823 (second session Seventeenth Congress, Annals, p. 739), Mr. Speaker Barbour said: “It was unquestionably true that the select committee, having made a report in full upon the subject referred to it, was, ipso facto, discharged from further consideration of the subject.”

²Second session Thirty-seventh Congress, Journal, p. 874; Globe, pp. 2764, 2790.

³Galusha A. Grow, of Pennsylvania, Speaker.

erence of petitions under the rules was not sufficient to revive a select committee. No one being able to specify the reference in open House of any matter to the select committee, the Chair said he should sustain the point of order.

Mr. Moorhead having appealed, the decision of the Chair was sustained, and the report was ruled to be out of order.

Then Mr. Thomas D. Eliot, of Massachusetts, from the Select Committee on the Confiscation of the Property of Rebels, etc., to whom was recommitted the bill of the House (H. R. 472) "to free from servitude the slaves of rebels engaged in abetting the existing rebellion against the Government of the United States," with instructions to report the same with a certain amendment in the nature of a substitute therefor, reported the same with the amendment, and also proposed to report an amendment in the nature of a substitute for the amendment.

Mr. John S. Phelps, of Missouri, made the point of order that the committee were limited, by the specific instructions of the House, to the report of the bill with the prescribed amendment, and that it was not competent for the committee to report any additional amendments.

The Speaker said:

The Chair will state that this being a case of recommitment with specific instructions, the Chair does not think it would revive the general powers of the committee. The Chair is satisfied, upon further consideration, that the committee could not make any report relative to the matter, except in strict conformity with their instructions.

The House acquiesced in this decision.

On the same day, the same question being under consideration, Mr. Eliot proposed to submit an amendment, in the nature of a substitute, to the amendment reported, under instructions, by the committee.

Mr. Robert Mallory, of Kentucky, made the point of order that the chairman of the select committee having reported the bill and amendments by instruction of the committee, and the amendments having been decided out of order by the Speaker, it is not in order for the chairman to withdraw the amendments, the bill and amendments being the report of the committee.

The Speaker overruled the point of order, saying:

The gentleman from Massachusetts sent the bill to the table, with these amendments, in the nature of a substitute, and the point of order being raised, the Chair ruled them out, because the report was not as the committee were instructed to report it. The committee report the bill with a substitute, to which the gentleman from Massachusetts, as an individual, moves certain amendments. The Chair, therefore, overrules the point of order raised by the gentleman from Kentucky.

Mr. Mallory having appealed, on the next day, June 19, the question came up and the Speaker stated the case as follows:

When the select committees were called yesterday the gentleman from Massachusetts [Mr. Eliot] reported, from the Select Committee on the Confiscation of Rebel Property, a bill, with a substitute, and to that substitute, he stated, the committee had instructed him to report sundry amendments in the nature of a substitute, satisfactory to the friends of the bill, naming some of them. The gentleman from Kentucky, on the right of the Chair, Mr. Wickliffe, raised the question of order that the committee, acting under special instructions from the House, and being a select committee, could not report an amendment to a substitute which they were instructed to report. The Chair sustained the point of order, so that the amendments which the gentleman from Massachusetts proposed to report from the committee were ruled out of order. The gentleman from Kentucky, Mr. Mallory, raised another

point; that the chairman of the committee being instructed to report a bill with amendments, and those amendments ruled out of order, the report itself should be rejected. The Chair overruled that point. From that decision the gentleman took an appeal.

With the indulgence of the House the Chair will have read an extract from Jefferson's Manual, not as application only to this point, but for the information of the House in reference to procedure in amending bills:

"The committee may not erase, interline, or blot the bill itself, but must, in a paper by itself, set down the amendments, stating the words which are to be inserted or omitted, and where, by reference to page, line, and word of the bill."

The Chair desires to have read from the same Manual an extract in reference to the powers of select committees, and a construction of the same from Barclay's Manual:

"The report being made, the committee is dissolved and can act no more without a new power. But it may be revived by a vote, and the same matter recommitted to them. This evidently refers to a select committee, and under the practice of the House a motion to recommit decided affirmatively has the effect of reviving the committee."

* * * The vote in this case restricted the committee to a particular act. * * * The only question now for the House to decide is whether the decision of the Chair shall stand as the judgment of the House upon the point of order that the committee, having directed one of its members to report a substitute, with amendments, and the amendments being ruled out of order, the committee can not make a report, which, I believe, is a statement of the point of order raised by the gentleman from Kentucky, Mr. Mallory.

Mr. Mallory here stated that his point of order was made in writing and the Speaker had stated it correctly, except as to the point that the chairman had no right to make a report without further consultation with or authority from the committee itself.

The Speaker said:

The Chair understands the point to be that where the amendments are ruled out of order the substitute alone would not be the report of the committee. The Chair would state, with the indulgence of the House, that, by the rule he had first read, committees must make all their amendments on a separate piece of paper. They are, therefore, reported distinctly by themselves and may, therefore, be rejected without rejecting the bill to which they are amendments; but the Chair decided that the committee could not report them, but that, nevertheless, the bill which they did report was before the House.

The appeal does not seem to have been decided, as modifications were made in the amendment and it was adopted and the bill was passed, the point of order being lost sight of.

4405. On February 25, 1863,¹ Mr. Albert S. White, of Indiana, from the Select Committee on Emancipation, reported a bill (H. R. 777) to aid the State of Missouri in the emancipation of the slaves therein.

Mr. Clement L. Vallandigham, of Ohio, made the point of order that the committee, being a select committee, and having some time before reported, and having been discharged, and only revived² by having the House bill with the Senate's amendment referred to it, its report now must be confined to that bill, and amendments to, or a substitute for, it; and that no reference of the subject generally to it, prior to its first report and consequent discharge, could authorize it to report a new bill disconnected from the bill and the Senate's amendment afterwards referred to it.

¹ Third session Thirty-seventh Congress, Journal, pp. 487, 489; Globe, p. 1295.

² See section 4403 for rule of parliamentary law relating to discharge of a select committee.

The Speaker¹ overruled the point of order on the ground that even if the committee had been dissolved by the former report (which he did not admit to be the case with the present committee), the recommitment of the House bill and Senate's amendment had revived it with all the powers it possessed before said report, and its right to report a new bill, based upon the President's message heretofore referred to it, was as perfect now as it ever was.

Mr. Elijah H. Norton, of Missouri, having taken an appeal, the appeal was laid on the table by a vote of 79 yeas to 27 nays.

4406. At the first meeting of a select committee the resolution of the House creating it and defining its duties is spread on its Journal.—On March 20, 1860,² the committee appointed to investigate the subject of Executive influence in legislation, corruption in elections, etc., met, and the chairman first laid before the committee an attested copy from the Clerk's office of the resolution creating the committee and defining its duties. This was ordered to be spread on the journal of the committee.

4407. In the earlier practice a motion establishing certain select committees was held to be privileged at the time of organization of the House.—On December 10, 1841,³ Mr. Millard Fillmore, of New York, submitted the following:

Resolved, That, for the further organization of the House, in addition to the standing committees for the session, the following be appointed, to consist of nine members each, to wit: A select committee on the plan of finance recommended in the President's message; a select committee on the apportionment of Representatives to Congress; a select committee on the Smithsonian legacy.

Mr. Charles H. Atherton, of New Hampshire, objected to the reception of the resolution because it was not in accordance with the routine of business established by the rules.

The Speaker⁴ decided that it was in order to move the resolution, since it related to the organization of the House.⁵

An appeal being taken, the decision of the Chair was affirmed, yeas 104, nays 90.

4408. Joint committees are used infrequently in the legislative practice of the two Houses of Congress.—Joint committees are used infrequently in the practice of the two Houses of Congress.⁶ Occasionally a joint select committee is created for a special purpose. Three standing committees, those on Printing, the Library, and Enrolled Bills, are mentioned in the rules as joint committees. The committees on Printing and the Library are joint committees in relation to certain administrative functions conferred by statute; but rarely act in a legislative capacity as joint committees. When the Senate revised its rules in 1877, on January 16,

¹ Galusha A. Grow, of Pennsylvania, Speaker.

² First session Thirty-sixth Congress, House Report No. 648, pp. 59, 60.

³ Second session Twenty-seventh Congress, Journal, pp. 33, 34; Globe, p. 12.

⁴ John White, of Kentucky, Speaker.

⁵ The standing committees had not yet been appointed for the session, the practice then being to appoint them each session.

⁶ Joint committees have, however, exercised important functions at times, as, for instance, the Joint Committee on the Conduct of the War and the Joint Committee on Reconstruction.

it agreed to a rule empowering the committees on Printing, Library, and Enrolled Bills to act conjointly with the similar House committees.¹

4409. A joint committee should be provided for by a concurrent and not a joint resolution, and the resolution should not prescribe rules for the proceedings of either House.—On December 4, 1865,² the House agreed to a resolution, joint in form, for the appointment of a joint committee on reconstruction. The resolution also provided that all papers relating to the seceding States should be referred to the committee without debate. The Senate, after a very thorough discussion of the subject, decided to amend the resolution so that it should be concurrent and not joint in form, in order to obviate the necessity of its signature by the President, thereby becoming a law. They also struck out the provision about reference, in order that each House might control its own proceedings. As amended by the Senate, which form was concurred in by the House, the resolution was:

Resolved by the House of Representatives (the Senate concurring), That a joint committee of fifteen Members shall be appointed, nine of whom shall be Members of the House and six Members of the Senate, who shall inquire into the condition of the States which formed the so-called Confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise.

4410. Form of concurrent resolution creating a joint committee.³

Instance wherein the Senate insisted on an equal representation on a joint committee.

On June 25, 1906,⁴ the Senate returned to the House the following concurrent resolution, which it had passed with an amendment making the number of Senators on the proposed committee five instead of four:

Resolved by the Howe of Representatives (the Senate concurring), That a joint special committee be appointed, consisting of four Senators, to be appointed by the Vice-President, and five Members of the House of Representatives, to be appointed by the Speaker, to examine, consider, and submit to Congress recommendations upon the revision and codification of laws prepared by the statutory revision commission heretofore authorized to revise and codify the laws of the United States; and that the said joint committee be authorized to sit during the recess of Congress and to employ necessary clerical and other assistance; to order such printing and binding done as may be required in the transaction of its business, and to incur such expense as may be deemed necessary, all such expense to be paid in equal proportions from the contingent funds of the Senate and House of Representatives.

The House concurred in the Senate amendment.

4411. When a joint committee is authorized by simple resolution, the resolution itself does not have the concurrent action of the two Houses.—On April 25, 1828,⁵ the House agreed to this resolution:

Resolved, That a committee on the part of the House of Representatives be appointed to join such committee as the Senate may appoint,⁶ on their part, to consider and report what business is necessary to be enacted at the present session, and to fix on, and recommend, the day on which the President of the Senate and Speaker of the House of Representatives shall adjourn the present session of Congress.

¹ Second session Forty-fourth Congress, Record, p. 656.

² First session Thirty-ninth Congress, Journal, pp. 10, 60; Globe, pp. 6, 24–30, 46, 47.

³ See also section 4409.

⁴ First session Fifty-ninth Congress, Record, pp. 9088, 9173.

⁵ First session Twentieth Congress, Journal, p. 613.

⁶ Joint committees are still created by resolutions of this kind for certain ceremonies like notifying the President that Congress is about to adjourn; but generally the concurrent form is used.

In the Senate¹ a question arose as to whether the proper course would be to concur in this resolution, but the Chair² decided that concurrence in such a resolution was not in accordance with the former practice. The appointment of a committee would be the proper act of concurrence.

4412. Sometimes the two Houses, by concurrent action, join two of their standing committees and constitute them a joint committee.—On February 6, 1865,³ on motion of Mr. Elihu B. Washburne, of Illinois, the House agreed to the following:

Resolved (the Senate concurring), That the Committee on Commerce on the part of the Senate be joined to the Committee of Commerce on the part of the House in the investigation which said Committee on Commerce on the part of the House are now engaged in under the resolutions of the House of January 20, 1865, and January 25, 1865, in regard to trade with States in rebellion, to constitute a joint committee for the purpose of completing said investigation; and that the said joint committee have the same powers as the Committee of Commerce of the House now has on the subject of said investigation.

The Senate agreed to this, and on March 1, the committee reported a bill.

4413. On July 17, 1876,⁴ the Senate's resolution for a committee to investigate Chinese immigration was made the basis for a resolution agreed to by the House for a committee to investigate the same subject, "conjointly with said Senate committee or otherwise."

4414. On March 29, 1869,⁵ by concurrent resolution of the two Houses, the Committee on Audit and Control of the Contingent Expenses of the Senate, and the Committee on Accounts of the House, were made a joint committee to perfect and report a bill defining the number, duties, and compensation of employees of the Senate and House.

4415. On July 18, 1876,⁶ the Senate agreed to a concurrent resolution, which made the two committees to investigate Chinese immigration a joint committee. It does not appear that the House acted further than in the resolution already agreed to. Such a committee acted as a joint committee.

4416. On December 6, 1876,⁷ the Senate passed, in connection with the appointment of its standing committees, resolutions empowering the committees on Enrolled Bills, Printing, and Library to act in conjunction with the similar committees of the House. It was stated at the time that this was the usual resolution. These resolutions were in the House referred to the Committee on Rules on January 4, 1877.⁸

4417. Each House notifies the other by message of appointments of or changes in its membership on a joint committee.—When members of a joint committee authorized by concurrent resolution of the two Houses are appointed each House notifies the other of the appointment and the names of the appointees.

¹ Debates, pp. 695, 696.

² John C. Calhoun, of South Carolina, Vice-President.

³ Second session Thirty-eighth Congress, Journal, pp. 197, 203, 378; Globe, pp. 619, 1257.

⁴ First session Forty-fourth Congress, Journal, p. 1277; Record, p. 4671.

⁵ First session Forty-first Congress, Journal, p. 135; Globe, p. 336.

⁶ First session Forty-fourth Congress, Record, p. 4678.

⁷ Second session Forty-fourth Congress, Record, p. 47; Journal, p. 43.

⁸ Second session Forty-fourth Congress, Journal, p. 155; Record, p. 422.

An instance occurred on December 18, 1861,¹ when the Senate notified the House of the appointment of the Senate members of the committee on the conduct of the war.

4418. On January 5, 1810,² a message was received from the Senate announcing that the Senate had “ordered that Mr. Whiteside be of the Joint Committee on Enrolled Bills on their part in the place of Mr. Condit, who has been excused on account of indisposition.”

4419. The statutes provide for the appointment of a joint committee of the two Houses to consider reports as to destruction of useless papers in the Executive Departments.—The statutes³ prescribe this method of disposing of useless papers in the Departments:

Whenever there shall be in any one of the Executive Departments of the Government, or in the various public buildings under the control of the several Executive Departments,⁴ an accumulation of files of papers which are not needed or useful in the transaction of the current business of such Department and have no permanent value or historical interest, it shall be the duty of the head of such Department to submit to Congress a report of that fact, accompanied by a concise statement of the condition and character of such papers. And upon the submission of such report it shall be the duty of the presiding officer of the Senate to appoint two Senators and of the Speaker of the House of Representatives to appoint two Representatives, and the Senators and Representatives so appointed shall constitute a joint committee, to which shall be referred such report, with the accompanying statement of the condition and character of such papers, and such joint committee shall meet and examine such report and statement and the papers therein described, and submit to the Senate and House, respectively, a report of such examination and their recommendation. And if they report that such files of papers, or any part thereof, are not needed or useful in the transaction of the current business of such Department and have no permanent value or historical interest, then it shall be the duty of such head of the Department to sell as waste paper, or otherwise dispose of such files of papers, upon the best obtainable terms, after due publication of notice inviting proposals therefor, and receive and pay the proceeds thereof into the Treasury of the United States and make report thereof to Congress.⁵

4420. A joint select committee expires with the session.—On December 4, 1866,⁶ Mr. Thaddeus Stevens, of Pennsylvania, offered the following:

Resolved (the Senate concurring), That the joint committee of fifteen on reconstruction, appointed during the last session of Congress, shall be reappointed under the same rules and regulations as then existed and that all the documents and resolutions which were referred then be now considered a referred to them anew.

Mr. John A. Bingham, of Ohio, asked whether the committee, under the rules of the House, did not continue until the close of the Congress.

The Speaker⁷ said:

It does not; a joint select committee expires with the session.

4421. A joint committee may be instructed by the two Houses acting concurrently or by either House acting independently.—On December

¹Second session Thirty-seventh Congress, Journal, p. 88.

²Second session Eleventh Congress, Journal, p. 163 (Gales & Seaton ed.)

³25 Stat. L., p. 672.

⁴28 Stat. L., p. 933.

⁵The joint committees on the Library and Printing are also to a certain extent creatures of statute. See sections 4337 and 4347 of this volume.

⁶Second session Thirty-ninth Congress, Journal, p. 30; Globe, p. 11.

⁷Schuyler Colfax, of Indiana, Speaker.

17, 1862,¹ the House agreed to a concurrent resolution, which had been received from the Senate, directing the joint committee on the conduct of the war, appointed at the last session, to make a report to the Senate and House of Representatives with all convenient speed.

4422. In 1862,² the joint committee on the conduct of the war were instructed by either House independently, and reported to either House, according to the source of the instructions. Thus the Senate directed an investigation into the treatment of dead soldiers at Manassas, and the report was made to the Senate.

The House frequently instructed the committee.³

4423. On February 29, 1864⁴ the House, by a simple resolution, instructed the Joint Committee on the Conduct of the War.⁴

4424. The constitution of a joint committee, its quorum, chairman, etc.—The joint committee (of 1864) on the conduct of the war consisted of three Members of the Senate and four Members of the House. Mr. Benjamin F. Wade, of Ohio, first named of the Senate Members, acted as the chairman.

The clerk of the committee was appointed and duly sworn on the first session, January 25, 1864.⁵

On January 25, 1864,⁶ it was ordered that less than a quorum should be sufficient for taking testimony.

On February 5 and 6, 1864,, the committee not only heard witnesses but passed votes, with two of the three Senate Members present and only two of the four House Members present by record. It is evident, therefore, that a quorum was assumed to be four of the whole seven rather than a majority of each branch of the committee.⁷ This does not seem to be wholly conclusive, however, as on March 4⁸ an order passed relating to the summoning by a witness, when only three members were present, and these two Senators and one Member.⁸

4425. A joint committee vote per capita and not as representatives of the two Houses.—On May 19, 1871,⁹ the joint committee on affairs in the late Insurrectionary States took a vote by yeas and nays, the committee consisting of seven Senators and fourteen Representatives. This vote was taken per capita, no distinction as to Houses being made.

Thereafter on many other occasions votes were taken by yeas and nays and always per capita.

4426. Although a joint committee votes per capita, the membership from the House is usually larger than from the Senate.—In 1874,¹⁰ the House agreed to a concurrent resolution providing for the appointment of a joint committee to investigate the affairs of the District of Columbia. The resolution as it passed

¹ Third session Thirty-seventh Congress, Journal, p. 85; Globe, p. 111.

² See Journal, p. 636, second session Thirty-seventh Congress.

³ See Journal, pp. 122, 255, 864.

⁴ First session Thirty-eighth Congress, Journal, p. 320.

⁵ Second session Thirty-eighth Congress, Senate Report No. 142, Journal of the Committee, P.VIII.

⁶ P. VIII.

⁷ Page XI.

⁸ Page XIX.

⁹ Second session Forty-second Congress, House Report No. 22, pt. 1, pp. 590, 593, 621, 622.

¹⁰ First session Forty-third Congress, Journal, p. 421; Record, p. 1212.

the House provided for five Representatives on the committee, and left the number of Senators in blank. The Senate, on February 5, filled the blank with five. This amendment was concurred in by the House.¹ The Speaker¹ appointed the committee as soon as the House had acted, not waiting for the Senate's concurrence.²

4427. On December 12 and 13, 1865,³ the House and Senate authorized the joint committee on reconstruction, to consist of six Senators and nine Representatives. Objection was made to this committee, notably by Mr. James Doolittle, of Wisconsin, because the House Members would so outnumber the Senate Members on the committee. Mr. Doolittle said it was well understood that joint committees voted per capita, and not as representatives of the two Houses. Mr. Edgar Cowan, of Pennsylvania, for this reason, moved to reduce the number of House members to six. Thereupon Mr. Lyman Trumbull, of Illinois, inquired whether or not joint committees did not vote like conference committees, by Houses and not per capita. Mr. Cowan said he understood that this committee would not vote like a conference committee, but would be a joint committee voting per capita. Against Mr. Cowan's motion it was urged that the precedents all favored more Representatives than Senators on joint committees. The committee on the conduct of the war had been four to three. Mr. Cowan's amendment was disagreed to, yeas 14, nays 29.

4428. On March 9, 1869,⁴ the House agreed to a concurrent resolution for the appointment of a joint select committee on retrenchment, to consist of four Members of the Senate and seven Members of the House.

On March 10, in the Senate, the resolution was considered, and the point was made by Mr. George F. Edmunds, of Vermont, that as this committee would have the duty of recommending legislation it would be better to make the number four from each House. Mr. Lyman Trumbull, of Illinois, urged this amendment, because, as the committee would vote per capita, the House would control the committee unless the amendment should be adopted. The amendment was agreed to.

On March 15 the House disagreed to the amendments of the Senate, and the Senate, having insisted, asked a conference, which was agreed to by the House.

The conferees brought in an amendment making the membership four from the Senate and five from the House. This report was agreed to by both Houses.

4429. On March 10, 1869,⁵ we find a discussion in the Senate over the propriety of there being a larger number of Representatives than Senators on a joint committee, and it was stated, although the opinion was not unanimous, that the custom had been generally to have a larger number of Representatives, as the House was the most numerous body, and that the question of numbers was not material, as the function of a committee was recommendatory and not final.

4430. On June 25, 1879,⁶ the Senate considered briefly the question of the numbers of Senators and Representatives, respectively, on a joint committee, and

¹James G. Blaine, of Maine, Speaker.

²Journal, pp. 360, 362; Record, pp. 1125, 1130.

³First session Thirty-ninth Congress, Globe, pp. 25-28.

⁴First session Forty-first Congress, Journal, pp. 22, 52, 58, 64, 80, 94; Globe, pp. 37, 42, 43, 79, 86, 125, 153, 198.

⁵First session Forty-first Congress, Globe, pp. 45, 46.

⁶First session Forty-sixth Congress, Record, p. 2312.

amended a proposition for a joint committee so as to make the number the same from each House. The reason was that the other arrangement would enable the House to outvote the Senate.¹

This resolution was to raise a joint committee on the public service, to consist of three Senators and three Representatives. On June 26² the House passed it without amendment, according to the Record, but the Journal indicated that it did not pass, but was on June 30 referred to the Committee of the Whole.³ It was in the form of a joint resolution.

4431. In the early days the House insisted on the larger portion of the membership of a joint committee and that the quorum and votes should be on a per capita basis.—On May 2, 1832⁴ a message from the Senate asked the concurrence of the House in the following resolution of the Senate:

Resolved, That a committee to consist of three members, two from the Senate to be named by the President of the Senate, and one from the House of Representatives to be named by the Speaker, be appointed to prepare and report at the next session of Congress a system of civil and criminal law for the District of Columbia, and for the organization of the courts therein, and that the committee cause the said system to be printed in the recess.

On May 21 the House agreed to this resolution with an amendment increasing the number of the House Members of the Committee from one to three, and inserting the clause “a majority of whom may act,” so that the resolution in this respect would read:

A committee to consist of five members, two from the Senate to be named by the President of the Senate, and three from the House of Representatives to be named by the Speaker, a majority of whom may act, be appointed to prepare, etc.

On May 22 the Senate announced their concurrence in this amendment:

4432. A joint committee may report in either House.—On January 7, 1907,⁵ the House was considering this order:

Ordered, That the bill (H. R. 17984) to provide a code of penal laws for the United States is hereby committed to the Joint Committee on Revision of the Laws, and that the said joint committee have leave to report the said bill at any time, and that the bill shall have the privileges pertaining to bills so reported.

Mr. James R. Mann, of Illinois, rising to a parliamentary inquiry, asked:

Is it possible for a joint committee to make a report of a bill to the House, or would that be made by the House members of the committee?

The Speaker⁶ said:

A joint committee, as the Chair understands it, can report to either House; that is, the section of the committee composed of Members of the House may report to this House, and the section of the committee on the part of the Senate may report to the Senate.

4433. It was held in order to refer a matter to a joint committee, although a law directed that such matters be referred to the House Mem-

¹ See also section 4410 of this chapter.

² Record, p. 2343.

³ Journal, p. 598.

⁴ First session Twenty-second Congress, Journal, pp. 696, 771, 778; Debates, p. 3077.

⁵ Second session Fifty-ninth Congress, Record, pp. 698, 700.

⁶ Joseph G. Cannon, of Illinois, Speaker.

bers of the said joint committee.—On May 5, 1852,¹ the House was considering the following resolution:

Resolved, That there be printed for the use of the House of Representatives fifty thousand copies of the mechanical part of the Patent Office report, and three thousand additional copies for the use of the Commissioner of Patents.

Mr. Thomas L. Clingman, of North Carolina, moved to commit the resolution to the Committee on Printing (which was a joint committee) with instructions to report as to what arrangements and contracts had been made for the public printing.

Mr. Frederick P. Stanton, of Tennessee, made the point of order that the motion submitted by Mr. Clingman was out of order, on the ground that, under the law on the subject of printing,² it was directed that all propositions to print an extra number of any document should be referred to the members of the Committee on Printing chosen by the House, and could not be referred to the joint committee.

The Speaker³ said:

In regard to the point of order which has been raised, the Chair knows of no rule by which the House of Representatives could distinguish very clearly between the duties assigned to the Joint Committee on the Public Printing, and those assigned to any portion of the members of that committee. It is rather an embarrassing question. By the joint resolution of the two Houses a joint committee on the public printing has been created. There is a clause in that resolution which the Chair begs leave to repeat. It is, that all motions to print extra numbers of any bill, paper, or document, in either House, shall be referred to the members of the committee of that House, who shall report upon the propriety of printing, and the probable expense therefor. The Chair has not had time to look to the whole law on the subject, and is therefore to some extent groping in the dark. The Chair, however, is not disposed to make that distinction between the committee and the members of the committee. * * * It makes no difference to the House whether this report came from the whole of the joint committee, or whether it emanated from the members of the committee on the part of the House. It is regularly here, and may be committed to the Committee on the Judiciary or any other committee.

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

4434. Joint committees are authorized to sit during recess of Congress by concurrent resolution.—On June 23, 1874⁴ by concurrent resolution, the Joint Committee on Printing of the two Houses was authorized to sit during the coming recess of Congress.

On the same day a concurrent resolution was agreed to authorizing the committees on appropriations of the two Houses to meet at the Capitol during the recess to make inquiry and report a method of reforms in the expenditures.

4435. On December 7, 1880,⁵ the House agreed to a concurrent resolution from the Senate authorizing the Joint Committee on the Yorktown Centennial Celebration to sit during the recess of Congress. It was stated in debate that the coming holiday recess would be the only remaining recess of the existing Congress.

4436. For performing duties after the expiration of the term of a Congress commissions are created by law.—On February 16, 1905,⁶ in the Sen-

¹ First session Thirty-second Congress, Journal, p. 675; Globe, p. 1252.

² The law on this subject has been changed since this time.

³ Linn Boyd, of Kentucky, Speaker.

⁴ First session Forty-third Congress, Journal, pp. 1309–1316; Record, pp. 5440, 5441.

⁵ Third session Forty-sixth Congress, Record, p. 18.

⁶ Third session Fifty-eighth Congress, Record, p. 2709.

ate, Mr. John Kean, of New Jersey, from the Committee to Audit and Control the Contingent Expenses of the Senate, reported a resolution, which was agreed to by the Senate, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Committee on Printing of the Senate, with two Members of the present House of Representatives who are reelected to the next Congress, to be appointed by the Speaker of the House of Representatives, or any subcommittee of said special joint committee, are hereby authorized to examine into the numbers printed of the various documents, reports, bills, and other papers published by order of Congress, or of either House thereof, and of the Congressional Record, and if, in their judgment, the conditions as they find them warrant remedial legislation to report a bill at the next session of Congress making such reductions in the numbers and cost of printing and such changes and reduction in the distribution of said publications as they may deem expedient, with a report giving their reasons therefor; and that the said committee is also authorized to investigate the printing and binding for the Executive Departments executed at the Government Printing Office and at the branch printing offices and binderies in the various Departments, and if, in their judgment, the conditions as they find them warrant remedial legislation, to report a bill at the next session of Congress, making such reductions in expenses and imposing such checks as they may deem expedient, with a report giving their reasons therefor; and said committee is further authorized to make any other investigation calculated, in their opinion, to reduce the cost of the public printing, and report the result thereof; and in making the inquiries required by this resolution said committee shall have power to send for persons and papers, to administer oaths, to employ a stenographer to report its hearings, to call on the heads of Executive Departments and the Public Printer for such information in regard to the preceding matters as they may desire, to do whatever is necessary for a thorough investigation of the subject, and to sit during the recess of Congress. Any subcommittee may exercise the powers hereby granted to said committee, and the expenses of said investigation shall be paid one-half from the contingent fund of the Senate upon vouchers duly approved by the chairman of the Committee on Printing and one-half from the contingent fund of the House of Representatives.

On March 1,¹ while the general deficiency appropriation bill was under consideration in the House, Mr. John Dalzell, of Pennsylvania, offered an amendment embodying the substance of the above resolution, which had been referred to the Committee on Rules in the House. The amendment proposed by Mr. Dalzell was agreed to, and became law, as follows:

That the Committee on Printing of the Senate, with three Members of the present House of Representatives who are reelected to the next Congress, to be appointed by the Speaker of the present House of Representatives, shall constitute a commission, and they, or any subcommittee of said special joint commission, are hereby authorized to examine into the numbers printed of the various documents, reports, bills, and other papers published by order of Congress, or of either House thereof, and of the Congressional Record, and if, in their judgment, the conditions, as they find them, warrant remedial legislation to report a bill at the next session of Congress making such reductions in the numbers and cost of printing and such changes and reduction in the distribution of said publications as they may deem expedient, with a report giving their reasons therefor; and that the said commission is also authorized to investigate the printing and binding for the Executive Departments executed at the Government Printing Office and at the branch printing offices and binderies in the various Departments, and if, in their judgment, the conditions as they find them warrant remedial legislation to report a bill at the next session of Congress, making such reductions in expenses and imposing such checks as they may deem expedient, with a report giving their reasons therefor; and said commission is further authorized to make any other investigation calculated, in their opinion, to reduce the cost of the public printing and report the result thereof, and in making the inquiries required by this resolution said commission shall have power to send for persons and papers, to administer oaths, to employ a stenographer to report its hearings, to call on the heads of Executive Departments and the Public Printer for such information in regard to the

¹Record, p. 3814; 33 Stat. L., p. 1249.

preceding matters as they may desire, to do whatever is necessary for a thorough investigation of the subject, and to sit during the recess of Congress. Any subcommittee may exercise the powers hereby granted to said commission, and the expenses of said investigation shall be paid one-half from the contingent fund of the Senate, upon vouchers duly approved by the chairman of the Committee on Printing, and one-half from the contingent fund of the House of Representatives.¹

4437. The two Houses, by concurrent resolution, have assumed to extend the powers of a joint committee beyond the adjournment of Congress, but later action seems to recognize a law as the proper instrumentality for such purpose. On March 2, 1863,² the Senate agreed to the following:

Resolved by the Senate of the United States (the House of Representatives concurring), That in order to enable the joint committee on the conduct of the war to complete their investigations of certain important matters now before them, and which they have not been able to complete by reason of inability to obtain important witnesses, they be authorized to continue their sessions for thirty days after the close of the present Congress, and to place their testimony and reports in the hands of the Secretary of the Senate.

On the same day the House agreed to the resolution.

4438. In 1865³ the joint committee on the conduct of the war was continued beyond the session and the Congress by a concurrent resolution extending their powers "for thirty days after the close of the present Congress." The committee went right on under this authority examining witnesses, etc. On March 13, 1865, the joint committee passed an order authorizing a less number than a quorum to act as well as examine witnesses, and on March 15, three members ordered the Secretary of War to furnish the committee with copies of certain papers.⁴

4439. On March 1, 1865,⁵ a proposition to continue the power of the Joint Committee on Commerce after the end of the Congress was put in the form of a joint resolution, which passed the House but apparently failed in the Senate to be acted on.

¹The reason for this action was a doubt of the power of the two Houses, by concurrent resolution, to endow a committee with power for a period beyond the life of the Congress.

²Third session Thirty-seventh Congress, Journal, p. 563; Globe, pp. 1454, 1489.

³Second session Thirty-eighth Congress, Report No. 142; Journal of the Committee, pp. 33, 35.

⁴The monetary commission of 1877, consisting of Members of the two Houses and other persons, was created by a concurrent resolution of the two Houses, and so was on the same basis as to authority as a joint committee. But the monetary commission did not sit beyond the life of the Congress which created it. (First session Forty-fourth Congress, House Journal, pp. 1393, 1509; Record, p. 5218; Second session Forty-fourth Congress, House Journal, p. 627; Record, p. 2125; House Report No. 185.)

In 1880 a joint committee of the two Houses was in existence for arranging the Yorktown centennial; but as that Congress expired the joint committee was by law made a joint commission. (Third session Forty-sixth Congress, Record, p. 18; 21 Stat. L., pp. 163, 522.)

In 1893 the Congress desired to have the Executive Departments investigated by a joint committee of three Members of each House, to be appointed by the presiding officers thereof. But as it was desirable that the joint committee should sit after the expiration of the Fifty-second Congress, a law was passed creating a commission. (27 Stat. L., p. 682.)

Other commissions of recent creation, although of not precisely the same function, are:

The Industrial Commission (30 Stat. L., p. 476). This consisted of five Senators and five Representatives and nine other persons.

The American Merchant Marine Commission (33 Stat. L., p. 561). This consisted of five Senators and five Representatives; but it reported before the expiration of the Congress creating it, and perhaps a joint committee would have done as well.

⁵Second session Thirty-eighth Congress, Journal, p. 378; Globe, p. 1258.

4440. In 1893¹ the legislative appropriation bill conferred on the Speaker and President of the Senate the appointment of a joint commission to investigate the Executive Departments of the Government. This commission consisted of three from each House.

4441. On July 8, 1882,² the Speaker announced the committee provided for in the joint resolution of July 1, 1882, providing for erection of the memorial column at Washington's headquarters, at Newburg, N. Y.

4442. The act of March 10, 1882,³ authorized the appointment of a joint committee to authorize the erection of a statue of Chief Justice Marshall. This committee consisted of three Members from each House, to be appointed by the President of the Senate and Speaker of the House.

In this case the House appointing to the committee notified the other House of its action.⁴

4443. In 1882⁵ the joint select committee to inquire into the subject of the American merchant marine was authorized, to consist of three Senators and six Representatives. This was provided for by a resolution specifying nothing which could not be provided for by the ordinary concurrent resolution, yet it was put in joint resolution form, and was approved by the President of the United States.

4444. The act of June 8, 1880,⁶ "to provide additional accommodations for the Library of Congress," provided for a joint select committee to consist of three Senators and three Representatives.

4445. Instance wherein a joint rule provided a joint committee for the next Congress.—On March 2, 1869,⁷ a concurrent resolution was agreed to providing that at the beginning of the next session, which would be the first session of the next Congress, a joint committee on the civil service should be appointed. At the beginning of the next Congress this concurrent resolution was assumed to have the force of a joint rule; and other conditions having arisen which seemed to make the committee unnecessary, the Senate originated and sent to the House a resolution rescinding the joint rule or provision. The House at first refused to agree to this resolution to rescind, and nonconcurred and asked a conference. Later the House decided to have a committee of its own on the subject, and a motion to reconsider the action of the House on the Senate resolution to rescind was entered. This seems to have ended the matter, for the Committee on Civil Service does not appear as a joint committee.⁸

4446. A Senator, member of a joint commission created by law and appointed by the presiding officers of the two Houses, respectively, ten-

¹Second session Fifty-second Congress, Record, pp. 2549, 2617; 27 Stat. L., p. 682.

²First session Forty-seventh Congress, Journal, pp. 1611, 1612.

³22 Stat. L., p. 28.

⁴First session Forty-seventh Congress, Journal, p. 844.

⁵First session Forty-seventh Congress, Record, pp. 6959, 6991, 7019.

⁶21 Stat. L., p. 165.

⁷First session Forty-first Congress, Journal, p. 104; Globe, pp. 45, 63, 228, 248.

⁸The question of the continued existence of the Senate as an organized body and the temporary existence of each House was discussed at length when the joint rules were under consideration on January 17, 1876. (First session Forty-fourth Congress, Record, pp. 434–438.)

dered his resignation in the Senate.—On March 3, 1905,¹ in the Senate, Mr. Francis M. Cockrell, of Missouri, said:

I tender my resignation as a member of the Senate building commission authorized by the sundry civil act of April 24, 1904, to secure a site and superintend the construction of a fireproof building for the use of the Senate.

The President pro tempore said:

The Senator from Missouri resigns as one of the commission to procure a site and erect a building for the use of the Senate. The Chair hears no objection by the Senate. The Chair appoints in the place made vacant by the resignation of the Senator from Missouri the Senator from Colorado [Mr. Teller].

4447. An instance in which a joint select committee elected its chairman.—On April 20, 1871,² the joint select committee on affairs in the late insurrectionary States, organized. This committee was composed of seven Senators and fourteen Representatives. It was

Ordered, That Mr. Scott, chairman of the committee on the part of the Senate, be chairman of the joint committee.

¹Third session Fifty-eighth Congress, Record, p. 3952.

²Second session Forty-second Congress, House Report No. 22, pt. 1, p. 590.