

Chapter CV.

ORGANIZATION AND PROCEDURE OF COMMITTEES.

1. Rule as to chairman. Section 4513.
 2. Earlier and later usage as to chairmanship of select committees. Sections 4514–4523.¹
 3. Election of chairman by the committee. Sections 4524–4530.
 4. Resignation as chairman. Sections 4531, 4532.
 5. Clerks of committees. Sections 4533–4539.
 6. Sittings of committees, Sections 4540–4549.
 7. Special authorizations to committees. Sections 4550–4554.²
 8. Reference of Bills to committees. Sections 4555, 4556.
 9. Procedure of committees. Section 4557.³
 10. Secret sessions. Sections 4558–4565.⁴
 11. Hour of meeting, recess, voting, journal, etc. Sections 4566–4579.
 12. Oaths taken by committee clerks. Sections 4580–4582.
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4513. The chairmanship of a committee is determined by seniority, by election by the committee, or, in case of the death of the chairman, by appointment by the Speaker.

Form and history of section 3 of Rule X.

Section 3 of Rule X provides:

The first-named member of each committee shall be the chairman; and in his absence, or being excused by the House, the next-named member, and so on, as often as the case shall happen, unless the committee by a majority of its number elect a chairman; and in case of the death of a chairman, it shall be the duty of the Speaker to appoint another.

This rule, with a few changes, dates from November 23, 1804. Previous to that time the first-named member had acted as chairman, but only by usage. A vacancy which occurred in the chairmanship of the Committee on Claims on November 6, 1804, and the refusal of another member of the committee to accept the vacant

¹ See also sections 1827, 2342 of Vol. III.

² As to committees of investigation. Chapter LV, sections 1750–1826 of Vol. III.

When appointed merely to ascertain facts do not report recommendations. Section 1649 of Vol. II.

³ Motion to lay on table in. Section 1737 of Vol. III.

Subjects relating to, as questions of privilege. Sections 2603–2611 of Vol. III.

⁴ See also section 1732 of Vol. III.

chairmanship, caused the matter to be brought before the House,¹ with the result that a rule was adopted as follows:²

That the first-named member of any committee appointed by the Speaker or the House shall be the chairman, and in case of his absence, or being excused by the House, the next-named member, and so on, as often as the case shall happen, unless the committee shall, by a majority of their number, elect a chairman.³

This rule was reported in a form modified as at present by the Committee on Rules who made the revision of 1880.⁴ The clause relating to filling a vacancy caused by the death of a chairman dates from the revision of 1890,⁵ and was retained in the Fifty-second Congress,⁶ but not in the Fifty-third. It was restored in the Fifty-fourth Congress.

4514. It was the earlier usage of the House that the Member moving a select committee should be appointed its chairman.—On January 11, 1825,⁷ Mr. Samuel D. Ingham, of Pennsylvania, moved that a message of the President be referred to a select committee, but debate arising, he said:

It could not be expected, from his situation, as having brought forward the present motion, that he should press for the appointment of a select committee.

Here the editor of the debates appends this footnote:

By custom of the House, the person moving such a committee is usually put at the head of it.

4515. On January 16, 1833,⁸ in the debate on the message of President Jackson relating to the nullification controversy with South Carolina, Mr. William S. Archer, of Virginia, mentioned that had he moved reference to a select committee, he would, by the courtesy of the House, have been chairman.

4516. On February 8, 1847,⁹ Mr. Stephen A. Douglas, of Illinois, who had moved that a select committee be appointed, said that by the courtesy of the House the mover of a select committee was usually appointed its chairman, but requesting in this instance to be excused. The Speaker appointed him chairman, however.

4517. The inconvenience of the usage that the proposer of a committee should be its chairman has caused it to be disregarded in modern practice.—December 7, 1876,¹⁰ Mr. George W. McCrary, of Iowa, a member of the minority party of the House, offered a resolution providing for a special committee

¹ See Constitution, Manual, and Rules, edition of 1859, p. 159.

² Journal, second session Eighth Congress, p. 22; Annals, pp. 698, 699. On December 20, 1805, the rule was again adopted, with an additional clause relating to the calling of meetings. First session Ninth Congress, Journal, p. 209; Annals, p. 300.

³ The Committee on Claims availed themselves of the authority conferred by the last clause to elect as chairman the member who had previously refused the chairmanship, Mr. Samuel W. Dana, of Connecticut. (See Constitution, Manual, and Rules, ed. 1859, p. 159.) According to present usage, the first-named member is always chairman.

⁴ Second session Forty-sixth Congress, Record, p. 205.

⁵ House Report No. 23, first session Fifty-first Congress.

⁶ First session Fifty-second Congress, Record, p. 86.

⁷ Second session Eighteenth Congress, Debates, p. 178.

⁸ Second session Twenty-second Congress, Debates, p. 1086.

⁹ Second session Twenty-ninth Congress, Globe, p. 352.

¹⁰ "Second session Forty-fourth Congress, Journal, pp. 44, 45.

of five Members to report a measure to provide for counting the electoral votes. This resolution was referred to the Committee on Judiciary, which reported December 14,¹ two resolutions providing two committees to consider the subject. These committees were appointed December 22, 1876.² Mr. McCrary was chairman of neither, but had fifth place on the second.³

4518. On February 11, 1858,⁴ Mr. Speaker Orr appointed Mr. Thomas L. Harris, of Illinois, chairman of the committee to whom was referred the message of the President relating to the Lecompton constitution of Kansas. Mr. Harris, though a member of the majority party, acted with the minority party in defeating Mr. Alexander H. Stephens's motion to refer the message to the Committee on Territories, and it was his proposition to refer to a select committee with instructions that finally prevailed. He seems to have been appointed chairman because of the adoption of his proposition, but it is evident that Mr. Speaker Orr constituted the majority of the committee to be in sympathy with the supporters of the Administration, for eight of the fifteen members were men who are recorded against the resolution of reference, which passed the House by a vote of 115 to 111. Moreover, on March 11, we find Mr. Harris, on behalf of himself and the others of the minority, complaining to the House that the majority of the committee were failing to execute the order of the House, and had adjourned.

4519. On December 1, 1856,⁵ Mr. James L. Orr, a Democrat, of South Carolina, made the motion that a committee be appointed on the part of the House to notify the President that the Congress is ready for business; and Mr. Speaker Banks, a Republican, made Mr. Orr chairman of the committee.

4520. In appointing committees of investigation it is evidently necessary to disregard the former usage that the proposer of the committee should be its chairman.—On April 4, 1810,⁶ Mr. Joseph Pearson, of North Carolina, offered a resolution directing an investigation of the conduct of Brig. Gen. James Wilkinson, Commander in Chief of the Army. The resolution being agreed to, Mr. Pearson was not appointed chairman, but was the last-named Member.

4521. On March 3, 1864,⁷ Mr. Frank P. Blair, Jr., of Missouri, proposed a resolution of investigation of certain charges which had been made against himself, and the resolution was agreed to by the House, and the Speaker⁸ proceeded to appoint the committee called for by the resolution. The Speaker said that under the practice of the House the Speaker would have to appoint Mr. Blair chairman of the committee unless he should decline to serve in that capacity. Mr. Blair asked that the formality be dispensed with, and the Speaker accordingly named another Member chairman, not naming Mr. Blair on the committee at all.

¹Journal, p. 78.

²Journal, p. 137.

³Instances occurred in this Congress where the Member proposing committee was appointed its chairman. (Second session Forty-fourth Congress, Journal, pp. 174, 183, 285, 305.)

⁴First session Thirty-fifth Congress, Journal, pp. 345–349, 369, 477; Globe, p. 1075.

⁵Third session Thirty-fourth Congress, Globe, p. 2; Journal, p. 8.

⁶Second session Eleventh Congress, Journal, p. 348 (Gales and Seaton ed.).

⁷First session Thirty-eighth Congress, Journal, p. 421; Globe, p. 1253.

⁸Schuyler Colfax, of Indiana, Speaker,

4522. On January 23, 1865,¹ Mr. Robert C. Schenck, of Ohio, offered a resolution providing for an investigation of an assault upon the Hon. William D. Kelley, of Pennsylvania. This resolution having been agreed to, the Speaker, on January 24, appointed on the committee Messrs. Beaman, Edward H. Rollins, Robinson, John D. Baldwin, and Townshend.²

4523. On March 20, 1879,³ on motion of Mr. John A. McMahan, of Ohio, a Member of the majority of the House, a resolution was introduced for the investigation of the operation of the election law in Cincinnati. On March 29, Mr. Speaker Randall appointed the committee, making Mr. John G. Carlisle, of Kentucky, chairman, but explaining that Mr. McMahan had declined to serve as chairman.

4524. A committee, having elected a chairman, has sometimes reported that fact to the House.—On December 1, 1806,⁴ it being ordered that a Committee on Ways and Means be appointed pursuant to the standing rules and orders of the House, a committee was appointed, Mr. Joseph Clay, of Pennsylvania, being chairman.

On December 5, on motion, it was—

Ordered, That Mr. Garnett be excused from serving on the Committee on Ways and Means, and that Mr. John Randolph be appointed on the said committee, in his place.

On December 9,⁵ Mr. Clay reported to the House that under the existing rule⁶ the Member first named on a committee was chairman, unless another Member was chosen by the committee; and he was instructed to state that in virtue of the last provision the Committee, on Ways and Means had appointed Mr. J. Randolph, chairman.

It does not appear that Mr. Clay had asked to be excused from the chairmanship.

4525. On December 27, 1847,⁷ Mr. Meredith P. Gentry, of Tennessee, from the Committee on Indian Affairs, reported that at a meeting of the committee held at their committee room this day, on motion of Mr. Gentry, chairman of the committee, Daniel M. Barranger, of the State of North Carolina, was unanimously appointed chairman of said committee.

This report was read and laid on the table.

4526. It has been decided that it is not necessary for a committee to report to the House the election of a chairman.—On January 21, 1835,⁸ Mr. John Quincy Adams, of Massachusetts, offered the following:

Ordered, That the name of the present chairman of the Committee on Foreign Affairs be entered upon the Journals of the House.

¹Second session Thirty-eighth Congress, Journal, pp. 135, 138.

²On March 1 and 5, 1872 (second session Forty-second Congress, Record, pp. 1321, 1417), the Senate by ballot elected a committee to investigate the sale of arms to France, and chose of that number not a single Member who had prominently urged the investigation. It had been proposed to put Mr. Charles Sumner, of Massachusetts, at the head, as he had instigated the investigation, but his health prevented his serving. Mr. Sumner and others protested against the one-sided constitution of the committee, but without avail.

³First session Forty-sixth Congress, Journal, pp. 23, 34; Record, pp. 29, 126.

⁴Second session Ninth Congress, Journal, pp. 465, 473 (Gales and Seaton ed.).

⁵Annals, p. 130. The Journal does not mention this report by Mr. Clay.

⁶See section 4513 of this volume for form of rule then and now.

⁷First session Thirtieth Congress, Journal, p. 149; Globe, p. 64.

⁸Second session Twenty-third Congress, Journal, p. 252; Debates, p. 7825.

The debate developed the following fact:

When the Committee on Foreign Affairs was appointed on December 4¹ Mr. James M. Wayne, of Georgia, was named first, and Mr. Edward Everett, of Massachusetts, second. On January 13, Mr. Wayne resigned his seat in the House² and Mr. Churchill C. Cambreleng, of New York, was "appointed on the Committee on Foreign Affairs, in place of Mr. Wayne, resigned."

As appears from the debate, Mr. Everett assumed the position of chairman, the Speaker considering him the successor of Mr. Wayne in that position, although Mr. Everett expressed some doubts as to the propriety of his acting as chairman for the reason that he was not in sympathy with the Administration. Subsequently the committee, by a vote of four to three, Messrs. Everett and Cambreleng not voting, elected Mr. Cambreleng chairman over Mr. Everett.

Mr. Adams, in presenting his order, referred to the fact that Mr. Cambreleng received the votes of only four of the committee, the total membership of nine being present. While it seemed to him that the minority in this case had assumed to elect a chairman, he was not disposed to question the validity of the election. But the election of Mr. Cambreleng had been in derogation of the ordinary usages of the House, according to which the person first named on a committee was ex officio chairman, and in the event of his absence or resignation the next named. It was true that Jefferson's Manual gave to the committee the power to elect their own chairman, but he did not believe that there was a single instance where this had been done. He thought that the name of the chairman ought to be placed in the Journal so that the House might know who was chairman in its dealings with the committee.

Mr. William S. Archer, of Virginia, replying to Mr. Adams, said that the committee constituted one undivided organ of the House, and they were in the habit of making reports through other members as well as the chairman. In a parliamentary sense neither the individual members of a committee nor the chairman were known to the House. A committee could certainly elect a chairman for itself, and the House could take no cognizance of what passed in the committee in this respect unless the committee choose to inform them. A precedent was to be found in the case of Mr. John Randolph, of Virginia, who had been displaced as chairman of the Ways and Means Committee by Mr. Speaker Macon, and afterwards reelected chairman by the committee.

The order proposed by Mr. Adams was laid on the table.

4527. On December 19, 1861,³ in the committee appointed to investigate Government contracts, a select committee, Mr. E. B. Washburne, of Illinois, was chosen temporary chairman, and the Sergeant-at-Arms of the House (who was liable to be called on to summon witnesses) was informed. On February 26 the committee chose Mr. Washburne chairman, and directed that the action be entered on the journal of the committee. There is no record, however, that the committee informed the House of its action.

¹Second session Thirty-seventh Congress, pt. 2 of House Report No. 2, journal of the committee, pp. 2, 10.

²Journal, p. 34.

³Journal, p. 213.

4528. The select committee created January 17, 1839,¹ for the investigation of the defalcation in the New York custom-house, was chosen by ballot by the House. The committee, in turn, elected their own chairman by ballot. Notice of this election of a chairman does not appear to have been given to the House by the committee.

4529. The chairman of a committee having resigned his seat in the House the committee elected a chairman and reported to the House.—On December 14, 1898,² the Speaker submitted to the House the following communication:

COMMITTEE ON RIVERS AND HARBORS,
HOUSE OF REPRESENTATIVES UNITED STATES,

Washington, D. C., December 7, 1898.

At a meeting of the Committee on Rivers and Harbors this day held, at which the following members were present, to wit: Walter Reeves, R. P. Bishop, Ernest F. Acheson, Page Morris, William L. Ward, Thomas C. Catchings, Rufus E. Lester, John H. Bankhead, Philip D. McCulloch, Albert S. Berry, Stephen M. Sparkman, and Thomas H. Ball, by unanimous vote Mr. Theodore E. Burton, of Ohio, was elected chairman of said committee, to take the place of Mr. Warren B. Hooker, resigned, and, on motion, voted that the Speaker be notified of the action of this committee.

WALTER REEVES, *Acting Chairman.*

Attest:

L. L. HANCHETT, *Clerk.*

4530. The chairman of a committee having resigned his seat in the House, the Speaker, by consent of the House, appointed a chairman.—On March 28, 1904,³ the Speaker,⁴ by consent of the House, appointed Mr. Edward DeV. Morrell, of Pennsylvania, chairman of the Committee on Militia, in place of Mr. Charles Dick, of Ohio, who had resigned his seat as a Member. Mr. Morrell was not a member of the Committee on Militia previous to this appointment.

4531. The chairman of a committee, with the permission of the House, may resign as chairman, still remaining a member of the committee.—On December 5, 1900,⁵ the Speaker announced that Mr. Charles A. Boutelle, of Maine, had resigned his place as chairman of the Committee on Naval Affairs. The House, without objection, allowed the resignation by unanimous consent.

This was a resignation as chairman only, Mr. Boutelle still remaining a member of the committee.

4532. On December 13, 1888,⁶ Mr. James B. McCreary, of Kentucky, asked to be relieved of the chairmanship of the Committee on Private Land Claims, and the House excused him.

Thereupon Mr. James B. Weaver, of Iowa, stated that this action would cause the chairmanship to devolve on him, and he asked to be excused, as he was already chairman of the Committee on Patents. Whereupon Mr. Weaver was excused.

¹Third session Twenty-fifth Congress, House Report No. 313, p. 293.

²Third session Fifty-fifth Congress, Record, p. 195; Journal, p. 30.

³Second session Fifty-eighth Congress, Journal, p. 502; Record, p. 3824.

⁴Joseph G. Cannon, of Illinois, Speaker.

⁵Second session Fifty-sixth Congress, Journal, p. 25; Record, p. 66.

⁶Second session Fiftieth Congress, Journal, p. 81; Record, p. 235.

Thereupon the Speaker¹ appointed the member next in order, Mr. John M. Glover, of Missouri, as chairman.²

Mr. McCreary had asked to be excused because the resignation of the chairman of the Committee on Foreign Affairs had left him as chairman of that committee. He did not resign from the committee, but only from the chairmanship.

Mr. McCreary's request was journalized as a privileged matter.

4533. Clerks of committees are appointed by the chairmen, with the approval of the committee, and are paid at the public expense.

Present form and history of section 4 of Rule X.

Section 4 of Rule X provides:

The chairman shall appoint the clerk or clerks of his committee, subject to its approval, who shall be paid at the public expense, the House having first provided therefor.

This rule dates from December 14, 1838,³ when Mr. Samuel Cushman, of New Hampshire, proposed that no committee should be permitted to employ a clerk at the public expense without first obtaining leave of the House for that purpose. This suggestion was adopted and became old rule No. 73. In the revision of 1880⁴ the present form of the rule was adopted.⁵

4534. An annual clerkship of a committee is authorized by a resolution reported by the Committee on Accounts and agreed to by the House.—On August 23, 1888,⁶ Mr. M. M. Boothman, of Ohio, from the Committee on Accounts, presented for the action of the House this resolution:

Resolved, That the Committee on the Merchant Marine and Fisheries be allowed an annual clerk, to be paid out of the contingent fund of the House, until March 3, 1889, at the rate of \$2,000 per annum; and the Committee on Appropriations are hereby instructed to make provision for such clerk at the said rate of \$2,000 per annum, from said March 3, 1889.⁷

4535. Session clerks are assigned to committees by resolution reported from the Committee on Accounts and agreed to by the House.

Reference to statutes fixing the pay of session clerks of committees. (Footnote.)

¹John G. Carlisle, of Kentucky, Speaker.

²The power of the Speaker to make this appointment may be doubted in view of section 3 of Rule X.

³Third session Twenty-fifth Congress, Globe, p. 32; Journal, p. 80.

⁴Second session Forty-sixth Congress, Record, p. 205.

⁵On January 28, 1803 (second session Seventh Congress, Journal, p. 311), the House disagreed to a proposition to authorize "two additional clerks to be denominated 'committee clerks,'" whose duties it should be to attend to the business of the several committees.

⁶First session Fiftieth Congress, Record, pp. 7884, 7885.

⁷The following committees have permanent or annual clerkships: Ways and Means (also an assistant clerk and stenographer), Appropriations (also an assistant clerk and an assistant clerk and stenographer), Accounts, Agriculture, Banking and Currency, Census, Claims, District of Columbia, Elections Numbers One, Two, and Three, Foreign Affairs, Interstate and Foreign Commerce (also an additional clerk), Immigration and Naturalization, Indian Affairs, Insular Affairs, Invalid Pensions (also an assistant clerk), Irrigation of Arid Lands, Judiciary (also an assistant clerk), Labor, Library, Merchant Marine and Fisheries, Military Affairs, Naval Affairs, Patents, Pensions, Post-Office and Post-Roads (also an assistant clerk), Printing, Public Buildings and Grounds, Public Lands, Rivers and Harbors (also an assistant clerk), Revision of the Laws, Territories, War Claims (also an assistant clerk).

On December 10, 1897,¹ Mr. Benj. B. Odell, jr., of New York, obtained unanimous consent for the consideration of this resolution:

Resolved, That the Committee on Accounts is hereby authorized and directed to designate the committee to which the clerks provided for by the legislative, executive, and judicial appropriation bill for the fiscal year ending June 30, 1898, should be allowed and assigned for the present Congress, and to report by resolution to the House for its action thereon.

It having been explained that it was in accordance with the usual custom for the Committee on Accounts to assign these clerks, the resolution was adopted.²

4536. A session clerk is entitled to compensation only from the date when he enters upon the discharge of his duties with the committee.—On June 23, 1896, the Comptroller of the Treasury decided³ that, under the joint resolution of June 28, 1886, providing that the pay of session clerks to committees of the House of Representatives should begin from the time such clerks entered upon the discharge of their duties, to be ascertained and evidenced by certificate of the chairmen of the several committees, such clerk was not entitled to compensation from the beginning of the session on the certificate of the chairman, but only from the date when he enters upon the discharge of his duties as clerk to the committee, which can in no event be prior to the appointment of the committee by the Speaker.

4537. A clerk of a committee who ceased to hold office on December 21 was held not to be entitled to the salary for the remainder of the month, under the terms of a resolution directing the payment of salaries of employees for that month on the 20th.—On January 22, 1896, the Comptroller of the Treasury decided⁴ that the clerk of a committee of the House of Representatives who ceased to hold the office on December 21, 1895, was not entitled, under the resolution directing payment of salaries of clerks and employees for the month of December on the 20th day of that month, to the salary for the whole month, payment not having been made to him until after he had vacated the office.

4538. The clerk of a committee being appointed a postmaster, was held to be entitled to his salary as clerk until his successor was appointed, although his salary as postmaster had already begun.—Mr. A. H. Boyden, holding the position of clerk to the Committee on Post-Office and Post-Roads, House of Representatives, in Washington, was commissioned and entered upon the discharge of his duties as postmaster at Salisbury, N. C., on July 1, 1893. His salary as postmaster was \$1,800 a year. On August 29 his successor as clerk to the committee was appointed. The question arose whether or not he could

¹Second session Fifty fifth Congress, Record, p. 79.

²The pay of the clerks to committees of the House of Representatives, heretofore authorized by the House, who are paid during the session only, shall begin from the time such clerks entered upon the discharge of their duties as clerks to committees, which shall be ascertained and evidenced by the certificates of the chairmen of the several committees employing clerks for the session only. (22 Stat. L., p. 378.)

Hereafter clerks of committees of either branch of Congress (except those whose salaries are fixed by specific appropriations) shall be paid not more than six dollars per day, and during the session only. (18 Stat. L., p. 345.)

³Decisions of the Comptroller of the Treasury (Bowler), Vol. II, p. 638.

⁴Decisions of the Comptroller of the Treasury (Bowler), Vol. II, p. 359.

be paid the salary of both offices for the period from July 1 to August 29; and the First Comptroller decided,¹ on September 29, 1893, that the two positions were compatible, and that Mr. Boyden was entitled to the compensation of both.

4539. There is no legal power to fill a vacancy in the clerkship of a committee after one Congress has expired and before the next House has been organized.—Hon. James Kerr, Clerk of the House of Representatives, in 1893 requested the opinion of the Comptroller of the Currency on the following points: (1) Whether or not there was any legal power to fill a vacancy in the clerkship to the River and Harbor Committee where such vacancy occurred after the expiration of the Fifty-second Congress and before the organization of the Fifty-third Congress; (2) in whom was such power vested, if it existed; and (3) could the name of a certain individual be legally placed on the rolls of the House as clerk of that committee; could he be paid the salary belonging to the appointment; and if so, from what date would he be entitled to pay?

The Comptroller, in reply, decided:

There is no legal power to fill a vacancy in the clerkship to the Rivers and Harbors Committee where such vacancy occurred after the expiration of the Fifty-second Congress and before the organization of the Fifty-third Congress; and, therefore, the name of Mr. William P. Hickman, who was designated by the Hon. N. C. Blanchard, chairman of the Committee on Rivers and Harbors of the Fifty-second Congress, to take the place of James Hickman, deceased, can not legally be placed upon the rolls of the House of Representatives as the clerk of said committee.

The reasons for this decision,² summarized, are as follows:

There appears to be no precedent for such appointment, but there are two precedents of places remaining vacant under similar circumstances; neither House can continue any portion of itself in any parliamentary function beyond the close of the session without the consent of the other two branches (Jefferson's Manual, Rules of House No. XLIV); the chairman may only appoint his clerk subject to the approval of the committee (House Rule X, see. 4); the clerk of a committee is not in general entitled to compensation unless he takes the oath of office under and by authority of the House.³

4540. In absence of direction of the House committees meet when and where they please, but may only act when together.

A majority of a committee is the quorum.

Rule of parliamentary law as to right of a Member to attend on a committee to which he does not belong.

Jefferson's Manual, in Section XXVI, provides:

In some cases the House has ordered a committee to withdraw immediately into the committee chamber and act on and bring back the bill, sitting the House. (Scob., 48.) A committee meet when and where they please⁴ if the House has not ordered time and place for them (6 Grey, 370); but they can only act when together, and not by separate consultation and consent—nothing being the report of the committee but what has been agreed to in committee actually assembled.

A majority of the committee constitutes a quorum for business. (Elsynge's Method of Passing Bills, 11.)

¹ Decisions of the First Comptroller (Bowler), 1893–94, p. 61.

² Decisions of the First Comptroller (Bowler), 1893–94, p. 2.

³ 5 Lawrence, Comp. Dec., 400.

⁴ A committee may not sit during sessions of the House without leave. (See see. 4545 of this volume.)

Any Member of the House may be present at any select committee, but can not vote, and must give place to all of the committee and sit below them.¹ (Elsynge, 12; Scob., 49.)

4541. The House may empower a committee to sit during a recess which is within the constitutional session of the House.—On December 14, 1877,² Mr. Fernando Wood, of New York, from the Committee on Ways and Means, reported a resolution directing a general investigation by committees of the House into the conduct of the Executive Departments of the Government, the following being one of the provisions of the resolution: “And said committees are authorized to send for persons and papers, and also to sit in any recess which may occur during the session.”

Against this provision Mr. Horatio C. Burchard, of Illinois, made a point of order:

This resolution is equivalent to a proposition to change or suspend the rules of the House. The jurisdiction of these various committees that are recited in the resolution reported from the Committee of Ways and Means is expressly defined in the rules of the House. This resolution proposes to change the rules of the House so as to enlarge the powers of those various committees and to give them leave to sit during the recess of the House. It is, in fact, a change of the rules of the House, and I hold that it can not be entertained at this time.

The Speaker³ said, after debate:

There is a rule that committees can not be permitted to sit during the sessions of the House, which would imply they could sit at any other time when Congress is in session under law. * * * The Chair sees no rule which prohibits a committee from sitting during the recess within the limits of the constitutional session of the House.

4542. On May 22, 1872,⁴ Mr. Luke P. Poland, of Vermont, submitted the following resolution, which was agreed to:

Resolved, That the Committee on the Revision of the Laws of the United States are hereby authorized to meet in committee on the 11th day of November next, and to continue in session to the beginning of the next session of Congress for the purpose of examining the revision of the statutes of the United States now being prepared by commissioners appointed for that purpose.

4543. On May 23, 1900,⁵ Mr. Sereno E. Payne, of New York, presented, and the House, by unanimous consent, considered and agreed to this resolution:

Resolved, That the Committee on Ways and Means have leave to sit during the recess to consider the subject of the revision and reduction of the war-revenue taxes.

4544. The Senate, as a continuing body, may continue its committees through the recess following the expiration of a Congress.—On March 2, 1907,⁶ Mr. William B. Allison, of Iowa, in the Senate, offered this resolution, which was agreed to:

Resolved, That the standing and select committees of the Senate as constituted at the end of this session be, and they are hereby, continued until the next regular session of Congress, or until their successors are elected.

¹ Committees frequently exercise the right of making their sessions executive, excluding persons not members thereof.

² Second session Forty-fifth Congress, Journal, p. 132; Record, pp. 228, 231.

³ Samuel J. Randall, of Pennsylvania, Speaker.

⁴ Second session Forty-second Congress, Journal, p. 928; Globe, p. 3743.

⁵ First session Fifty-sixth Congress, Record, p. 5923; Journal, p. 614.

⁶ Second session Fifty-ninth Congress, Record, p. 4453.

The committees of each House, of course, cease with the expiration of the constitutional term of the House.

4545. Committees may not sit during sessions of the House.

Committees may by the House be empowered to sit during a recess that is within the term of the Congress, but not after the expiration of the term.

Committees are created commissioners by law if their functions are to extend beyond the term of the Congress.

Jefferson's Manual has the following provisions:

Section XI. So soon as the House sits and a committee is notified of it, the chairman is in duty bound to rise instantly, and the Members to attend the service of the House. (2 Nals., 310.)

Section LI. Committees may be appointed to sit during the recess by adjournment, but not by prorogation. Neither House can continue any portion of itself in any parliamentary function beyond the end of the session without the consent of the other branch.¹ When done, it is by a bill constituting them commissioners for that particular purpose.²

Commissions are sometimes created by joint or concurrent resolutions, which are independent of the life of the Congress creating them. (28 Stat. L., p. 392, and App., p. 18.)

4546. No committee, except the Committee on Rules, may, without leave, sit during the sitting of the House.

Present form and history of section 62 of Rule XI.

Section 62 of Rule XI provides:

No committee, except the Committee on Rules, shall sit during the sitting of the House without special leave.

The old rule of November 13, 1794,³ provided that "No committee shall sit during the sitting of the House without special leave." When the Committee on Rules reported the revision of 1880, they omitted it, thinking that section 1 of Rule VIII requiring every Member to be present within the Hall during the sitting, was sufficient; but during the consideration of the report in the House the old rule was inserted on motion of Mr. George D. Robinson, of Massachusetts.⁴ The exception in regard to the Committee on Rules was made on September 6, 1893.⁵

4547. A request that a committee have leave to sit during the sessions of the House has no privileged status in the order of business and may be prevented by a single objection.—On January 15, 1907,⁶ Mr. James E. Watson, of Indiana, asked unanimous consent that the Committee on Merchant Marine and Fisheries have authority to sit during sessions of the House.

Mr. John S. Williams, of Mississippi, objecting, the privilege was not given.

¹The Senate, however, being a continuing body, gives authority to its committees during the recess after the expiration of a Congress.

²This is the law of Parliament. It has been construed not to restrain a committee of the House, with the leave of the House, from sitting during a recess between the first and second session of Congress. On August 28, 1852, the House, without question as to its right so to do, gave to the committee appointed to investigate the conduct of Secretary Corwin leave "to sit in the vacation." (See first session Thirty-second Congress, Journal, p. 1119 1 Globe, pp. 2414, 2418.)

³Second session Third Congress, Journal, p. 228 (Gales and Seaton ed.).

⁴Second session Forty-sixth Congress, Record, p. 827.

⁵First session Fifty-third Congress, Vol. I of House Reports, No. 2.

⁶Second session Fifty-ninth Congress, Record, p. 1168.

4548. A subcommittee is sometimes authorized to sit during sessions of the House.—On March 11, 1876,¹ Mr. Rezin A. De Bolt, of Missouri, by unanimous consent, submitted the following resolution, which was read, considered, and agreed to:

Resolved, That a subcommittee of the Committee on Reform in the Civil Service be authorized to sit during the sessions of the House, and that its chairman be, and he is hereby, authorized to administer oaths.

4549. In 1877 the House authorized its Members of the Electoral Commission to sit during sessions of the House.—On January 31, 1877,² Mr. Eppa Hunton, of Virginia, offered the following resolution, which was agreed to:

Resolved, That the members of the commission on the part of the House of Representatives appointed under provisions of the bill entitled, "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," have permission to sit as members of said commission during the sessions of this House.

4550. Instance wherein the House authorized two standing committees to sit as one committee for the consideration of a specified bill.—On January 23, 1907,³ Mr. Henry C. Loudenslager, of New Jersey, offered this resolution, which was agreed to by the House:

Resolved, That the Committee on Invalid Pensions and the Committee on Pensions be, and hereby are, authorized to sit as one committee for the purpose of considering Senate bill No. 976, an act granting pensions to certain enlisted men, soldiers, and officers who served in the civil war and the war with Mexico, and that such committee have leave to sit during the sessions of the House.

4551. In 1870 the Committee on Elections was divided into subcommittees, to each of which was given the power of reporting directly to the House.—On February 19, 1870,⁴ Mr. James A. Garfield, of Ohio, from the Committee on Rules, reported the following:

Resolved, That the following be adopted as the rule of the House, namely:

The Committee of Elections for the Forty-first Congress shall consist of fifteen members; and each contested case may be assigned by the chairman to a special committee of three members thereof for their exclusive consideration, and such special committee shall report their decision in the case directly to the House.

Mr. Garfield explained that the Committee of Elections was confronted with an unusual amount of work and that this method of meeting the difficulty seemed the best. He said that each of the subcommittees, under the comity of committees, would consist of two Republicans and one Democrat. He and others of the House deplored the partisan method of settling election contests, but thought that no better system was practicable at that time.

The resolution was agreed to.

4552. A majority of a committee constitutes a quorum for business.—On August 25, 1842,⁵ a question arose as to whether or not the Committee on Public

¹ First session Forty-fourth Congress, Journal, p. 555.

² Second session Forty-fourth Congress, Journal, pp. 344, 345; Record, p. 1139.

³ Second session Fifty-ninth Congress, Record, p. 1587.

⁴ Second session Forty-first Congress, Journal, p. 350–1 Globe, p. 1439.

⁵ Second session Twenty-seventh Congress, Journal, pp. 1410, 1682., Globe, p. 940.

Lands had reported properly the bill to amend the act "to appropriate, the proceeds of the sale of the public lands and to grant preemption rights." Mr. Henry A. Wise, of Virginia, stated that a quorum of the committee was not present, since actually only four members were present when the report was authorized. The committee under the rules consisted of nine members. Therefore the assumption underlying this question of order was that a majority of the committee was required to constitute a quorum, and nothing appears to controvert this assumption.

On February 8, 1875,¹ in the Senate, Mr. Oliver P. Morton, of Indiana, presented the report of the Committee on Privileges and Elections in the case of P. B. S. Pinchback. Mr. William T. Hamilton, of Maryland, made the point that the report was not authorized, since only seven of the nine members of the committee had been present, and only four of the seven voted for the report. Mr. George F. Edmunds, of Vermont, argued that as the whole membership of the committee was nine the seven present constituted a quorum and four was a majority of the seven. The Presiding Officer, Mr. Henry B. Anthony, of Rhode Island, sustained this contention of Mr. Edmunds. Here the fundamental assumption, not questioned, was that a majority of the committee is required for a quorum.

In addition Jefferson's Manual, which is authority in the House when its own rules are silent, declares that "a majority of the committee constitutes a quorum for business."²

4553. The House sometimes authorizes less than a quorum of a committee (a quorum being a majority) to act.—On April 28, 1858,³ Mr. Benjamin Stanton, of Ohio, from the select committee of which he was chairman, offered the following, resolution:

Resolved, That the select committee appointed to investigate the expenditure of money to procure the passage of the tariff of 1857 have power to authorize any two members of said committee to take the testimony of any witnesses who, by reason of sickness or any other cause, can not be brought before said committee at such time and place as the members so authorized may deem expedient, and that they shall have leave to sit during the sittings of the House.

Mr. Stanton explained that this virtually made a quorum of two instead of three, as at present in the committee. Objections were urged on the ground that the procedure was unusual, but the resolution was agreed to without division.

4554. On May 18, 1860,⁴ Mr. John Hickman, of Pennsylvania, by unanimous consent, reported from the Committee on the Judiciary, the following resolution:

Resolved, That a minority of the Committee on the Judiciary be, and are hereby, authorized to take the testimony of all witnesses in the matter of the petitions heretofore referred to said committee praying the impeachment of Hon. John C. Watrous, a judge of the United States for the eastern district of Texas.

Mr. Hickman explained that the authority was necessary because of the difficulty of keeping a quorum of the committee present.

The resolution was agreed to.

¹Second session Forty-third Congress, Record, p. 1063.

²Jefferson's Manual, Chapter XXVI.

³First session Thirty-fifth Congress, Journal, p. 722; Globe, p. 1906.

⁴First session Thirty-sixth Congress, Journal, p. 856; Globe, p. 2171.

4555. It is in order to refer a matter to a committee before its members have been appointed.—On December 7, 1863,¹ Mr. Thaddeus Stevens, of Pennsylvania, moved that the credentials of two Members from Louisiana be referred to the Committee, on Elections.

Mr. S. S. Cox, of Ohio, made the point of order that the committee had not yet been appointed.

The Speaker² said:

The Chair overrules the point of order. The uniform practice of the House has been to refer matters to committees before they were raised.

4556. Rule for delivery of bills referred to a committee.—Jefferson's Manual, in Section XXVI, provides:

The clerk may deliver the bill to any member of the committee (Town., col. 138); but it is usual to deliver it to him who is first named.³

4557. Committees may not change the title or subject of bills committed to them, and must set down on a separate paper the amendments which they recommend.

When a report is recommitted, the committee must take up the subject anew, the former action being of no further account.

The proceedings of a committee, having no force until confirmed by the House, are not to be published, according to the parliamentary law.

A committee may receive a petition only through the House.

When an inquiry by a committee involves a Member, the committee may only report to the House, whereupon the Member is heard or the committee is given authority to inquire concerning him.

Jefferson's Manual, in Section XXVI, provides:

The committee have full power over the bill or other paper committed to them, except that they can not change the title or subject. (8 Grey, 228.)

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.⁴ (Scob., 50.)

And in Section XXVIII:

If a report be recommitted before agreed to in the House, what has passed in committee is of no validity; the whole question is again before the committee, and a new resolution must again be moved, as if nothing had passed.

In Section XI:

Their proceedings are not to be published,⁵ as they are of no force till confirmed by the House (Rushw., part 3, vol. 2, 74; 3 Grey, 401; Scob., 39); nor can they receive a petition but through the House (9 Grey, 412).

¹ First session Thirty-eighth Congress; Globe, pp. 7, 8.

² Schuyler Colfax, of Indiana, Speaker.

³ Where the committee has a clerk, the distributing clerk of the House delivers the bill to him at the committee room, taking a receipt therefor.

⁴ It is the present practice for committees to set forth their amendments in the report, and also in italicized words in a reprint of the bill as reported.

⁵ Committees frequently open their meetings to the public, which results in wide publicity before their recommendations are presented to the House, but in general the old practice of Parliament is followed and committee meetings are not public.

When a committee is charged with an inquiry, if a Member prove to be involved, they can not proceed against him, but must make a special report to the House; whereupon the Member is heard in his place, or at the bar, or a special authority is given to the committee to inquire concerning him. (9 Grey, 523.)

4558. It is entirely within rule and usage for a committee to conduct its proceedings in secret.—On January 23, 1858,¹ in the select committee appointed to investigate the accounts of the late Clerk, William Cullom, the following was offered by Mr. Valentine B. Horton, of Ohio, and agreed to by the committee:

Ordered, That the proceedings of this committee be kept secret until the committee are prepared to report.

4559. On December 14, 1860,² the select committee of thirty-three, to whom had been referred so much of the President's message as related to the perilous condition of the country, adopted the following order:

That, in the opinion of this committee, its proceedings should not be disclosed to others, except when, in any particular case, it may permit such disclosure.

On December 29, 1860, and at other dates, the committee removed the injunction of secrecy from various proceedings.

4560. On January 19, 1861,³ in the select committee on the seizure of forts, arsenals, etc., Hon. Isaac Toucey, Secretary of the Navy, appeared in attendance in accordance with previous arrangement.

The clerk of the committee retired from the committee room at the request of the chairman.

After some time spent by the committee in consultation with the Secretary of the Navy, the clerk was recalled and the committee adjourned.

Again, on January 26,⁴ the same proceeding took place.

4561. In 1839,⁵ during the investigation made by the select committee appointed by the House to inquire into the defalcations in the New York custom-house, a resolution was moved by a member of the committee that all the proceedings of the committee should be open and public. This proposition was amended by a resolution declaring that the committee had in no wise departed from the long established and uniformly observed rules of conducting business by the standing and select committees, and that in respect to secrecy the committee ought to conform to the rules and usages which govern standing and select committees. Having thus amended the resolution, a majority of the committee laid it on the table.

4562. In 1878,⁶ the committee appointed "to inquire into the alleged fraudulent canvass and return of votes at the last Presidential election in the States of Louisiana and Florida," in the report said: "Since it was unavoidable in an investigation of this magnitude that much secondary testimony should be received, some of which might thus unjustly involve the fair fame of individuals, we thought

¹ Second session Thirty-fifth Congress, journal of the select committee, Report No. 188, p. 209.

² Second session Thirty-sixth Congress, House Report No. 31, journal of the committee, pp. 8, 21.

³ Second session Thirty-sixth Congress, House Report No. 91, p. 35.

⁴ Report, p. 48.

⁵ Third session Twenty-fifth Congress, House Report No. 313, pp. 414, 415, 430.

⁶ Third session Forty-fifth Congress, House Report No. 140, p. 3.

it proper that the Republican members of the committee should decide whether the sessions of the committee should be private or open, and on their determination at last, that the sessions of the committee should be open, it was so ordered.”¹

4563. On May 1, 1876,² on motion of Mr. William R. Morrison, of Illinois, and under suspension of the rules, the House agreed to the following:

Resolved, That the several committees of this House charged with investigations be, and are hereby, directed to conduct such investigations with open doors, unless, in the opinion of such committees, the public interests will be prejudiced thereby; but any person accused before any committee shall have a right to be heard in his own defense in person or by counsel, or both.

4564. On December 16, 1878,³ the Senate were considering a resolution proposed by Mr. James G. Blaine, of Maine, for the investigation of the conduct of the recent elections, when Mr. M. C. Butler, of South Carolina, moved as an amendment “that said committee be instructed to sit with open doors.” This amendment was rejected, yeas 30, nays 30. Then Mr. Henry G. Davis, of West Virginia, moved an amendment that the committee “shall sit with open doors if any member of the committee desires.”

Mr. Thomas F. Bayard, of Delaware, advocated this, saying that courts of justice were invariably open. Furthermore, the testimony often assailed men who were absent, and who should be permitted to appear and explain, but who would not know of it if the investigations were secret. Mr. Bayard said that he had been assigned to committees making such investigations since 1870, and the inquiries were made in secret, and he thought many men were unjustly assailed.

Mr. George F. Hoar, of Massachusetts, said that in every instance of investigations in recent years, with the single exception of the Credit Mobilier investigation in the House, it had been left to the committee itself to determine whether or not the investigation should be secret or open. And in the Credit Mobilier investigation the publicity had been detrimental. It might be very important to keep secret testimony which gave clues to new evidence, since publicity gave opportunity to persons who might testify to important facts to put themselves beyond reach of the committee.

After considerable debate, in which reference was made to the investigations into the New York custom-house, into affairs in Louisiana, in North Carolina, in Mississippi, and the investigation by the joint committee of the two Houses into affairs in all the Southern States, the Senate disagreed to the amendment proposed by Mr. Davis, yeas 28, nays 29.

¹ On June 27, 1906 (first session Fifty-ninth Congress, Record, p. 9373), in the Senate, Mr. Joseph W. Bailey, of Texas, said:

“Every man who knows anything about tariff legislation knows perfectly well that for many years the practice has been that the majority members of the Committee on Ways and Means in the House of Representatives first make the tariff bill, and only submit it to the full committee after they have completed it. The minority is then permitted to read it and to criticise it, but they are not permitted to change it. The majority being responsible for the bill make it to suit themselves and take their responsibility before the country. The same course of procedure is followed in the Senate, and neither Senator Aldrich nor any other Republican Senator was permitted to even see the amendments to the Wilson tariff bill which were agreed upon by the Democratic majority until after they had finished their work.”

² First session Forty-fourth Congress, Journal, p. 898; Record, p. 2862.

³ Third session Forty-fifth Congress, Record, pp. 203–212.

4565. The rules do not permit the House to abrogate the secrecy of a committee's proceedings; but it was done by suspension of the rules.—On January 6, 1873,¹ Mr. William P. Frye, of Maine, proposed the following:

Resolved, That the committee of this House appointed to investigate charges of corruption in the matter of stock in the Credit Mobilier be, and they are hereby, instructed to continue such investigation without secrecy as to either their past or future proceedings.

Mr. Luke P. Poland, of Vermont, having raised a question of order,

The Speaker² held that inasmuch as it is provided in Jefferson's Manual that "the proceedings of a committee are not to be published, as they are of no force till confirmed by the House," and by rule 144 that "the rules of parliamentary practice comprised in Jefferson's Manual shall govern the House in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the House," etc., and whereas the provision of the Manual was not contravened by any rule or practice of the House or joint rule of the two Houses, the said resolution was virtually a change of the rules, and could not be submitted under the present calls.

The House acquiesced, but subsequently, at the suggestion of the Speaker, an appeal was taken and the decision of the Chair was sustained.

The resolution was subsequently offered under suspension of the rules and agreed to.

4566. A committee may fix its hour of meeting.—On January 21, 1861,³ the Select Committee on the Seizure of Forts, Arsenals, etc., adopted an order fixing the daily hour of meeting at 10.30 a. m.

4567. A committee takes a recess.—On January 25, 1861,⁴ the Select Committee on Seizure of Forts, Arsenals, etc., took a recess from 12 m. to 2 p. m.

4568. In standing or select committees of the House the motions to lay on the table and to take from the table are admitted.—On January 29, 1840,⁵ in the Committee on Elections during the consideration of the contested-election case of five New Jersey Members, a motion was made to lay on the table a pending resolution relating to the method of consideration of the case.

The chairman⁶ "decided the motion to lay on the table not to be in order.

An appeal being taken the chairman was overruled by a vote of 3 to 4, and the motion to lay on the table was admitted.

On January 31⁷ Mr. Millard Fillmore, of New York, moved to take the resolution from the table, and the motion was agreed to.

On February 11⁸ the motion to lay on the table was used in the committee without question.

¹Third session Forty-second Congress, Journal, pp. 121, 122; Globe, pp. 353, 354–357.

²James G. Blaine, of Maine, Speaker.

³Second session Thirty-eighth Congress, House Report No. 91, p. 41.

⁴Second session Thirty-sixth Congress, House Report No. 91, p. 46.

⁵First session Twenty-sixth Congress, House Report No. 506, pp. 38, 39, 40.

⁶John Campbell, of South Carolina, chairman.

⁷Page 47.

⁸Page 250.

4569. On an appeal from a decision of the chairman in a committee the chair voted to sustain his ruling, thereby producing a tie, and so the decision was sustained.—On February 1, 1840,¹ in the Committee on Elections during consideration of the New Jersey cases, an appeal was taken from a decision of the chairman² on a question of order, and there appeared on the question of sustaining the decision, ayes 3, noes 4. Thereupon the chairman was counted as adhering to his decision, the result thereby being ayes 4, noes 4, and the entry appears in the journal of the committee that the chair was sustained.

So, also, in the same way on February 6 and 10, the decision of the chair was sustained.

4570. The motion to reconsider is in order in a standing or select committee of the House.³—On January 29, 1840,⁴ in the Committee on Elections during the consideration of the election case of the five New Jersey Members, a motion was made to reconsider a vote taken at the sitting of the committee on the preceding day.

Mr. John M. Botts, of Virginia, made the point of order that the motion to reconsider was not in order in a committee.

The chairman² overruled the point of order.

Mr. Botts having appealed, the decision of the chair was sustained—yeas 7, nays 1.

4571. On April 6, 1860,⁵ in the select committee appointed to investigate the subject of Executive influence over legislation, corruption in elections, etc., a motion made to reconsider a vote was made and objected to for the reason that it was not in order to move reconsideration in a committee. The motion to reconsider was thereupon abandoned and the object was attained in another way.

4572. The yeas and nays are taken in committees.—The journal of committees show that the yeas and nays are taken in committees frequently. A notable instance is afforded in the case of the committee of thirty-three to whom was referred so much of the message of the President in 1860 as related to the perilous condition of the country. The yeas and nays were taken on nearly all the votes, apparently, as a matter of course, the journal showing no record that they were demanded by one-fifth or any other number of members. On January 2, 1861, there occurs also an instance where a member, who was unable to be present when certain votes were taken, was allowed to record his vote.⁶

In 1861,⁷ in the Select Committee on the Seizure of Forts, Arsenals, etc., the yeas and nays were taken frequently. There is no indication as to how they were ordered.⁸

¹ First session Twenty-sixth Congress, House Report No. 506, pp. 48, 226, 234, 246.

² John Campbell, of South Carolina, chairman.

³ See section 4596 of this volume for a discussion of this question.

⁴ First session Twenty-sixth Congress, House Report No. 506, pp. 38, 39.

⁵ First session Thirty-sixth Congress, House Report No. 648, p. 69.

⁶ Second session Thirty-sixth Congress, House Report No. 31, journal of the committee, p. 25.

⁷ Second session Thirty-sixth Congress, House Report No. 91, pp. 32, 55, etc.

⁸ Mr. James C. Courts, for many years clerk of the Committee on Appropriations, states that the yeas and nays in that committee are always taken on the demand of a single member.

Reed's Parliamentary Rules, section 232, says "that when there is no constitutional provision or special rule the assembly by majority can order a vote by yeas and nays."

4573. A committee may limit the time of debate in the committee.—On December 17, 1860,¹ the select committee of thirty-three, appointed to take into consideration so much of the President's message as related to the perilous condition of the country, adopted the following:

Ordered, That no member of the committee should occupy the floor in addressing the chair for a longer time than ten minutes on any one proposition.

4674. Instructions or privileges given to a committee by the House are transmitted to the committee under the hand of the Clerk of the House.—Instructions given by the House to a committee or other action taken by the House affecting a committee or its procedure are transmitted to that committee under the hand of the Clerk of the House. Thus, on January 19, 1857,² when the House gave the committee appointed to investigate certain alleged corrupt combinations among Members of the House leave to sit during the sessions of the House, an attested copy of the resolution was transmitted to the committee by the Clerk. So also was the action of the House, on January 12, 1857, in broadening the scope of the committee's authority, transmitted.

4575. The journal of a committee shows those present at each meeting.—The journal of the select committee appointed to consider so much of the President's message as related to the perilous condition of the country (called the Committee of Thirty-three) records each day those present and absent. The journal begins with the certified copy of the resolution creating the committee and the list of the members.³

And such is the usual practice.

4576. It is not the right of a member to enter on the journal of a committee his reasons for objecting to certain procedure.—On January 28, 1839,⁴ in the course of an examination before the select committee appointed to investigate the defalcations in the New York custom-house, Mr. Owens, a member of the committee, objected to a certain question put to a witness.

Later Mr. Owens moved that a paper purporting to contain the grounds of his objection be entered on the journal.

Mr. Wise raised the question whether it was in order to enter on the journal the paper stating the ground of objection to the interrogatory.

The chairman⁵ decided it to be out of order to enter such a paper on the journal.

Mr. Owens having appealed, the committee sustained the chairman.

4577. Rights of a member of a committee in relation to papers referred to one of its subcommittees.—On July 21, 1866,⁶ Mr. Andrew J. Rogers, of New Jersey, rising to a question of privilege, asked for a definition of his rights, as a member of the Judiciary Committee, to examine in that committee

¹Second session Thirty-sixth Congress, House Report No. 31; journal of the committee, p. 9.

²Third session Thirty-fourth Congress, House Report No. 243, p. 40.

³Second session Thirty-sixth Congress, House Report No. 31; journal of the committee, p. 1.

⁴Third session Twenty-fifth Congress, House Report No. 313, p. 319.

⁵James Harlan, chairman.

⁶First session Thirty-ninth Congress, Globe, pp. 4018, 4019.

testimony taken by order of the House in relation to the alleged connection of Jefferson Davis and others with the assassination of President Lincoln.

After debate, the Speaker ¹ held:

Committees, in order to facilitate their business, often appoint subcommittees to examine into bills or other subject-matters which may be referred to them and to make report to the committee in full session before they report to the House. When they do, the papers pertinent to the subject are put in the hands of the subcommittee, and no member has a right to demand to see those papers until the subcommittee reports to the committee. When the subcommittee reports to the committee, the gentleman, in common with the other members, has a right to demand to see the papers for examination.

4578. A committee sometimes makes its clerk custodian of its papers, allowing possession to members only by permission of the committee.—On April 9, 1860,² the committee appointed to investigate Executive influence on legislation, corruption in elections, etc., voted that “the clerk of this committee be directed to retain in his own possession hereafter the records of this committee of every kind unless otherwise directed by this committee.”

On April 27³ the committee voted that a certain member be allowed possession of copies of certain testimony.

4579. A committee controls its journal, and sometimes grants leave to members to incorporate in it signed statements of their views.—On January 11, 1861,⁴ the select committee of thirty-three, appointed to consider so much of the message of the President as related to the perilous condition of the country, granted leave to various members to record in the journal signed statements giving their reasons for a certain line of action.

4580. Forms of oaths taken by clerks of committees.—On January 21, 1837,⁵ the select committee appointed to inquire into the condition of the various Executive Departments of the Government met according to a notice from the chairman.⁶ The members present and absent having been noted, the committee proceeded to the election of a clerk, and B. F. Hallett was chosen, receiving a majority of the votes cast.

The clerk-elect having appeared, took the following oath:

You solemnly swear that, as clerk of the select committee of the House of Representatives, to which place you have been duly elected, you will faithfully record the proceedings of said committee and discharge all other duties which may be assigned you, according to the best of your abilities and understanding, and that you will not communicate or disclose the proceedings of said committee enjoined to be kept secret unless required to give evidence thereof as a witness in the course of legal proceedings. So help you God.

4581. On January 16, 1861,⁷ in the select committee on seizure of forts, arsenals, etc., the reporter of the committee took the following affirmation:

I, William Blair Lord, do solemnly affirm that I will support the Constitution of the United States, and to the best of my ability perform the duties of reporter and clerk to this committee and keep its secrets.

¹ Schuyler Colfax, of Indiana, Speaker.

² First session Thirty-sixth Congress, House Report No. 648, p. 73.

³ Page 75.

⁴ Second session Thirty-sixth Congress, House Report No. 31, journal of the committee, pp. 34, 35.

⁵ House Report No. 194, second session Twenty-fourth Congress, journal of the committee, p. 4.

⁶ Henry A. Wise, of Virginia, chairman.

⁷ Second session Thirty-sixth Congress, House Report No. 91, p. 26.

4582. On March 3, 1838,¹ the following oath was administered to the clerk of the select committee appointed to investigate the circumstances of the death of Jonathan Cilley, of Maine:

You do solemnly swear that, as clerk of a select committee of the House of Representatives, to which place you have been elected, you will faithfully record the proceedings of said committee and discharge all other duties which may be assigned you, according to the best of your abilities, and that you will not communicate or disclose the proceedings of said committee enjoined to be kept secret unless required to give evidence thereof as a witness in due course of legal proceedings. So help you God.²

¹Second session Twenty-fifth Congress, House Report No. 825, p. 149.

²This also is the form of oath taken by the clerk of the committee which in 1839 investigated the defalcations in the New York custom-house. (Third session Twenty-fifth Congress, House Report No. 313, p. 293.)