Chapter CXIII.

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

5080. It is not in order in debate to refer to the proceedings of a committee unless the committee have formally reported their proceedings to the House.—On February 19, 1840,[4] the House was considering the report of the Committee on Elections in the New Jersey contested cases, when Mr. David Petrikin, of Pennsylvania, submitted the following as a question of order:

That neither the chairman of a committee, nor any other member of the committee or of the House, can be permitted to allude, on the floor, to anything which has taken place in committee, or in any way relate, in debate, what was done by said committee or by the individual members of that committee, except it is done by a written report made to the House, by authority of a majority of the committee.[5]

The Chair decided generally that the point of order was well taken.

The debate proceeding, Mr. Millard Fillmore, of New York, made allusions to the proceedings in the Committee on Elections, and, while reading a resolution which had been adopted in that committee, was called to order by the Speaker[6] on the ground that a Member had no right to read papers containing the proceedings of the committee (not reported by the committee), although the amendment under consideration proposed to print their proceedings.

Mr. Fillmore then took his seat.

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[1] Instance wherein the proceedings of a committee were reported and discussed. (Sec. 817 of Vol. 1.)

[2] See also section 6406 of this volume.

[3] See also section 7017 of this volume.

[4] First session Twenty-sixth Congress, Journal, pp. 418, 423; Globe, p. 213.

[5] Committees have frequently submitted the journals of their proceedings as parts of their reports. A notable instance is afforded in the report of the committee which investigated the United States Bank, and later the Joint Committee on the Conduct of the War. (See secs. 1731–1733 of Vol. III of this work.)

[6] Robert M. T. Hunter, of Virginia, Speaker.

Mr. John Quincy Adams, of Massachusetts, appealed from the decision of the Chair, in its calling of Mr. Fillmore to order, on the ground that the proposition of the Committee on Elections to authorize that committee to have papers printed necessarily brought all such papers before the House. Furthermore, any Member of the House had the right to call for the reading of papers which it was proposed to print. The rules were already too rigid for the rights of Members.

Mr. Petrikin maintained that a committee was a distinct body of individuals and that it was entirely out of order to read papers and arraign its proceedings before the House. Mr. John Pope, of Kentucky, thought they should not discuss any papers and proceedings of a committee until they were reported to the House. Mr. Linn Banks,[1] of Virginia, spoke of the importance of the precedent. He favored preserving the rights of the minority, but this case involved rather the integrity of committee proceedings. If it were allowable to go into committee and drag forth their records to be commented on in the House, jealousy would be engendered and the usefulness of committees impaired. The consequences of reversing the settled practice of the House should be looked to rather than the particular case before them.

The decision of the Chair was sustained by a vote of 98 yeas to 84 nays.

5081. On January 23, 1850,[2] the House was considering a resolution reported from the Committee on Elections, authorizing the taking of testimony by the parties to the contest from the First Congressional district of Iowa.

During the debate Mr. George Ashmun, of Massachusetts, and William S. Ashe, of North Carolina, were proceeding to discuss and refer to certain matters which had occurred before the Committee on Elections, but which had not been reported upon to the House.

Mr. Frederick P. Stanton, of Tennessee, raised the point of order that it was not in order in the House to refer to matters that had transpired before the committee and not been reported upon to the House.

The Speaker[3] sustained the point of order, and decided that such reference was not in order except when the committee made its report. It had always been regarded as improper in the House to refer to proceedings that had taken place in committee.

Mr. Robert C. Schenck, of Ohio, having appealed, the decision of the Chair was sustained.

There being still further discussion as to whether or not the committee had in its possession certain official returns, the Speaker interposed and said that the debate showed the correctness of the rule, which had always been recognized, that matters which had occurred before a committee ought not to be referred to in the House until these matters had been reported upon and came regularly before the House.

5082. On May 26, 1906,[4] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union,

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[1] Mr. Banks, before his election to Congress, had served twenty successive years as speaker of the Virginia house of delegates. His biographer says: "An office for which he was so peculiarly qualified that he was selected to fill it in all the mutations of party."

[2] First session Thirty-first Congress, Journal, p. 393; Globe, p. 214.

[3] Howell Cobb, of Georgia, Speaker.

[4] First session Fifty-ninth Congress, Record, p. 7468.

when Mr. William W. Rucker, of Missouri, having the floor in general debate, spoke as follows in regard to proceedings as to a certain bill in the Committee on Election of President, Vice-President, and Representatives in Congress:

Believing that H.R. 19078 would give practical and substantial publicity and therefore merit public approval, I sought earnestly to secure its favorable report. When the committee agreed to take a final vote on this bill at noon on May 12, I confess I was elated. At the time fixed, Mr. Watkins, one of the minority members, moved "that following the special order heretofore made, the hour of 12 o'clock meridian having arrived, the committee report favorably H. R. 19078 as amended."

The roll was called, and those voting in favor of reporting the bill, H. R. 19078 were Messrs. Rucker, Gillespie, Hardwick, Ellerbe, and Watkins—5.

Those voting in the negative were Messrs. Gaines, of West Virginia, Sulloway, Hermann, Norris, Brooks, of Colorado, Dunwell, Campbell, of Ohio, and Burke, of Pennsylvania—8.

Mr. Marlin E. Olmsted, of Pennsylvania, raised a question of order as to the propriety of relating the proceedings of the committee on the floor.

The Chairman,[1] referring to section 713 of Parliamentary Precedents, held that it was not in order in the House to refer to the proceedings of a committee, or to read from the records thereof, except by the authority of the committee.

5083. On February 25, 1903,[2] the House was considering the conference report on the bill (S. 4825) to provide for a union railroad station in the District of Columbia, etc., when Mr. Thetus W. Sims, of Tennessee, proceeded in debate to speak of the actions of members in the District of Columbia Committee when the bill was pending there.

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

The Speaker[3] said:

The point of order is well taken, and there never was a better illustration of it than we have now. The Chair is not speaking alone of the gentleman, but this morning we have had evidence of that very difficulty. Allusion has been made to what occurred in the committee. That is something with which the House has nothing to do. It has to do only with the results.

On February 26, 1903,[4] during consideration of the contested-election case of Wagoner *v.* Butler, Mr. Marlin E. Olmsted said in debate:

Now, when we came to the meeting of the committee, the minority sat with us until the day was fixed for the final disposition of the case by the committee. The ranking member of the minority, Monday evening of this week, asked me my views, and I told him very frankly that I had concluded, speaking for myself, as to what result ought to be brought about, but could not say until the committee met what the other members would do. The minority members of the committee absented themselves from the meeting held the next morning to consider the case judicially. Not only that, but one of them, by an attempt to pair with a Republican member, sought to break a quorum.

Mr. Charles L. Bartlett, of Georgia, having raised a question of order, the Speaker[3] held that the reference was not in order.

5084. Even where the action of a committee is called in question its records may not be produced in the House.—On December 18, 1890,[5] Mr.

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[1] Charles Curtis, of Kansas, Chairman.

[2] Second session Fifty-seventh Congress, Record, p. 2655.

[3] David B. Henderson, of Iowa, Speaker.

[4] Record, p. 2716.

[5] Second session Fifty-first Congress, Journal, p. 67; Record, p. 647.

John M. Farquhar, of New York, moved, under section 5 of Rule XXIV,[1] that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill of the Senate (S. 3738) to place the American merchant marine engaged in the foreign trade upon an equality with that of other nations and the substitute therefor offered by the Committee on Merchant Marine and Fisheries.

Mr. William M. Springer, of Illinois, made the point of order that the committee had not authorized this report to be considered at this time or authorized this motion to be made.

After debate, Mr. Farquhar having proposed to read the minutes of the Committee on Merchant Marine and Fisheries with respect to its action on the bill, the Speaker[2] held that it was not in order for the minutes of a committee to be produced in the House and made public, but further held that Mr. Farquhar, as the chairman or the authorized organ of the committee, was at liberty to make a statement of fact in regard to any action taken by the committee in regard to the bill.

Mr. Farquhar thereupon made a statement to the effect that the committee had authorized him to ask for a special order for the consideration of the bill.

The Speaker ruled, upon the statement so made, that Mr. Farquhar had not been authorized to make the motion.

5085. On January 23, 1891,[3] the House was considering a question of privilege raised by Mr. George W. Cooper, of Indiana, as to the alleged failure of the Committee on Charges against the Commissioner of Pensions to report, and in the course of his remarks Mr. Cooper stated that the Committee, on the 11th of September last, had directed its chairman to report to the House for proper reference under the rules, which instructions had not been complied with. This fact he proposed to establish by reading from the minutes of the committee.

The Speaker[2] ruled that it was not in order to read the minutes or quote from the record of the committee.

5086. The law of Parliament, evidently inapplicable to the House of Representatives, forbids the Member from speaking "irreverently or seditiously against the King."—Chapter XVII of Jefferson's Manual provides:

> In Parliament to speak irreverently or seditiously against the King is against order.[4] (Smyth's Comw., L. 2, c. 3; 2 Hats., 170.)

5087. It is in order in debate to refer to the President of the United States or his opinions, either with approval or criticism, provided that

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[1] See section 3134 of Vol. IV of this work.

[2] Thomas B. Reed, of Maine, Speaker.

[3] Second session Fifty-first Congress, Journal, p. 174; Record, pp. 1787, 1788.

[4] This is given merely to show the usage of Parliament and is evidently inapplicable in a government like that of the United States, wherein the Congress is an independent, coordinate power in the Government and not even in theory dependent in any degree on the Executive will. While under the English constitution the Parliament is really the governing power of the nation, yet the House of Commons is summoned on the writ of the King, and the speaker after his election goes through the form of receiving the royal approbation. The Member of the House of Representatives is evidently restrained only by the ordinary rules of decorum in debate and his own sense of propriety in his references to the President of the United States.

such references be relevant to the subject under discussion and otherwise conformable to the rules of the House.—On January 5, 1809,[1] the House was considering the bill "to enforce and make more effectual an act entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto,'" During the debate Mr. John G. Jackson, of Virginia, suggested that Mr. James Elliot, of Vermont, in debating the merits of the bill had departed from decorum and order by introducing into the discussion insinuations against the Executive of the United States for not communicating to this House, in due time, certain information alleged to have been received from our minister plenipotentiary at Paris, antecedent to March 22, 1808.

The Speaker[2] thereupon decided that the said insinuations were not in order and irrelevant to the question under consideration of the House.

Mr. Barent Gardenier, of New York, having appealed, the decision of the Chair was sustained, yeas 71, nays 28.

5088. On December 7, 1809, Mr. Ezekiel Bacon, of Massachusetts, proposed a rule against a Member using "opprobrious or vilifying language with respect to any Member, or call into question the integrity of his motives, or those of either branch of the Government in relation to the discharge of his official duties, except on a motion for impeachment, or for other interposition of the constitutional power of this House—or apply to either indecorous or reproachful expressions—it shall be deemed a breach of the orders of this House."

This rule was not adopted.[3]

5089. On February 5, 1827,[4] on a motion to refer a message of the President, Mr. John Forsyth, of Georgia, said that he could not, as a Representative of Georgia, consent to sit and quietly hear the charges brought forward in this communication against the authorities of that State. They had done nothing which violated the Constitution of their country. He would say this in the face of the Executive.

A Member having called Mr. Forsyth to order, the Speaker[5] decided that he was not out of order.

5090. On July 5, 1832,[6] the House was considering a joint resolution from the Senate authorizing a request that the President of the United States appoint a public fast day.

In the course of the debate, Mr. Tristam Burges, of Rhode Island, referring to a letter from the President of the United States relating to the appointment of a fast day, which had been read in a previous debate on this resolution and which had been published in the newspapers, was called to order for such reference by Mr. Lewis Williams, of North Carolina. Mr. Williams urged that it was not consistent with the usages of the House to refer to any opinion of the President, unless officially communicated with a view to influence the action of the House.

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[1] Second session Tenth Congress, Journal, p. 445 (Gales and Seaton ed.); Annals, p. 994.

[2] Joseph B. Varnum, of Massachusetts, Speaker.

[3] Second session Eleventh Congress, Journal, pp. 121, 124 (Gales and Seaton ed.); Annal, pp. 702, 706.

[4] Second session Nineteenth Congress, Debates, p. 935.

[5] John W. Taylor, of New York, Speaker.

[6] First session Twenty-second Congress, Journal, p. 1095; Debates, p. 3866.

The Speaker pro tempore[1] decided that he could not so limit the debate as to exclude such reference as the gentleman from Rhode Island had made to the letter of the President, which had appeared in the public papers. He had often heard letters quoted in the House over the signature of individuals, and the practice had never been declared out of order.

Mr. John Quincy Adams, of Massachusetts, appealed from this decision.

On July 9,[2] when the question was resumed, the Speaker,[3] in stating the appeal, said that his own opinion concurred with that of the gentleman occupying the chair in his absence. Had the question of order been raised when the letter was first introduced, he should probably have allowed it to be read. As it was the question of order seemed to have been raised too late.

In the debate on the appeal Mr. Adams characterized as extremely dangerous the practice of allowing a letter from the President[4] to be read for the purpose of influencing the decision of the House on a pending question. The practice of the British Parliament was firmly established to the contrary. The President was in constant official intercourse with the House; but it should not be permitted to use his private letters, conversations, rumors of his opinions, to influence the House. Mr. William Stanberry, of Ohio, recalled a precedent of a former Congress, when Mr. Speaker Macon had called Mr. Burwell to order for using the name of the President.

On the other hand, it was urged by Mr. Richard Coulter, of Pennsylvania, that there was a great distinction between a King of England, from his position naturally antagonistic to the Commons, and a President of the United States, an officer of the people.

Mr. Adams finally withdrew his appeal.

5091. On December 9, 1868,[5] during the discussion of the message of the President, Mr. Elihu B. Washburne, of Illinois, said of the message:

> I wish to take the earliest opportunity to enter my emphatic protest against it, and to denounce it as a disgrace to the country and to the Chief Magistrate who has sent this message.

Mr. Fernando Wood, of New York, made the point of order that such reference to the message was unparliamentary.

The Speaker[6] said:

> The gentleman from New York raises the point that it is not in order for the gentleman from Illinois to characterize the message of the President of the United States in the language he has. This being a country of free speech, the Chair thinks that Members who have been elected to represent the people of the United States have the right to criticize the official conduct of those who are clothed with public trust, provided that it is done in language not indecorous or personally offensive—a right exercised in this message in referring to Congress.

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[1] James K. Polk, of Tennessee, Speaker pro tempore.

[2] Journal, p. 1110; Debates, pp. 3867–3878.

[3] Andrew Stevenson, of Virginia, Speaker.

[4] This letter was in reply to an application for the appointment of a fast day made by the Synod of the Reformed Dutch Church.

[5] Third session Fortieth Congress, Globe, pp. 33, 34.

[6] Schuyler Colfax, of Indiana, Speaker.

5092. A reference in debate to the probable action of the President of the United States was held to involve no breach of order.—On March 28, 1902,[1] while the Committee of the Whole House was considering the bill (H. R. 3379) "to correct the military record of Calvin A. Rice," Mr. James R. Mann, of Illinois, said in debate:

> To say that the House can not control an officer or cause to be removed a charge of desertion or correct the military record of one of its old soldiers. The only way that Congress can direct it is by the enactment of a law, and you can not enact a law without giving the President the right to sign the bill or to veto it, and the President's right is a coordinate right with that of Congress. He has the same right to veto that we have to propose, and when we know that he will reject a certain form it seems to me the policy of wisdom and proper legislation to propose a form which he will agree to, when there is, in my opinion, no great difference in the substance.

Mr. William B. Shattuc, of Ohio, made the point of order that it was not proper to refer to the probable action of the President with a view to influencing the action of this House.

The Chairman[2] overruled the point of order, saying that he had not observed any breach of propriety in this regard.

5093. In debating a proposition to impeach the President of the United States a wide latitude was permitted to a Member in preferring charges.— On January 14, 1867,[3] the Speaker announced as the business next in order the resolution submitted on Monday last by Mr. John R. Kelso, of Missouri, in regard to the impeachment of the President, the pending question being on the demand for the previous question.

Mr. Kelso having withdrawn the demand, Mr. Benjamin F. Loan, of Missouri, proceeded to debate the resolution; when Mr. Robert S. Hale, of New York, called him to order for the following words spoken in debate, viz:

> The crime was committed. The way was made clear for the succession. An assassin's bullet, wielded and directed by rebel hand and paid by rebel gold, made Andrew Johnson President of the United States of America. The price that he was to pay for his promotion was treachery to the Republic and fidelity to the party of treason and rebellion.

Mr. Hale gave as his reasons for his point of order, that the President of the United States could not be put on trial before the House except by solemn form of impeachment, and that under a resolution declaring simply the duty of the House to inaugurate such proceedings as would lead to the impeachment, these charges could not be made.

The Speaker[4] stated that inasmuch as the Constitution authorizes the removal from office of the President "on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors," and also provides that articles of impeachment must be found by the House, and as the pending resolution contained a general charge against the President of crimes and misdemeanors, for which it was declared he should be impeached, it was competent in the discussion of the resolution for the gentleman from Missouri (Mr. Benjamin F. Loan) to specify any of such charges. He therefore overruled the point of order.

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[1] First session Fifty-seventh Congress, Record, p. 3371.

[2] Adin B. Capron, of Rhode Island, Chairman.

[3] Second session Thirty-ninth Congress, Journal, p. 163; Globe, p. 444.

[4] Schuyler Colfax, of Indiana, Speaker.

Mr. Henry D. Washburn, of Indiana, appealed from this decision. The appeal was laid on the table.

5094. Mr. Speaker Colfax held that a Member, in debating a proposition to impeach the President, should abstain from language personally offensive.—On March 7, 1867,[1] during consideration of a resolution directing an investigation of the conduct of Andrew Johnson, President of the United States, with a view to his impeachment, Mr. James M. Ashley, of Ohio, having the floor, said:

They [the nation] demand that the loathing incubus which has blotted our country's history with its foulest blot shall be removed. In the name of loyalty betrayed, of law violated, of the Constitution trampled upon, the nation demands the impeachment of Andrew Johnson.

The Speaker,[2] interposing, said:

The gentleman from Ohio knows there is a large license allowed in debate in regard to impeachment, but the Chair is of opinion the gentleman is proceeding beyond that. * * * The gentleman must abstain from language which will be regarded as personally offensive. He has the right under the Constitution to charge crimes and misdemeanors.

5095. It is a breach of order in debate to refer to debate or votes on the same subject in the other House.

Neither House may exercise any authority over a Member or officer of the other, but may complain to the other House.

It is the duty of the House, and particularly of the Speaker, to suppress in debate expressions which may give ground of complaint to the other House.

Jefferson's Manual, in Section XVII, provides:

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

Neither House can exercise any authority over a Member or officer of the other, but should complain to the House of which he is, and leave the punishment to them. Where the complaint is of words disrespectfully spoken by a Member of another House, it is difficult to obtain punishment, because of the rules supposed necessary to be observed (as to the immediate noting down of words), for the security of Members.[3] Therefore it is the duty of the House, and more particularly of the Speaker, to interfere immediately, and not to permit expressions to go unnoticed which may give a ground of complaint to the other House, and introduce proceedings and mutual accusations between the two Houses, which can hardly be terminated without difficulty and disorder. (3 Hats., 51.)

5096. On June 10, 1886,[4] in the Senate a discussion occurred as to whether or not it was in order, when a private bill was under consideration, to refer to a report or read a report on the same subject made in the other branch. The subject was referred to the Committee on Rules.

The committee does not appear to have reported.

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[1] First session Fortieth Congress, Globe, p. 19.

[2] Schuyler Colfax, of Indiana, Speaker.

[3] It should be observed that while this was true of Parliament, it is not applicable to Congress, which publishes daily a verbatim report of its proceedings.

[4] First session Forty-ninth Congress, Record, p. 5493.

5097. On June 25, 1902,[1] the House was considering the Senate amendments to the army appropriation bill, when, in debate, Mr. James Hay, of Virginia, referred to a statement said to have been made by Senator Cockrell in relation to the pending bill.

The Speaker 2 interrupting Mr. Hay, said:

The Chair will call the attention of the gentleman from Virginia to the parliamentary rule that Members of the other House cannot be named in debate. * * * The Chair will state to the gentleman that when a Member uses the name of a Member of the other House the Chair will promptly call him to order. The Chair knows that the gentleman will be glad to comply with the rule.

5098. Interpretation of the rule prohibiting reference in debate to what has been said on the subject in the other House.—On May 27, 1902,[3] the Senate was discussing a message of the House conveying certain instructions to the committee of conference appointed by the House on the disagreeing votes of the two Houses on the army appropriation bill.

In the course of the debate Mr. Jacob H. Gallinger, of New Hampshire, said:

Mr. President, if you will go back to the debates in the House you will find that a very distinguished Member of that body used these words:

"Now, let the House——"

Thereupon Mr. Edmund W. Pettus, of Alabama, raised the question of order that the Senator was discussing what occurred in the other House, and about that the Senate knew officially only what had been transmitted in the message.

The Presiding Officer[4] said:

If the Chair may be permitted, there is no formal rule of the Senate relating to the point of order just raised by the Senator from Alabama [Mr. Pettus]. There is, however, in Jefferson's Manual a parliamentary suggestion that it is a breach of order in debate to notice what has been said on the same subject in the other House, or to refer to the particular vote or majority on it there. The Chair understands the entire effect of the rule to be that reference should not be made to what has been said on the same subject in the other House—and the Chair supposes that refers to the present session—or to notice the votes or majorities on it in the other House. * * * The Chair does not think that Jefferson's Manual prevents a Senator from discussing action which has been taken in the other House.

5099. It is permissible in debate to refer to proceedings of the other House, provided such reference be within the prohibitions of the rules.— On March 18, 1880,[5] the House was in Committee of the Whole on the state of the Union, and during the debate Mr. Charles O'Neill, of Pennsylvania, referred to secret sessions of the Senate, stating that the appointment of a certain official was confirmed unanimously, and giving as his authority for knowing this the fact that Members of the House knew of all that occurred in executive sessions of the Senate relative to confirmations.

Mr. William M. Springer, of Illinois, made the point of order that the gentleman had no right to refer to proceedings of the Senate, and especially to proceedings of the Senate in executive session, which were secret.

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[1] First session Fifty-seventh Congress, Record, p. 7389.

[2] David B. Henderson, of Iowa, Speaker.

[3] First session Fifty-seventh Congress, Record, p. 5957.

[4] Orville H. Platt, of Connecticut, President pro tempore.

[5] Second session Forty-sixth Congress, Record, p. 1681.

The Chairman [1] ruled:

The Chair does not understand there is any rule of the House or any rule of parliamentary law which prevents the gentleman from referring to proceedings at the other end of the Capitol; although he is prevented from criticising or calling in question the proceedings there or alluding by name to the gentlemen who participated in those proceedings. The proceedings of the other branch are constantly alluded to in this House.

5100. In the Senate a reference to methods of procedure in the House, made for the purpose of influencing the action of the Senate, was ruled out of order.—In the Senate on May 8, 1884,[2] a bill relating to the shipping interests was about to be sent to the House, and a question arose whether or not it should be accompanied by a request for a conference. In the course of his remarks, Mr. William P. Frye, of Maine, said:

If this bill goes over without a request for a conference, the point of order is made to it promptly; no bill can possibly pass the Senate that some Member of the House will not be opposed——

At this point the President pro tempore interposed and said that "any allusion to the proceedings of the House of Representatives is not in order."

Thereupon Mr. Frye proceeded:

Then I will suppose a case. A point of order may be made against it in another place. If the point of order should be made against it in another place, that might carry it to the Committee of the Whole, and if it did carry it to the Committee of the Whole it could be buried so that it would not be reached in the next four——

The President pro tempore [3] again interrupted:

The Chair must interrupt the Senator from Maine. The Chair thinks that that does not bring his observation within the rule.

5101. It is not in order in debate to refer to the actual or probable action of the Senate.—On January 22, 1834,[4] in discussing a disagreement between the two Houses on an appropriation bill, Mr. Samuel A. Foot, of Connecticut, said:

The gentleman from Tennessee supposes that the Senate will recede, but the record of their proceedings in regard to the matter does not encourage the supposition. Look at the vote on the question——

The Chair [5] interposed, and sated that it was not in order to refer to a vote of the Senate.

5102. On April 18, 1828,[6] in the Senate, Vice-President Calhoun called a Senator to order for stating—

that it was a fact, well known to him, in common with the country at large, that the other House had, without a division, rejected a resolution of inquiry into the expediency of repealing the duty.

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[1] John G. Carlisle, Kentucky, Chairman.

[2] First session Forty-eight Congress, Record, p. 3976.

[3] George F. Edmunds, of Vermont, President pro tempore.

[4] First session Twenty-third Congress, Debates, p. 2494.

[5] Andrew Stevenson, of Virginia, Speaker.

[6] First session Twentieth Congress, Debates, p. 670.

5103. On January 16, 1807,[1] Mr. John Randolph, of Virginia, while speaking in relation to the alleged "Burr conspiracy," said:

> Sir, this subject offers strong arguments, in addition to numerous reasons presented during the present session of Congress, to justify the policy avowed by certain gentlemen during the last session, so highly condemned; and if I am correctly informed, the other branch of the Legislature are now acting on that policy so condemned and despised.

The Speaker[2] here said that it was not in order to allude to the proceedings of the Senate.

5104. On January 31, 1826,[3] during consideration of a resolution relating to the proposed Congress at Panama, Mr. James C. Mitchell, of Tennessee, having the floor in debate, referred to measures under consideration in the Senate, stating that the subject before the House was also before the Senate.

The Speaker[4] decided that it was not in order to reflect upon the proceedings of the other branch.

5105. On January 22, 1836,[5] while discussing a proposed investigation into the failure of the fortifications appropriation bill to become a law at the last session of the preceding Congress, Mr. John Quincy Adams, of Massachusetts, said in debate:

> I have offered the resolution for the appointment of a committee with instructions to inquire into and report the facts relating to the loss of this bill, principally in consequence of what has occurred in another place on this same subject, in which not only the facts stated by the President in this part of his message have been denied to be true——

The Speaker,[6] interrupting Mr. Adams, said that allusions to the proceedings of the Senate were not in order. It was indispensable that this rule should be observed, in order to preserve harmony between the two branches of the Legislature.

5106. It is not in order in debate to criticise words spoken in the Senate, even by one not a member of that body and during an impeachment trial.—On May 6, 1868,[7] Mr. Thaddeus Stevens, of Pennsylvania, having the floor for a personal explanation, made certain criticisms of words spoken during the impeachment trial by Mr. Nelson, one of the counsel for the President and not a member of either branch of Congress.

A question of order was raised and it was urged that as the remarks of Mr. Nelson had been made in the presence of the two Houses, and as he was not a member of the Senate but counsel for the President, it was in order to refer to them in the House.

The Speaker[8] held:

> The Chair would state to the gentleman from Pennsylvania that parliamentary rules prohibit unfavorable discussion in regard to what transpires in the other chamber—the Senate Chamber. * * * The Senate are sitting under their constitutional power as a court to try the pending impeachment. It is the Senate of the United States with a presiding officer called in, because the President himself

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[1] Second session Ninth Congress, Annals, p. 335.

[2] Nathaniel Macon, of North Carolina, Speaker.

[3] First session Nineteenth Congress, Journal, p. 794; Debates, p. 1208.

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

[5] First session Twenty-fourth Congress, Debates, p. 2264.

[6] James K. Polk, of Tennessee, Speaker.

[7] Second session Fortieth Congress, Globe, p. 2366.

[8] Schuyler Colfax, of Indiana, Speaker.

is on trial. But as was held by the managers during the trial, and correctly in the opinion of the Chair, it is "still the Senate of the United States," though engaged in trying the President.

5107. A Member may not, in debate in the House, read the record of speeches or votes of Senators in such connection of comment or criticism as might be expected to lead to recriminations.

Discussion as to the extent to which the proceedings of one House may be read in the other.

On May 4, 1896,[1] Mr. Charles A. Boutelle, of Maine, called up the naval appropriation bill, which had been returned from the Senate with amendments, and proceeded to quote the utterances of certain Senators in the Senate, and to say that if it were parliamentary he might contrast these with the votes of the same Senators, which he proceeded to specify.

Mr. Lemuel E. Quigg, of New York, made the point of order that the gentleman's remarks were obnoxious to the rule.

During the debate, Mr. Galusha A. Grow,[2] of Pennsylvania, said:

Mr. Speaker, if I am correct in my view, the Members of one House can not refer to proceedings pending between the two Houses in a way of comment. Proceedings, however, of either House as printed in the Record become history, and any Member may refer to them as history, but without commenting upon them or discussing the reasons why a Member of the other body uttered certain sentiments at one time and certain other sentiments at another. The record is history and may be referred to; but comments upon it are, I think, excluded by parliamentary law.

The Speaker[3] in ruling quoted the provisions of Jefferson's Manual,[4] and said:

If the Chair understood the remarks of the gentleman from Maine, they were, in addition to the reading of matters in the Record, criticisms with regard to the personal action of Members of the other House and in regard to their votes. * * * The thing to be kept in mind by the House and by gentlemen in addressing this body, not for our own sakes particularly, but for the sake of orderly proceedings in public bodies, is that principle which is laid down in this manual—the principle that there should be in such bodies no such criticism or reference to the members of another and a coordinate body as would be liable to lead to recriminations or disputes.

The reason for this is simple and plain on reflection. It is that all legislation, in order to become law, must receive the sanction of both Houses. Anything, therefore, which means misunderstanding between the two Houses—like criticism of the person or manner by the Members of either branch of those of the other—would be likely to create friction and have a very bad effect upon public legislation. At least that is the theory on which the rule and the construction of the rule to which attention is called is based. And I think everybody will see the soundness and wisdom of it.

The Chair has the impression that the rule certainly goes as far as stated by the gentleman from Pennsylvania, a former Speaker of this House [Mr. Grow], and possibly it goes even further under the usages of the House. So far as my personal recollection is concerned, my impression is that allusion to the acts, and especially to the motives, of Members, or the criticism of Members of the other House, is not permissible here, nor is a criticism of us permitted over there, and the purpose of it is that we may avoid unnecessary ill feeling between the two bodies in the interest of the country and the advancement of legislation. Because where criticism is made of a man where he can not reply it is more irritating than criticism of a man where he can reply. And so the motive for establishing a proper rule to govern our relations with the other body is even stronger than it is for establishing proper relations among ourselves. Now, I have no doubt that the gentleman from Maine will proceed in order. But I think that the remark which came to the attention of the Chair was not strictly in order.

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[1] First session Fifty-fourth Congress, Record, pp. 4801, 4802; Journal, pp. 451–452.

[2] Speaker of the Thirty-seventh Congress, 1861–1863.

[3] Thomas B. Reed, of Maine, Speaker.

[4] See section 5095.

5108. On June 1, 1897,[1] Mr. Jerry Simpson, of Kansas, having the floor, was proceeding to read from the Congressional Record of the 29th instant, a speech made by a Senator and alleged by Mr. Simpson to be an attack upon the House.

The Speaker[2] called the gentleman from Kansas to order, saying:

The Chair rules that it is not in order in one branch of a legislative body to refer to or comment upon a debate in the other branch, because such references necessarily lead to disputes, and would interfere with the harmony which ought always to exist between the two branches. The Chair hopes the gentleman will not pursue that line of discussion.

5109. On January 25, 1899,[3] the Committee of the Whole House on the state of the Union were considering the bill (H. R. 11022) for the reorganization of the Army of the United States, Mr. John J. Lentz, of Ohio, having the floor. In the course of his remarks Mr. Lentz proceeded to read from the Record of a debate in the Senate on the 7th of the preceding April, quoting from the speech made by a certain Senator at that time and commenting thereon.

The Chairman[4] called him to order, saying:

The gentleman will be in order. It is not in order to comment in the House upon what has been said in the Senate. * * * It is not in order to allude to it or read it in the House. * * * It has been held time and again that it could not be done in the House, and that no Member of either House can comment upon what has taken place in the other. * * * The Chair makes the point of order. The rule makes it the duty of the Chair, when a Member is out of order, to call his attention to it. * * * Under a general rule of parliamentary law found in the Manual. The Chair will read for the information of the gentleman from Ohio:

"It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there; because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other."

There is more upon the same subject, but that is sufficient.

The gentleman from Ohio states that the gentleman from Iowa made certain assertions with regard to his allusions to the President, and he proposes to disprove that statement, and prove that others were made in the Senate, by reading from the proceedings of the Senate. Now, that is referring to the proceedings in the Senate. Not only that, but it is reading the record of the proceedings in the Senate upon that matter.

Mr. Richard P. Bland, of Missouri, made the point that the rule precluded only reference to what had been said on the "same subject," and did not apply to "ancient history."

The Chairman said:

It can not be done in that way. The rule is to prevent the reading of what any Senator has said, and to prevent a misunderstanding between the two Houses, or to quote from any Member of the House. * * * The subject-matter, and the matter, the gentleman states, is to disprove what was said by the gentleman from Iowa, and is right on that subject-matter. * * * This is not new. It has been ruled on a good many times during the time that the gentleman from Missouri and the Chair have been Members of the House. * * * The object of the rule is to prevent misunderstanding between the two Houses. * * * The Chair is very clear that the gentleman from Ohio can not read from that speech under the rules of the House. * * * The gentleman from Ohio himself stated that he read from what a certain Senator said in the Senate, and did it for the purpose of disproving the remarks of the gentleman from Iowa. In fact, he said the gentleman from Ohio had been the only man who had made any such reflection.

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[1] First session Fifty-fifth Congress, Record, p. 1393.

[2] Thomas B. Reed, of Maine, Speaker.

[3] Third session Fifty-fifth Congress, Record, Appendix, pp. 38, 39.

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

5110. On June 18, 1879,[1] the army appropriation bill was under consideration in the Senate, when Mr. James B. Beck, of Kentucky, proceeded to quote from a speech made on this same bill in the House by Mr. James A. Garfield, of Ohio.

Mr. Matt. S. Carpenter, of Wisconsin, made the point of order that this was not in order.

The Presiding Officer[2] said:

In the opinion of the present occupant of the chair the point of order is well taken. The Chair thinks that the Senator from Kentucky ought not to allude by name to language used by a Member of the other branch during the present Congress.[3]

5111. On the calendar day of Sunday, March 3, 1901,[4] but the legislative day of March 1, the House was considering a joint resolution to provide for the appointment of a commission to visit Porto Rico, the Philippines, and Cuba, and Mr. Henry A. Cooper, of Wisconsin, having the floor in debate, proceeded to read the following remarks of Senator John C. Spooner, in the Senate:

I should say that we will not be ready to legislate for the Philippines until we shall have sent a joint committee from both Houses over there to investigate thoroughly the situation there, the people, the form of government which would be adapted to them. That we have not done.

Mr. TELLER. Are we likely to do it?

Mr. SPOONER. I hope we will do it.

Mr. TELLER. When?

Mr. SPOONER. I hope we will provide for it before this session comes to an end.

Mr. TELLER. I see no signs of it.

Mr. SPOONER. I have intended to propose a resolution of that kind, and I shall endeavor to do so.

Mr. HALE. It ought to be done.

Mr. SPOONER. Of course it ought to be done. Congress ought to know the exact situation in the Philippines in every aspect, and it seems to me to be one of the first duties of Congress to provide itself with information upon which can be adopted a reasonable and sensible legislative policy of some kind as to government in the Philippines.

The Speaker[5] said:

The Chair feels it to be his duty to state to the gentleman from Wisconsin that this treatment of the action of the Senate in discussion is beyond the realm of parliamentary law. * * * That is exactly what is prohibited. Each House must have its own freedom of debate.

5112. The quotation of personal views of a Senator, not uttered in the Senate, was held to be in order in the House.—On April 10, 1900,[6] the House was considering a bill relating to the Sioux City and Pacific Railroad, and Mr. John C. Bell, of Colorado, had the floor. In the course of his remarks, Mr. Bell sent to the desk to have read as a part of his remarks a letter from a Senator of the United States, giving individual views of the latter upon the question presented by the bill.

Mr. H. Henry Powers, of Vermont, made a point of order against the presentation of the views of a Member of the other body.

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[1] First session Forty-sixth Congress, Record, p. 2106.

[2] William W. Eaton, of Connecticut.

[3] On August 4, 1890, the extent to which it is allowable in debate to refer to the proceedings of the other body was the subject of debate in the Senate. (First session Fifty-first Congress, Record, p. 8077.)

[4] Second session Fifty-sixth Congress, Record, p. 3568,

[5] David B. Henderson, of Iowa, Speaker.

[6] First session Fifty-sixth Congress, Record, pp. 3977, 3978.

Mr. Bell having stated that the letter had no connection with the Senator's action in the Senate, but was a personal letter sent in response to an inquiry, the Speaker [1] held:

The gentleman may proceed, on his statement that this language was not uttered in the Senate.

5113. A Member of the House was permitted to read in debate a speech made in the Senate by one no longer a member of that body.—On February 8, 1831,[2] during debate in the House over the mission to Russia, Mr. Thomas T. Bouldin, of Virginia, in the course of debate, animadverted on a recent ruling whereby a Member of the House had been held to be in order when he read a speech made in the Senate, and proclaimed that such a speech could be made by no gentleman.

The Speaker [3] explained that if the Senator who made that speech were still a Member of the Senate the matter would not be in order.

5114. While the Senate may be referred to properly in debate it is not in order to discuss its functions or criticise its acts.—On March 22, 1869,[4] the House was considering a resolution relating to the adjournment of the Congress sine die, when Mr. William Lawrence, of Ohio, having the floor, urged that the Congress should stay in session long enough for Congress to exercise legislative power over an Indian treaty then pending in the Senate, and proceeded to speak of the action of the Senate in regard to treaties.

Messrs. John F. Farnsworth, of Illinois, and Horace Maynard, of Tennessee, objected to the remarks of the gentleman.

The Speaker [5] said:

So far as the language is a reflection on the Senate it is not in order; so far as it is an attempt to show why Congress should remain in session, it is in order. * * * The Chair is compelled to remind the gentleman from Ohio that this course of argument is not parliamentary, and not in order. It involves a reflection on what may be done and what has been done by the Senate.

5115. On February 2, 1826,[6] the House was considering a resolution calling on the President of the United States for copies of the invitations given to this Government to send ministers to the Congress at Panama.

Mr. Silas Wood, of New York, having the floor, used in debate these words:

The President, and none but the President, is the organ of communication with foreign powers. He plans the treaties; he nominates the men who are to negotiate them; and the only right of the Senate on the subject is to refuse to consent to their appointment on the ground of unfitness, etc.

The Speaker [7] called Mr. Wood to order, explaining later that he did so not expressly to pronounce him out of order, but to suggest to him the inexpediency of discussing the relative powers of this House and of the Senate.

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[1] David B. Henderson, of Iowa, Speaker.

[2] Second session Twenty-first Congress, Debates, p. 640.

[3] Andrew Stevenson, of Virginia, Speaker.

[4] First session Forty-first Congress, Globe, p. 201.

[5] James G. Blaine, of Maine, Speaker.

[6] First session Nineteenth Congress, Debates, pp. 1238, 1240.

[7] John W. Taylor, of New York, Speaker.

5116. On February 4, 1869,[1] during debate, Mr. Sidney W. Clarke, of Kansas, said:

To my mind the abuse of the treaty-making power at the other end of the Capitol is one of the reasons why this system—

The Speaker[2] here interposed, saying:

The remark is clearly out of order. The Manual and Digest both speak in reprobation of any remarks reflecting upon the other branch of Congress.

5117. On February 7, 1835,[3] the House was considering certain resolutions reported from the Committee on Foreign Affairs, and relating to the relations of the United States with France, when Mr. John Quincy Adams, of Massachusetts, having the floor in debate, said:

Might not the House come to a like conclusion, and dodge the question, as the Senate had done?

The Speaker[4] called Mr. Adams to order, and reminded him that it was not permitted to speak disrespectfully of any act of the other branch of the Legislature.

5118. On March 1, 1899,[5] the House was considering the bill (S. 5260) for the reimbursement to States for war expenses.

During the debate Mr. Eugene F. Loud, of California, said:

The fact that it has passed the Senate does not give it much standing.

The Speaker[6] said:

Gentlemen in the House must not comment on the proceedings of any other body. * * *It is not permissible in the House to comment upon the action of another body.

On the same day, during the consideration of the bill (S. 5578) for the reorganization of the Army, Mr. George W. Steele, of Indiana, during debate, said:

Mr. Speaker, the House recently passed what it considered to be a sensible Army reorganization bill and sent it to the Senate of the United States. That body carefully considered the measure sent to it, and one Senator was led to say in the course of his remarks that the House bill as amended—a bill entirely different from this—

Mr. Freeman Knowles, of South Dakota, made the point of order that it was not in order to repeat what had been said in the other body.

The Speaker said:

It is not in order to comment on what is said in the Senate.

Mr. Steele, continuing, said:

That the bill that was amended by the Military Committee of the Senate was right as between God and man. And the press of the country informs us that another Senator said: "You will take the bill now under consideration or no bill, or we will have an extraordinary session." Now, the question is, Shall one man in this country hold us up?

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[1] Third session Fortieth Congress, Globe, p. 882.

[2] Schuyler Colfax, of Indiana, Speaker.

[3] Second session Twenty-third Congress, Debates, p. 1233.

[4] John Bell, of Tennessee, Speaker.

[5] Third session Fifty-fifth Congress, Record, pp. 2669, 2685.

[6] Thomas B. Reed, of Maine, Speaker.

The Speaker said:

The Chair hopes the gentleman will not allude to what has taken place in the other body. * * * The comity between two legislative bodies requires that anything that would have a tendency to lead to irritation between the two should be suppressed.

5119. On March 1, 1901,[1] during consideration of the Senate amendments to the Army appropriation bill, Mr. William P. Hepburn, of Iowa, having the floor in debate, said:

All through the weeks past we have heard declarations, loud, vigorous, and continuing, that this bill, with its political amendments relating to Cuba and the Philippines—the sum of all infamies, as we were told here and in the other Chamber—could not pass; that there were Senators there that had the power to put a veto upon it; that they intended to exercise that power. All the newspapers have been replete with their declarations of the endurance they would manifest, and the certainty that they in the end would prevent, by the methods we all know they command, the passage of this objectionable bill—

At this point the Speaker[2] said:

It is the duty of the Chair to remind the gentleman from Iowa that commenting upon the action of Members of the other House is entirely out of order.

5120. On the calendar day of March 3, 1901,[3] but the legislative day of March 1, the House was considering the Senate amendments to the sundry civil appropriation bill, when Mr. Joseph G. Cannon, of Illinois, having the floor in debate, said:

Then they bring two propositions that never passed Congress, one for Buffalo and one for Charleston, S. C. Three separate amendments? No; one amendment that you can not divide, so that when the preferential motion comes, it must come to recede and concur with the Senate. What for? For the purpose of placing it, or claiming to place it, in the hands of one Senator, so that he can, under the Senate rules, hold it up.

Mr. Theodore F. Kluttz, of North Carolina, made a point of order against this reference to a Senator.

The Speaker[3] said:

The Chair is of the opinion that the gentleman ought not to allude to the proceedings and votes of the other body. * * * The Chair sustains the point of order.[4]

5121. It is not in order in debate to refer to a Senator in terms of personal criticism.—On January 24, 1906,[5] the House was considering a resolution from the Committee on Rules, relating to the consideration of the bill (H. R. 12707) providing Statehood for the Territories of Oklahoma, New Mexico, and Arizona, when Mr. J. Adam Bede, of Minnesota, replying to Mr. Sereno E. Payne, of New York, said:

The gentleman speaks of the Senators from New York. Most people are trying to forget them. [Great and long-continued laughter.]

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[1] Second session Fifty-sixth Congress, Record, p. 3383.

[2] David B. Henderson, of Iowa, Speaker.

[3] Second session Fifty-sixth Congress, Record, p. 3576.

[4] On March 5, 1903 (extraordinary session of Senate Fifty-eighth Congress, Record, pp. 3–12), in the Senate, a question was raised as to a speech made in the House on March 4 (legislative day of February 26) by Mr. Joseph G. Cannon, of Illinois, and alleged to contain reflections on the Senate. The parliamentary law was discussed somewhat in this connection.

[5] First session Fifty-ninth Congress, Record, p. 1502.

The Speaker [1] interposed, saying:

The gentleman will suspend. The gentleman from Minnesota does know, or ought to know, that his remark is against the rule of the House and is against all parliamentary usage.

5122. On March 3, 1887,[2] Mr. George F. Hoar, of Massachusetts, in the Senate, referred to the Speaker of the House, making what was a virtual arraignment of his course as Speaker. This arraignment was very thinly veiled, but upon a point of order being made, the President pro tempore decided that the language was within the usage.

5123. A Member whose motives have been impugned in the Senate may refer to proceedings in that body sufficiently to explain his own motives; but may not under the rights of privilege bring into discussion the whole merits of the controversy.—On August 3, 1892,[3] Mr. Jerry Simpson, of Kansas, presented, as involving a question of personal privilege, certain remarks reflecting on himself made in the Senate and printed in the Congressional Record, as follows:

I am not personally acquainted with the writer of that communication and know nothing of his character, but it is addressed to Mr. Simpson, who has the honor of representing one of the districts of Kansas in Congress, and he is probably some political follower of his. Why this communication, which indulges in falsehood and in malicious insinuations as to one of the most honorable and faithful officers in the public service, should have been given to the public and to the press for publication I can not comprehend.

Since its publication I have seen Secretary Noble and conferred with him. He says that he does not know of the existence of the man who is spoken of in that communication by the name of Guthrie, and he has no knowledge of him whatever; knows nothing of his avocation or calling, and never had any correspondence or conversation with him. To give to the public a communication of this character, indulging in the insinuations and accusations that the communication indulges in as to a capable, honorable, and faithful officer, makes it, in my judgment, deserving of notice and condemnation. As I stated, he does not know the existence of this man who is spoken of, and I am thoroughly convinced that there is no foundation for it in fact; and believing as I do that it was instigated for political reasons and to slander an honorable and capable officer, I have felt called upon to denounce it in the Senate Chamber.

Mr. Edward H. Funston, of Kansas, having made the point of order that it was not in order in the House to refer to debates and proceedings in the Senate, and that therefore the remarks made by Senator Perkins on the floor of the Senate should not be discussed in this House,[4] the subject went over until August 5, when the Speaker [5] overruled the point of order, holding—

If language has been used reflecting upon the integrity of the motives or purposes of the gentleman from Kansas, the gentleman must be entitled to set himself right. Of course that right is limited in this way: That the rule of the House as to reflections upon members of another body can not be violated. But it is the right of a Representative, as the Chair thinks, to set himself right if his motives have been impugned.

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

[2] Second session Forty-ninth Congress, Record, p. 2609.

[3] First session Fifty-second Congress, Journal, p. 354.

[4] In the debate reference was made to a ruling of Mr. Speaker Blaine in a case wherein Mr. James P. Beck, of Kentucky, was attacked by a Senator (Brownlow) in a speech delivered in the Senate.

[5] Charles F. Crisp, of Georgia, Speaker.

Mr. Simpson proceeded to address the House in reply to the remarks made in the Senate.

Mr. Funston made the point of order that Mr. Simpson was discussing the merits of a controversy with the Secretary of the Interior, and that his remarks were out of order.

The Speaker held:

The right to rise to a question of personal privilege—one of the highest rights belonging to a Member—is only granted under certain circumstances. In this case the Chair thought the gentleman ought to have this right to the extent of being permitted to deny any improper motives that may have been imputed to him in giving to the public, through the Congressional Record, a communication from his constituent. But the Chair does not think that in order to vindicate the gentleman from Kansas it is necessary for him to demonstrate that all the statements in the letter were true. It seems to the Chair that the gentleman might be vindicated by a statement that the letter was from a gentleman of high character, whom the Member regarded with confidence and esteem, so that in presenting his letter he presented it as coming from one of his constituents entitled to credence anywhere. But the gentleman from Kansas will, of course, see that under the guise of a question of personal privilege the whole merits of the original matter can not be opened up for argument.

5124. On July 26, 1882,[1] Mr. Poindexter Dunn, of Arkansas, having the floor for a personal explanation, proceeded to have read extracts from a speech made in the Senate on the previous day by Mr. George G. Vest, of Missouri, on the subject of the river and harbor bill, in the course of which occurred this paragraph:

I have no official information of the fact, but I want to say that some potent influence is at work in the House of Representatives, subtle—I will not use the word of the Senator from Kansas, "sinister"—but most extraordinary. I have heard it said, I can not believe it, but the air is rife with the rumor and the statement that Members from States upon the banks of the Mississippi River have protested against the increase made by the Senate.

Mr. Dunn claimed that this was a reflection to which he might reply, and was proceeding to discuss the respective records of the House and Senate on the subject when Mr. John A. Kasson, of Iowa, raised a question of order.

The Speaker[2] had read the passages in Jefferson's Manual relating to the subject of references to the other body, and then said:

The Chair thinks that these two rules are very salutary ones; and it is not for the Chair to go beyond their terms. The difficulty here is whether or not a Member who thinks himself aggrieved by a statement of fact with reference to himself may not be allowed to answer, not by way of recrimination, but by way of stating the fact so as to set himself right before the House and the country. This is not quite a question of unfavorable comment upon what is said in the other body, because it is a personal matter relating to the individual, and not to the general proceedings of the House. The Chair is inclined to sustain the point of order; but to the extent indicated will allow the gentleman from Arkansas, if he desires, to state what he thinks is an answer to the charge, without making any charge himself of any kind against the Senate.

5125. A Senator in debate in the Senate having assailed a Member of the House, the Member was allowed, as a matter of privilege, to explain to the House his own conduct, but not to assail the Senator in his capacity as Senator.—On July 25, 1882,[3] Mr. Samuel H. Miller, of Pennsylvania, rising to a

[1] First session Forty-seventh Congress, Record, pp. 6526, 6527.

[2] J. Warren Keifer, of Ohio, Speaker.

[3] First session Forty-seventh Congress, Journal, p. 1723; Record, p. 6467.

question of personal privilege, sent to the Clerk's desk a copy of the Record wherein was printed a speech of Senator M. C. Butler, of South Carolina, in the Senate. This speech referred to a speech made by Mr. Miller in the House, alleging therein the uttering of falsehoods, garbling of evidence, perversion of the truth, and falsification of the record, and concluded as follows:

I have withstood the mastiffs of the radical party in the past, and can afford to dismiss with this brief notice the yelping of this cur of low degree. The name of this creature, I believe, is Samuel H. Miller.

Messrs. Aylett H. Buckner, of Missouri, and John G. Carlisle, of Kentucky, raised the point of order that allusions to what had transpired in the other House were forbidden by the rules, otherwise there would be interminable discussions and disputes with Members in the other end of the Capitol.

After debate the Speaker [1] said:

The point of order is made that the matter which has been just read from the Record does not present a question of personal privilege. These questions axe always very delicate ones for the Chair to undertake to dispose of. It seems to the Chair, leaving entirely out of view the question as to the source from whence these remarks came, that they constitute an attack upon the reputation and the conduct of a Member of this body, not only individually, but in his representative capacity. They make an attack upon him or a charge of improper conduct in debate, and in that view the Chair would be disposed to hold, although very much inclined against the practice of allowing the time of the House to be taken up by Members in answering personal attacks from any source or of any kind, and the Chair thinks a strong case should be made to present a question of privilege.

The question now is whether or not the gentleman from Pennsylvania shall be permitted to make an explanation of the matters with which he is charged by a Senator of the United States. Without undertaking to open the door at all or to break down the well-established parliamentary rule that what is said in one body shall not be referred to or assailed in another—a wise and good rule in the judgment of the Chair—without undertaking to attack that, or, as the Chair has stated, to break down that practice, the Chair is inclined to hold that the gentleman from Pennsylvania may make an explanation of his own conduct entirely disconnected with any assault upon the Senator. If he in any respect by remarks of his own assails the Senator whose remarks appeared in the Record and which have been read, the Chair thinks he should be promptly called to order. Whatever would be simply in the nature of a fair explanation of what has been said, or of what he said upon the floor of the House, would be only just to himself, it would be just to the House, and perhaps just to the Senator referred to.

In holding thus the Chair thinks it goes to the very verge, as suggested by the gentleman from Kentucky, and were the Chair to permit an explanation of this kind to go beyond this, the Houses would be likely to get into interminable disputations. The rule ought to be strictly applied in this House, to the end at least that attacks of a personal character on Senators should not be made and criminations and recriminations between Members and Senators should not be indulged in. The present occupant of the Chair was not presiding when the gentleman from Pennsylvania spoke on the election case. Within the limits indicated, therefore, the gentleman from Pennsylvania will be permitted to proceed.

In the course of his explanation Mr. Miller had read the report of the Attorney General and coroner in the affair called the "Hamburgh massacre," connecting the name of M. C. Butler with the same.

Mr. Nathaniel J. Hammond, of Georgia, raised the point of order that the presentation of these statements were not in order.

The Speaker said:

The Chair does not understand the gentleman from Pennsylvania to be seeking to establish anything against the gentleman from South Carolina in his capacity as Senator. If the Chair so understood,

[1] J. Warren Keifer, of Ohio, Speaker.

it would call the gentleman to order. * * * This is a matter of history that relates to a period long anterior to the gentleman's election to the Senate.

5126. On February 15, 1872,[1] and April 25 of the same year, questions arose in the Senate as to the extent to which a Senator might go in replying to attacks made on him in the other House. While it was contended that a Senator attacked should not be precluded from the right of defense, the better opinion seemed to be that the parliamentary law should be adhered to, and that a resolution should be adopted bringing the matter to the attention of the other House rather than that the Senator should be allowed to reply. The question was not conclusively passed on, however.

5127. A Member may not, in the course of debate, read a paper criticizing a member of the Senate.—On April 26, 1858,[2] Mr. Francis E. Spinner, of New York, offered a resolution and preamble relating to alleged abuses in the administration of the public land office. The preamble quoted from a newspaper article as follows:

During the second week after the office had opened, an order was received from Commissioner Hendricks, of Washington, to locate 6,000 acres in the name of Hon. Jesse D. Bright, of Indiana, Of course the order was complied with out of the regular office hours, and thus the honorable Senator got a slice of the public land at a single haul, while the rest of us had to take our turn at the mill as the wheel turned around, Wonder if the peculiar position that Senator Bright occupies towards the administration had anything to do with this piece of party favoritism? Was it any part of the price paid for his support of the Lecompton constitution?

Mr. Warren Winslow, of North Carolina, objected to the further reading of the preamble and resolution.

The Speaker[3] said:

The gentleman from North Carolina raised the question of order that the paper could not be read in consequence of its reflection upon a Member of the Senate. The Chair sustains the point of order; and, if the gentleman had attempted to read it in a speech, the Chair would have ruled it out of order.

5128. The resignation of a Senator for a public reason was debated in the House without question.—On July 28, 1846,[4] find debate proceeded unchallenged in the House on the subject of the resignation of Senator Haywood, of North Carolina, who had just resigned because he could not support the tariff bill presented by his party.

5129. After a speech reflecting on the character of the Senate had appeared in the Record, a resolution proposing an apology to the Senate was treated as a matter of privilege.

After examination by a committee a speech reflecting on the character of the Senate was ordered to be stricken from the Record.

Discussion of the importance of suppressing debate casting reflections on the other House or its Members.

On September 15, 1890,[5] Mr. Benjamin A. Enloe, of Tennessee, as a question of privilege, presented a resolution directing the Clerk to communicate to the Senate

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[1] Second session Forty-second Congress, Globe, pp. 1036, 1037, 2759.

[2] First session Thirty-fifth Congress, Globe, p. 1812.

[3] James L. Orr, of South Carolina, Speaker.

[4] First session Twenty-ninth Congress, Globe, p. 1159.

[5] First session Fifty-first Congress, Journal, pp. 1041, 1044; Record, pp. 10050, 10100.

that the House "reprobates and condemn" the utterances of Hon. Robert P. Kennedy, of Ohio. reflecting on the character and integrity of the Senate as a body.

A point of order having been raised as to the privilege of the resolution, the Speaker [1] said:

There can be no doubt that legislative proceedings dependent upon two branches—two coordinate branches—would be very much impeded if personal and improper reflections were allowed in the one body on the Members of the other. This fact is so plain, so well established and understood, that it seems unnecessary to say a word in regard to it. It is founded upon that principle which causes the Members of the House of Representatives to speak of each other and to address each other in debate by a phrase rather than by name. It is intended as far as possible to keep personal feeling out of public legislation, and the Chair is very glad, not only for the advantage of the relations existing between the House and Senate, but for the advantage of the relations of the Members themselves to each other and to the Chair, that this question should be passed upon in such manner as will make an impression upon us all. The Chair therefore overrules the point of order.

After debate, the subject of the resolution was referred to the Committee on the Judiciary.

On September 24, 1890,[2] Mr. John W. Stewart, of Vermont, from the Committee on the Judiciary, reported these resolutions, which were agreed to in the House by a vote of 151 yeas to 36 nays:

Resolved, That the House, deeming it a high duty that the utmost courtesy and decorum demanded by parliamentary law and precedent should mark the mutual relations of the two Houses of Congress, does hereby express its disapproval of the unparliamentary language used by Hon. Robert P. Kennedy, a Representative from the State of Ohio, in his speech delivered on the floor of the House on the 3d day of September, 1890, and published in the Congressional Record of September 14, 1890. And considering it impracticable to separate the unparliamentary portions of said speech from such parts thereof as may be parliamentary: Therefore,

Be it further resolved, That the Public Printer be directed to exclude from the permanent Congressional Record the entire speech of Hon. Robert P. Kennedy in the first resolution mentioned.

The report of the committee, which accompanied these resolutions, declared:

The Constitution assures to Members of the House freedom of debate. This freedom, however, like that of civil liberty, is held under well-recognized limitations, marked by rules of procedure and general parliamentary law, which are founded in reason and experience and are absolutely essential to the orderly conduct of public business.

The coordinate branches of Congress are independent and at the same time interdependent—in separate action independent, in joint action interdependent. This mutual relation is such that unfriendly conditions between the two bodies must be obstructive of wise legislation and little short of a public calamity. The rules of both Houses and well settled principles of parliamentary law alike forbid criticism of proceedings in either House by a Member of the other. Differences between the two Houses should be settled in a spirit of respectful courtesy, and, when (as must frequently occur) irreconcilable, should be submitted to without recrimination.

Applying these established principles to the speech in question, it must be regarded in its references to the Senate individually and generally as a grave infraction of parliamentary law and an abuse of the privilege of the House. It is in spirit and substance a bitter arraignment of the Senate for an alleged failure to yield prompt assent to a measure pending therein which had passed the House. Your committee are of opinion that neither the wisdom or unwisdom of the Senate in this regard, nor the methods of its action, nor the motives of Senators, are proper subjects of remark or criticism by any Member of the House acting in his official capacity. Such criticism is so interwoven with the substance of the speech in question that its excision would seriously mutilate and practically destroy its integrity.

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[1] Thomas B. Reed, of Maine, Speaker.

[2] First session Fifty-first Congress, Record, p. 10381.

5130. It has always been considered the particular duty of the Speaker to prevent expressions offensive to the Senate or Senators.—On January 18, 1831,[1] Mr. William D. Martin, of South Carolina, obtaining the floor for a personal explanation, called attention to the following passage in the published report of a speech made on the preceding Thursday by Mr. Churchill C. Cambreleng, of New York:

> I shall not, Mr. Speaker, travel out of my way, and violate a rule of order, by entering now into that discussion, by examining the provisions of the Turkish treaty. Whenever I do, Sir, my facts and my arguments shall be founded on something more substantial than a newspaper rumor—more unquestionable than the statement of an unprincipled partisan; more unimpeachable than the evidence of a perjured Senator.

Mr. Martin said that he had occupied the chair as Speaker pro tempore when these words were uttered, but had not heard them. Had he heard them, and not stopped the use of such language in reference to a Member of the other House, he would have been guilty of gross misconduct as Presiding Officer. Therefore he made this explanation.

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[1] Second session Twenty-first Congress, Debates, p. 520.