

from the clerk's desk or from a spot close to the Speaker's chair. A rule (often disregarded) forbids any one to pass between the Speaker and the member speaking, a curious bit of adherence to English usage.

Divisions were originally (rule of 17th April 1789) taken by going to the right and left of the chair, according to the old practice of the English House of Commons.¹ This having been found inconvenient, a resolution of 9th June 1789 established the present practice, whereby members rise in their seats and are counted in the first instance by the Speaker, but if he is in doubt, or if a count be required by one-fifth of those present (which cannot be less than one-tenth of the whole House), then by two tellers named by the Speaker, between whom, as they stand in the middle gangway, members pass. When a call of yeas and nays is so demanded, the clerk calls the full roll of the House, and each member answers aye or no to his name, or says "no vote." When the whole roll has been called, it is called over a second time to let those vote who have not voted in the first call. Members may now change their votes. Those who have entered the House after their names were passed on the second call cannot vote, but often take the opportunity of rising to say that they would, if then present in the House, have voted for (or against) the motion. All this is set forth in the *Congressional Record*, which also contains a list of the members not voting and of the pairs.

A process which consumes so much time, for it sometimes takes an hour to call through the three hundred and fifty-six names, is an obvious and effective engine of obstruction. It is frequently so used, for it can be demanded not only on questions of substance, but on motions to adjourn. This is a rule which the House cannot alter, for it rests on an express provision of the Constitution, Art. i. § 5.

No one may speak more than once to the same question, unless he be the mover of the motion pending, in which case he is permitted to reply after every member choosing to speak has spoken. This rule is however frequently broken.

¹ It was not until 1836 that the present system of recording the names of members who vote by making them pass through lobbies was introduced at Westminster — a significant result of the Reform Act of 1832. Till then one party had remained in the House while the other retired into the lobby, and only the numbers were recorded.

Speeches are limited to one hour, subject to a power to extend this time by unanimous consent, and may, in committee of the whole House, be limited to five minutes. So far as I could learn, this hour rule works very well, and does not tend to bring speeches up to that length as a regular thing. A member is at liberty to give part of his time to other members, and this is in practice constantly done. The member speaking will say: "I yield the floor to the gentleman from Ohio for five minutes," and so on. Thus a member who has once secured the floor has a large control of the debate.

The great remedy against prolix or obstructive debate is the so-called previous question, which is moved in the form, "Shall the main question be now put?" and when ordered closes forthwith all debate, and brings the House to a direct vote on that main question. On the motion for the putting of the main question no debate is allowed; but it does not destroy the right of the member "reporting the measure under consideration" from a committee, to wind up the discussion by his reply. This closure of the debate may be moved by any member without the need of leave from the Speaker, and requires only a bare majority of those present. When directed by the House to be applied in committee, for it cannot be moved after the House has gone into committee, it has the effect of securing five minutes to the mover of any amendment, and five minutes to the member who first "obtains the floor" (gets the chance of speaking) in opposition to it, permitting no one else to speak. A member in proposing a resolution or motion usually asks at the same time for the previous question upon it, so as to prevent it from being talked out.

Closure by previous question, first established in 1811, is in daily use, and is considered so essential to the progress of business that I never found any member or official willing to dispense with it. Even the senators, who object to its introduction into their own much smaller chamber, agree that it must exist in a large body like the House. That it is not much abused is attributed to the fear of displeasing the people, and to the sentiment within the House itself in favour of full and fair discussion, which sometimes induces the majority to refuse the previous question when demanded by one of their own party, or on behalf of a motion which they are as a whole

supporting. "No one," I was assured, "who is *bond fide* discussing a subject in a sensible way, would be stopped by the application of the previous question. On the other hand we should never get even urgent bills through without it."

Notwithstanding this powerful engine for expediting business, obstruction, or, as it is called in America, filibustering, is by no means unknown. It is usually practised by making repeated motions for the adjournment of a debate, or for "taking a recess" (suspending the sitting), or for calling the yeas and nays. Between one such motion and another some business must intervene, but as the making of a speech is "business," there is no difficulty in complying with this requirement. No speaking is permitted on these obstructive motions, yet by them time may be wasted for many continuous hours, and if the obstructing minority is a strong one, it generally succeeds, if not in defeating a measure, yet in extorting a compromise. It must be remembered that owing to the provision of the Constitution above mentioned, the House is in this matter not sovereign even over its own procedure. That rules are not adopted, as they might be, which would go further to extinguish filibustering, is due partly to this provision, partly to the notion that it is prudent to leave some means open by which a minority can make itself disagreeable, and to the belief that adequate checks exist on any gross abuse of such means.¹ These checks are two. One is the fact that filibustering usually fails unless conducted by nearly the whole of the party which happens to be in a minority, and that so large a section of the House will not be at the trouble of joining in it unless upon some really serious question. Some few years ago, seventeen or eighteen members tried to obstruct systematically a measure they objected to, but their number proved insufficient, and the attempt failed. But at an earlier date, during the Reconstruction troubles which followed the war, the opposition of the solid Democratic party, then in a minority, succeeded in defeating a bill for placing five of the southern States under military government. The other check is found in the fear of popular disapproval. If the nation

¹ In 1890 a rule was passed empowering the Speaker to refuse to put any motion which he might deem to be of a dilatory nature, but the Fifty-Second Congress gave this power only for one class of cases.

sees public business stopped and necessary legislation delayed by factious obstruction, it will visit its displeasure both upon the filibustering leaders individually, and on the whole of the party compromised. However hot party spirit may be, there is always a margin of moderate men in both parties whom the unjustifiable use of legally permissible modes of opposition will alienate. Since such men can make themselves felt at the polls when the next election arrives, respect for their opinion cools the passion of congressional politicians. Thus the general feeling is that as the power of filibustering is in extreme cases a safeguard against abuses of the system of closure by "previous question," so the good sense of the community is in its turn a safeguard against abuses of the opportunities which the rules still leave open. One ex-Speaker, who had had large experience in leading both a majority and a minority of the House, observed to me that he thought the rules, taken all in all, as near perfection as any rules could be. This savours of official optimism. We all know the attachment which those who have grown old in working a system show to its faults as well as to its merits. Still, true is it that congressmen generally complain less of the procedure under which they live, and which seems to an English observer tyrannical, than do members of the English House of Commons of the less rigid methods of their own ancient and famous body. I know no better instance of the self-control and good humour of Americans than the way in which the minority in the House generally submit to the despotism of the majority, consoling themselves with the reflection that it is all according to the rules of the game, and that their turn will come in due course. To use the power of closing debate as stringently at Westminster as it is used at Washington would revolutionize the life of the House of Commons. But the House of Representatives is an assembly of a very different nature. Like the House of Commons it is a legislating, if hardly to be deemed a governing, body. But it is not a debating body. It rules through and by its committees, in which discussion is unchecked by any closing power; and the whole House does little more than register by its votes the conclusions which the committees submit. One subject alone, the subject of revenue, that is to say, taxation and appropria-

tion, receives genuine discussion by the House at large. And although the power of limiting debate is often applied to expedite such business, it is seldom applied till opportunity has been given for the expression of all relevant views.

The rules regarding the procedure in committee of the whole House are in the main similar to those of the British House of Commons; but the chairman of such a committee is not (as usually in England) a permanent chairman of Ways and Means, but a person nominated by the Speaker on each occasion. A rule, not duly observed, forbids any member to speak twice to any question, until every member desiring to speak shall have spoken.¹

The House has a power of going into secret session whenever confidential communications are received from the President, or a member informs it that he has communications of a secret nature to make. But this power, though employed in early days, is now in disuse. Every word spoken is reported by official stenographers and published in the *Congressional Record*, and the huge galleries are never cleared.

The number of bills brought into the House every year is very large, averaging over 10,000. In the thirty-seventh Congress (1861-63) the total number of bills introduced was 1026, viz.:—613 House bills, and 433 Senate bills. In the forty-sixth it had risen to 9481, of which 7257 were House bills, 2224 Senate bills, showing that the increase has been much larger in the House than in the Senate. In the fifty-first Congress (1889-91) the number rose still further, viz. to 19,646 (including joint resolutions), of which 14,328 were introduced in the House, 5318 in the Senate.² In the British House of Commons the total number of bills introduced was, in the session of 1885, 481, of which 202 were public and 279 private bills, while in the session of 1892 the number of public bills had risen to 335 (20 of which had come from the Lords), besides 80 provisional order bills. America is, of course, a far larger country, but the legislative competence of Congress is incomparably smaller than that of the British Parliament,

¹ Proceedings in Committee of the Whole may be expedited by limiting (by a vote of the House) discussion in Committee to a certain fixed period.

² Of these, 2201 passed both Houses, and 2171 were approved by the President.

seeing that the chief part of the field both of public bill and private bill legislation belongs in America to the several States. By far the larger number of bills in Congress are what would be called in England "private" or "local and personal" bills, i.e. they establish no general rule of law but are directed to particular cases. Such are the numerous bills for satisfying persons with claims against the Federal Government, and for giving and restoring pensions to individuals alleged to have served in the Northern armies during the War of Secession. It is only to a very small extent that bills can attempt to deal with ordinary private law, since nearly the whole of that topic belongs to State legislation. I need scarcely say that the proportion of bills that pass to bills that fail is a very small one, not one-thirtieth.¹ As in England so even more in America, bills are lost less by direct rejection than by failing to reach their third reading, a mode of extinction which the good-nature of the House, or the unwillingness of its members to administer snubs to one another, would prefer to direct rejection, even were not the want of time a sufficient excuse to the committees for failing to report them. One is told in Washington that few bills are brought in with a view to being passed. They are presented in order to gratify some particular persons or places, and it is well understood in the House that they must not be taken seriously. Sometimes a less pardonable motive exists. The great commercial companies, and especially the railroad companies, are often through their land grants and otherwise brought into relations with the Federal Government. Bills are presented in Congress which purport to withdraw some of the privileges of these companies, or to establish or favour rival enterprises, but whose real object is to levy blackmail on these wealthy bodies, since it is often cheaper for a company to buy off its enemy than to defeat him either by the illegitimate influence of the lobby, or by the strength of its case in open combat. Several great corporations have thus to maintain a permanent staff at Washington for the sake of resisting legis-

¹ In the British Parliamentary session of 1890-91, 154 public bills (out of 403 introduced) became law, of which 54 were Government bills, 75 "provisional order" bills, only 25 bills of private members. The number of public bills introduced is increasing in England, though not so rapidly as in America, but the number of private members' bills that are passed does not increase, recent changes in parliamentary procedure having reduced their chances.

lative attacks upon them, some merely extortionate, some intended to win local popularity.

The title and attributions of the Speaker of the House are taken from his famous English original. But the character of the office has greatly altered from that original. The note of the Speaker of the British House of Commons is his impartiality. He has indeed been chosen by a party, because a majority means in England a party. But on his way from his place on the benches to the Chair he is expected to shake off and leave behind all party ties and sympathies. Once invested with the wig and gown of office he has no longer any political opinions, and must administer exactly the same treatment to his political friends and to those who have been hitherto his opponents, to the oldest or most powerful minister and to the youngest or least popular member. His duties are limited to the enforcement of the rules and generally to the maintenance of order and decorum in debate, including the selection, when several members rise at the same moment, of the one who is to carry on the discussion. These are duties of great importance, and his position one of great dignity, but neither the duties nor the position imply political power. It makes little difference to any English party in Parliament whether the occupant of the chair has come from their own or from the hostile ranks. The Speaker can lower or raise the tone and efficiency of the House as a whole by the way he presides over it: but a custom as strong as law forbids him to render help to his own side even by private advice. Whatever information as to parliamentary law he may feel free to give must be equally at the disposal of every member.

In America the Speaker has immense political power, and is permitted, nay expected, to use it in the interests of his party. He rules and leads almost as Morny and Rouher led and ruled the French Chamber under Louis Napoleon. In calling upon members to speak he prefers those of his own side. He decides in their favour such points of order as are not distinctly covered by the rules. His authority over the arrangement of business is so large that he can frequently advance or postpone particular bills or motions in a way which determines their fate. A recent and much respected Speaker went the length of intimating that he would not allow a certain bill, to

which he strongly objected, to be so much as presented to the House; and this he could do by refusing to recognize the member desiring to present it. Although the Speaker seldom delivers a speech in the House, he may and does advise the other leaders of his party privately; and when they "go into caucus" (*i.e.* hold a party meeting to determine their action on some pending question) he is present and gives counsel. He is usually the most eminent member of the party who has a seat in the House, and is really, so far as the confidential direction of its policy goes, almost its leader. His most important privilege is, however, the nomination of the numerous standing committees already referred to. In the first Congress (April 1789) the House tried the plan of appointing its committees by ballot; but this worked so ill that in January 1790 the following rule was passed:—"All committees shall be appointed by the Speaker unless otherwise specially directed by the House." This rule has been re-adopted by each successive Congress since then.¹ Not only does he, at the beginning of each Congress, select all the members of each of these committees, he even chooses the chairman of each, and thereby vests the direction of its business in hands approved by himself. The chairman is of course always selected from the party which commands the House, and the committee is so composed as to give that party a majority. Since legislation, and so much of the control of current administration as the House has been able to bring within its grasp, belong to these committees, their composition practically determines the action of the House on all questions of moment, and as the chairmanships of the more important committees are the posts of most influence, the disposal of them is a tremendous piece of patronage by which a Speaker can attract support to himself and his own section of the party, reward his friends, give politicians the opportunity of rising to distinction or practically extinguish their congressional career. The Speaker is, of course, far from free in disposing of these places. He has been obliged to secure his own election to the chair by promises to leading

¹ In England select committees on public matters are appointed by the House, *i.e.* practically by the "whips" of the several parties, though sometimes a discussion in the House leads to the addition of other members. Hybrid committees are appointed partly by the House and partly by the committee of Selection. Private bill committees are appointed by the committee of Selection. This committee is a small body of the older and more experienced members, intended to represent fairly all parties and sections of opinion.

members and their friends; and while redeeming such promises, he must also regard the wishes of important groups of men or types of opinion, must compliment particular States by giving a place on good committees to their prominent representatives, must avoid nominations which could alarm particular interests. These conditions surround the exercise of his power with trouble and anxiety. Yet after all it is power, power which in the hands of a capable and ambitious man becomes so far-reaching that it is no exaggeration to call him the second, if not the first political figure in the United States, with an influence upon the fortunes of men and the course of domestic events superior, in ordinary times, to the President's, although shorter in its duration and less patent to the world.¹

The choice of a Speaker is therefore a political event of the highest significance; and the whole policy of a Congress sometimes turns upon whether the man selected represents one or another of two divergent tendencies in the majority. Following thereon comes his distribution of members among the committees, a critical point in the history of a Congress, and one which is watched with keen interest. He devotes himself to this function for the fortnight after his installation with an intensity equalling that of a European prime minister constructing a cabinet. The parallel goes further, for as the chairmanships of the chief committees may be compared to the cabinet offices of Europe, so the Speaker is himself a great party leader as well as the president of a deliberative assembly.

Although expected to serve his party in all possible directions, he must not resort to all possible means. Both in the

¹ "The appointment of the committees implies the distribution of work to every member. It means the determination of the cast business shall take. It decides for or against all large matters of policy, or may so decide; for while Speakers will differ from each other greatly in force of character and in the wish to give positive direction to affairs, the weakest man cannot escape from the necessity of arranging the appointments with a view to the probable character of measures which will be agitated. This, however, is far from the measure of the Speaker's power. All rules are more or less flexible. The current of precedents is never consistent or uniform. The bias of the Speaker at a critical moment will turn the scale. Mr. Randall as Speaker determined the assent of the House to the action of the Electoral Commission [of 1877]. Had he wished for a revolutionary attempt to prevent the announcement of Hayes's election, no one who has had experience in Congress, at least, will doubt that he could have forced the collision."—From an article in the *New York Nation* of April 4, 1878, by an experienced member of Congress.

conduct of debate and in the formation of committees a certain measure of fairness to opponents is required from him. He must not palpably wrest the rules of the House to their disadvantage, though he may decide all doubtful points against them. He must give them a reasonable share of "the floor" (*i.e.* of debate). He must concede to them proper representation on committees.

The dignity of the Speaker's office is high. He receives \$8000 a year (£1600), which is a large salary for America. In rank he stands next after the Vice-President and on a level with the justices of the Supreme Court. Washington society was lately agitated by a claim of his wife to take precedence over the wives of these judges, a claim so ominous in a democratic country that efforts were made to have it adjusted without a formal decision.