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From the SelectedWorks of Peter J. Aschenbrenner

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Table Annexed to Article: Hatsell’s Precedents of Proceedings (Vol. 2, 2nd ed., 1785) Extracted for Comparison With Other Basic Texts

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Available at: https://works.bepress.com/peter_aschenbrenner/299/
Rules of Proceeding
As to Members Speaking

1. On the 2d of May, 1604, two Members rising to speak, and it being doubtful which stood up first, it was put to the question, ‘as the manner often is in the like case,’ and over-ruled for Sir Francis Hastings.

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OBSERVATIONS

{85.75} It is essential to the dispatch of business, that the rule and order of the House, “That no Member should speak twice to the same question,” should be strictly adhered to, and it is the duty of the Speaker to maintain the observance of this rule, without waiting for the interposition of the House, which, in calling to order, seldom produces any thing but disorder. Notwithstanding all the care possible, it will happen that, under pretence ‘of informing the House of a fact,’ or ‘of explaining’ where he has been misunderstood, a Member will break this order, and speak twice; this entitles others to the same indulgence, and it is to this, more than to any other cause, that the House is kept sitting in debate so much later than it formerly used to be; since, even in my memory, Mr. Onslow kept this order tolerably strict. It is to allow more ample and frequent discussion than this order will admit, that {85.76} a Committee is instituted, where every Member may speak as often as he pleases.—If a new motion is made, pending the former motion, as ‘to adjourn,’ or by way of amendment, this entitles every Member to speak again; the strict observance therefore of this rule, so highly necessary to the dispatch of business, must, after all, very much depend upon the good-sense and modesty of the Members themselves, not to obtrude their speeches unnecessarily and disorderly on the time and patience of the House. It appears, from the ancient instances,
that it was sometimes thought necessary even to take the sense of the House, by a question, upon this order, but I do not find anything of this sort in the Journal later than the case of Mr. Brodrick:—It often happens that, two Members rising nearly at the same time, the House do not immediately acquiesce in the Speaker’s decision of which was up first, and it appears that this has formerly been determined by a question, indeed, if it is insisted on, this must always be the case; for the Speaker’s first calling upon any Member does not entitle that Member to speak first, if another was up before him; but in general it is better, especially that it is seldom a matter of much consequence, for the sake of order, to submit to the Speaker’s decision; if the House see, from repeated instances, that his behaviour, in calling upon Members to speak, is partial, and that he abuses the trust which is reposed in him, they then have the remedy in their hands, by putting the question of “Which Member was first up,” and in that case few men would have the confidence to persist in such a behaviour.—When a Member speaks, he is to stand up in his place, uncovered, and to address himself to the Chair, and not to any particular Member; if he is on the lower seat, he must have one foot within the floor. I remember two instances of the House’s permitting Members to speak sitting; one was Mr. Pitt, in his very long speech against the Peace of 1763; the other, the Lord Mayor Crosby, before he was sent to the Tower; both on account of indisposition. If a Member speaks beside the question, it is the duty of the Speaker to interrupt him, and the House ought for their own sake to support the Speaker in such an interposition. Every Member ought to be heard quietly, and without interruption; but if he finds that it is not the inclination of the House to hear him, and that by conversation, or any other noise, they endeavour to drown his voice, it is his most prudent way to submit to the pleasure of the House, and sit down; for it scarcely ever happens that they are guilty of this piece of ill-manners without sufficient reason. It is report of Sir Spencer Compton, that, when he was Speaker, he used to answer to a Member, who called upon him to make the House quiet, for that he had a right to be heard, “No, Sir, you have a right to speak, but the House have a right to judge whether they will hear you.” In this he was certainly mistaken; the Member has a right to speak, and the House ought to attend to him, and it is the Speaker’s duty to endeavour, for that purpose, to keep them quiet; but where the love of talking gets the better of modesty and good-sense, which sometimes happens, it is a duty very difficult to execute in a large and popular assembly. And indeed the House are very seldom inattentive to a Member who says any thing worth their hearing.
A Member may speak, and often does, from the gallery; but he must have a seat, and not speak in the passage-ways, or from behind the clock.

Rules of Proceeding
As to putting Questions.
1. On the 28th of June, 1604, a Member interposes a motion before a former question is disposed of; this is held to be irregular.

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OBSERVATIONS
{85.81} The general rule is, that that question which is first moved and seconded is to be first put. It was the ancient practice for the Speaker to collect the sense of the House from the debate, and from thence to form a question, on which to take the opinion of the House, but this has been long discontinued: And at present the usual and almost universal method is, for the Member who moves a question to put it into writing, {85.82} and deliver it to the Speaker; who, when it has been seconded, proposes it to the House, and then the House are said to be in possession of the question. And that question cannot, after it is proposed from the Chair, be withdrawn but by leave of the House. The Speaker must read this to the House, as often as any Member desires it for his information. But as it frequently happens that questions are moved, upon which the House do not wish to give any opinion, they avoid it, by moving either to adjourn,—or for the orders of the day,—or for the previous question,—or by making such amendments to the question as change the nature of it, and make it inadmissible even by those who proposed it.

The motion to adjourn must, in order to take place of a motion already made and proposed, be simply “to adjourn,” not with the addition to any particular day; nor can it admit of any amendment, by adding a particular day, but must be put simply, “That this House do now adjourn,” and if this is carried in the affirmative, the House is adjourned to the next sitting day, unless the House have come to a previous resolution, “That at its rising they will adjourn to a particular day,” and then the House is adjourned to that day. For {85.83} want of such a resolution, on Friday the 3d of February, 1764, the House were obliged to sit on Saturday, though no business required it; and, as it was inconvenient to meet again on Saturday, attempts were made to amend the question “to adjourn,” by adding “till Monday;”
but, on consideration, this was agreed upon to be irregular. If the motion ‘to adjourn’ is carried in the affirmative, the original question is never printed in the Votes, it never having been a vote nor introductory to any vote.— Another method of superseding a question, already proposed to the House, is by moving for the orders of the day to be read; this motion, to entitle it to precedence, must be for the orders generally, and not for any particular order; and if this is carried, the orders must be read and proceeded on in the course in which they stand. But a motion “to adjourn” will even supersede this motion “for the orders of the day.” If the question is carried “for reading the orders of the day,” the original question does not appear upon the Votes, for the same reason which I mentioned before.—But it is different, if the previous question is moved, there the first question must be stated in the Votes, in order to introduce and make intelligible the second question, upon which the vote of the House is taken. The effect of the previous question, is only to put off the coming to ‘that’ question, at ‘that’ time, and is in these words, “That ‘this’ question be ‘now’ put.” The ‘same’ question may be therefore moved on ‘another’ day. If the previous question is negative, so as to put off the main question to another day, the same question, though altered in ‘words,’ if not essentially and substantially altered in ‘matter,’ cannot be again put that day. On the 27th of March, 1770, a doubt was conceived, whether a previous question can be put upon an amendment, and upon a division, the House determined, that it could not, because the question being, “That {85.84} these words be here inserted”—or “That these words stand part of this question”—the decision of this question only determines that they shall, or shall not, stand ‘in that particular place,’ and has therefore all the effect of a previous question. And yet, on the 16th of April, 1701, there is an instance of a previous question, on a motion for adding words to an address, by way of amendment; but as I believe this, and another on the 15th of February, 1753, are the only instances of such a proceeding, so I am clearly of opinion they were irregular, for those Members who were of opinion, that the question for adding the words, ought not to be now put, were also of opinion, “that ‘those’ words ought not to be added to ‘that’ question,” and therefore their sense might equally have been taken on the question for the amendment. It is a rule, that in a Committee of the House there can be no previous question; if therefore it is wished to avoid a question, it is usual to move, “that the Chairman do leave the Chair,” which has the effect of a motion to adjourn, and takes place of every other motion.—The other mode of avoiding a question, is by altering it by amendments, till it bears a sense different from what was intended by the proposers: This, perhaps, is not
quite fair, but has been often done; and the instance relating to the Duke D’Aremberg, of the 10th of April, 1744, is a very remarkable one. So on the 29th of January, 1765, on a question moved by Sir William Meredith, relating to General Warrants, the opposers of the question amended it in such a manner, that it was impossible for any one to agree to it, when this appeared in the proof-sheet of the Votes, it was entered very properly, by the Speaker’s direction, without taking notice of the amendments, as if only one question had been made; it happened that Sir William Meredith had had leave to make a motion, which was also entered; it {85.85} therefore appeared in the Votes, as if this had been the original motion which Sir William had made, though, by the alterations it had undergone, the sense of it was totally reversed; he therefore desired that the whole proceeding, viz. his original question, with the amendments, might be printed in the Votes, in the same manner in which it would appear in the Journal. The Speaker stated to the House, that the manner in which he had entered it, had been the universal practice, viz. where amendments are made to a question, not to print those amendments in the Votes, separated from the question, but only the question as finally agreed to by the House, and that he could not find any instance to the contrary; that the rule of entering in the Votes, what only the House has agreed to, is founded in great prudence and good sense, as there ay be many questions proposed, which it may be improper to publish to the world, in the form in which they are made; and that, besides, the order “That the Votes be printed,” did not authorise him to print the ‘proceedings’ of the House, but only the final ‘vote’ upon any question, as agreed to, or disagreed to, by the House. In this opinion the House acquiesced; but at the same time, from the particular circumstance of Sir William Meredith’s name appearing as the mover, they gave leave, that, in this instance only, the common form of the entry should be altered, but that a memorandum should be made of the reasons, and to prevent this from being drawn into a precedent, where the same reasons should not exist.

When a question is complicated, that is, consists of two or more propositions, it has been often said, that it is the ‘right’ of any one Member to have it divided, that he may give his opinion upon each proposition separately. This was a very favourite topic with Mr. Grenville, and often repeated by him, and at last insisted upon so much, in the question about the {85.86} Middlesex Election, on the 16th of February, 1770, that it was thought necessary to take the sense of the House upon it; which was done by a question, and carried in the negative, on the 19th of February; so that
this matter is now at rest. Upon this occasion, every thing was urged that could be said in favour of the doctrine, as laid down by Mr. Grenville; but the fact is, there does not appear the least trace, in the History of the Proceedings of either House of Parliament, of this ever having been the practice, indeed, it would introduce universal confusion, for who is to decide, whether a question is complicated or not?—‘where’ it is complicated?—into how many propositions it may be divided? Perhaps, when the question was formed by the Speaker from the debate, and not moved by a Member, it was a very proper objection to the manner of the Speaker’s stating a question, that it was complicated, and to desire that he would separate it; and to this, and this only, every thing that is said in the case of Ashby and White, and in the other debates, may be referred: But when a question is moved and seconded, and proposed from the Chair, however complicated it may be, the only mode of separating it, is by moving amendments to it; and these must be decided by the House, upon a question: unless, which sometimes happens, that the House ‘order’ that it shall be divided, as they did in that very instance of the 19th {85.87} of February; or by ‘consent’ of the House, as on the 25th of January, 1771, and in Lord Clive’s case, on the 21st of May, 1773. Indeed, the doctrine of any one Member having a ‘right’ to insist upon any thing, appears to be absurd; for another Member may insist upon the contrary; and therefore, in all cases whatever, the only method of deciding whether any thing shall, or shall not, be done, or how it shall be done, must be by moving a question to the House, that question to be seconded, and proposed from the Chair, and the sense of the House taken upon it.—Although a question is moved and seconded, and proposed from the Chair, if any matter of privilege arises, either out {85.88} of the question itself, as on the 26th of January, 1768, in the case of the Oxford Corporation, or from any quarrel between Members, or any other cause, this will supersede the consideration of the original question, and must be first disposed of: So if any question of order arises, as on the 16th and 19th of February, 1770, and on the 27th of March, 1770, this must be decided: Or if it is desired to have an Act of Parliament, or extract from the Journal, or any paper before the House, read, and the House acquiesce, this may be read: If, however, any person objects to the reading these papers, it is not, as is often said, in the power of any Member to insist upon it—for this would be a right to interrupt all business;—but, as on the 22d of March, 1663, and on the 16th of April, 1697, and on the 15th of January, 1699, and on the 12th of May, 1714, a question, whether or not such acts or papers shall be read, must be stated, and decided upon by the House.
The right of making a motion “for the orders of the day” to be read, in the midst of another proceeding, does not hold, where the House are actually proceeding upon one of the orders, it is only to supersede a question upon any other matter, not properly the business of the day.

It has been sometimes made a doubt, whether, when a question has been proposed from the Chair, and the previous question has been moved and seconded, and also proposed from the Chair, the House can admit amendments to be made to the main question, without withdrawing the previous question: There have been different opinions upon this: It is said on the one side, that it is reasonable to admit the making these amendments, because, if received, they may, in some cases, so far change the nature of the question, as to preclude the necessity of putting the previous question; besides that, if the contrary doctrine is true, it is in the power of any two Members, by moving and seconding the previous question immediately after the main question is proposed, to deprive the House of that power which they ought to have, in all instances, of amending and altering any question proposed to them: For the practice is, that when the previous question is put and carried, no alteration can then take place, nay, no further debate can be suffered to intervene, the Speaker must put the main question immediately, and in its present form, and that therefore to refuse the right of moving amendments, is to cramp the substantial proceedings of the House by mere form.—To this it is answered, that no inconvenience can arise from this doctrine, for if, before the previous question is ‘proposed’ from the Chair, though it should have been moved and seconded, any Member should inform the House, that he wishes to make amendments to the main question, he will ‘then’ certainly be at liberty to do it, and the Speaker, supported by the House, will give that priority to the motion for amending, to the motion for the previous question, which common-sense requires. But if even the previous question should have been ‘proposed,’ yet if it is the general sense of the House to admit the amendments proposed, the previous question may be withdrawn for that purpose. But if the persons moving and seconding the previous question should refuse to withdraw it, against the opinion of the majority of the House, even then no inconvenience will happen; for, if it should be carried, “That ‘this’ question be not ‘now’ put,” which would be the event, if the majority of the House desired to admit the amendments, (and, if the majority of the House do not desire any alteration, then there is no harm done in putting the question in its original form) another question,
similar to the former, but ‘altered’ by the proposed amendments, may be immediately moved and seconded.

I confess that I am of the latter opinion, for several reasons. (1.) I do not find in the Journals any entry of amendments proposed to be made to the main question, after the previous question ‘proposed’ from the Chair: And yet, the case of desiring the admission of amendments at that juncture, must have occurred very often. (2.) I think there will be less confusion and interruption in the debate, by adopting the latter doctrine, than the former; and it is more consonant to the uniform practice of the House, “that, when a motion has been made and seconded, and ‘proposed’ from the Chair, no other motion should intervene, without the consent of the parties, and the concurrence of the House, to withdraw such motion.” (3) No more inconvenience arises from this doctrine, than from an established rule of the House, “That, when you have amended the latter part of a question, you cannot recur back, and make any alteration in the former part.” And yet this is very often to be wished. The House must be therefore attentive to what is going forwards, and, when a question is proposed from the Chair, if any Member wishes to amend it, he ought to propose his amendments; but if that opportunity is passed by, and the previous question is ‘proposed’ (which is indeed an amendment of the whole question, viz. by ‘leaving it all out’) I cannot conceive that, without withdrawing the previous question, it is possible to recur back and amend the main question. And if, after all, it should be carried, that ‘that’ question be not ‘now’ put, confessedly for the purpose of introducing the ‘same’ question, ‘altered’ by amendments, I should not imagine the moving this ‘new’ and amended question to be irregular, because the rule of not ‘putting again’ a question against which the previous question has been carried, must be always explained, in the observation of it, by the nature and turn of the debate, and the ‘sense’ which the House puts on the word ‘now’ in their arguments upon the previous question.—On the 16th of March, 1778, the House, by their proceedings, adopted this doctrine; for, after the question was moved and proposed, and the previous question was also proposed, an amendment being afterwards suggested, to insert the words “or extracts,” it was by the House thought necessary to withdraw the previous question, before any amendment could be admitted. And, as will appear from the Journals, the proceeding was accordingly.

Rules of Proceeding
The same Bill or Question not to be twice offered.

1. On the 2d of April, 1604, rule, That a question being once made, and carried in the affirmative or negative, cannot be questioned again, but must stand as a judgment of the House.

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OBSERVATIONS.

This seems to be a rule that ought to be adhered to as strictly as possible, in order to avoid surprise, and that unfair proceeding which might otherwise sometimes be proposed. It however appears, from several of the cases under this title, as well as from every day’s practice, that it is not to be so strictly and verbally observed, as to stop the proceedings of the House: It is rather to be kept in substance than in words; and the good sense of the House must decide, upon every question, how far it comes within the meaning of this rule. It clearly does not extend to prevent the putting the same question in the different stages of a Bill; nor to prevent the discharging of orders that have been made, though made on great deliberation, as appears from the instances on the 14th and 17th of January, 1766, on discharging the order made for printing the American papers. But it has been always understood to exclude contradictory matters from being enacted in the same session; and it was upon this principle that it was thought necessary to make the short prorogations in 1707, and 1721.

In the Lords protest of the 23d of February, 1691, it is said, “that a Bill having been dropt, from a disagreement between the two Houses, it is against the known and constant method of Parliamentary proceedings, to bring in the same Bill in the same session.”—On the 12th of May, 1767, on the second reading of a Bill for the importation of salted meat free of duty, Mr. Fuller took an objection, in point of order, that as a Bill had already passed in this session, continuing an Act of the 5th of George III, which admitted the importation of salted meat from Ireland, but paying a duty, the House could not repeal this duty in the same session, and that therefore in the Committee there must be put in an exception with respect to meat brought from Ireland: This objection was admitted to be good, and the alteration was made accordingly; and it appears from the 10th of June, that this alteration was expressed in the title, when the Bill passed.—On the 9th of December, 1762, the Commons came to a resolution to address the King on the preliminaries of peace, and appointed a Committee to draw
up the Address; which being reported the next day, and Lord Midleton beginning to debate upon the Address at large, Sir John Philips called him to order, as being disorderly, in debating against a resolution which the House had agreed to the day before, and said that no objection could now be taken, but to the manner in which the Committee had executed their power. To this it was answered, that where by the forms of proceeding, as in the case of Bills, and Reports from Committees, the same question is again brought before the House, the House have a right to debate, before they give their opinion; that in this instance, the question must be put for agreeing to the Address, and every Member had a right to give every reason that determined him not to agree to it. When the objection made by Sir John Philips was mentioned to Mr. Onslow, the late Speaker, he was clearly of opinion, that it was not contrary to order, again to renew the debate on the question at large.

With respect to Bills, it is clear, that wherever any clause or words are in a Bill, though they should have even been inserted by the House, yet upon any other subsequent stage of the Bill, the sense of the House may be again taken upon these words, and they may be left out; because every stage of a Bill submits the whole, and every part of it, to the opinion of the House; and this being the known order of the House, there can be no surprise upon any person whatever. Upon this principle are founded the cases of the 24th of November, 1721;—the 6th and 11th of March, 1723;—the 18th of April, 1739;—and the 17th and 19th of March, 1755. It has been made a matter of doubt, when a clause or particular words are moved to be added or inserted in one stage of a Bill, and the House have given a negative to this motion, whether the same clause or words may be offered again upon any subsequent stage of the Bill. When this doubt was conceived, on the 26th of February, 1718, the House put the previous question, on offering the clause; and on the 2d of May, 1733, the reason is given in the Journal for withdrawing the clause, “that it had been originally in the Bill, but left out by the House.” However, the instances of the 16th and 18th of December, 1706, and 9th of March, 1748, suppose that they may.

Rules of Proceeding.

Questions on reading Journals or Papers.

OBSERVATIONS

{85.116} It is a very common error, and frequently mentioned in the House of Commons, that every Member has a right, upon his own motion, to insist upon any Act of Parliament, or Journal, {85.117} or paper, on account upon the table, to be read, without the House having any power to interfere to prevent him.—This notion takes its rise from the acknowledged propriety of permitting every Member to have as much information as possible, upon every question, before he gives his vote; but it is infinitely absurd to carry this doctrine to the length to which it is sometimes urged. Even if there were no instances to be found to contradict it (and the cases above-mentioned are decisive upon this point) the delay and interruption, which such a right would put into every Member’s power to give to the proceedings of the House, of themselves sufficiently evince the impossibility of the existence of such a rule; and therefore the practice is, that, if any Member moves for an Act of Parliament, a Journal, or paper, to be read, which the House sees is really for information, and not for affected delay, and no Member objects to it, the Speaker directs it to be read, without putting a question, but if any Member objects to it, the Speaker must take the sense of the House, by a question, upon this difference of opinion, as he must upon every other. Where papers are laid before the House, or referred to a Committee for their consideration, every Member has a right to have these papers read through once at the table, before he can be compelled to give any opinion upon them; but when they have been once read to the House, or in the Committee, they are then, like every other paper that belongs to the House, to be moved for to be read, and if the matter is disputed, it cannot be decided but by taking the sense of the House.—Mr. Grenville used to maintain the same doctrine as to the delivery of books or papers; “that if any Member complained of any {85.118} book or paper, as containing matter which infringed on the privileges of the House, he had a right, without any questions put, to deliver it in at the table, and to have it read;” and he insisted upon this, on the 25th of November, 1767, when he complained of a seditious paper to the House, Mr. Dyson, and several other Members, objected to the absurdity of such a rule, and, the question of order being adjourned to the 27th of November, to give time to look into precedents, the matter was, upon that day, almost unanimously, agreed to be further adjourned for six months. Indeed, this right of delivering in a paper—or the other, of having papers read at any time—or one mentioned before of separating a question—or any other right
claimed by a Member, to be exercised by him against the opinion of every other Member of the House, is so extraordinary, that it is a matter of wonder how such a doctrine ever came to be advanced.

Rules of Proceeding.
On Questions where Members are interested.

1. On the 11th of June, 1604, Mr. Seymour, a party in a Bill then under consideration, goes forth during the debate, “agreeable with former order and precedent in like cases.”

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OBSERVATIONS.

{85.121} The Rule, laid down in the two first instances, is not, in many cases, sufficiently observed; it was always attended to in questions relative to the seat of the Member, on the hearing of controverted elections; and has been observed very seriously, in cases of great moment: But in matters of lesser importance, yet where the private interest of the Member has been essentially concerned, it has been entirely neglected, contrary not only to the laws of decency, but of justice; and it would be for the honour of the House of Commons, if this rule, which 170 years ago was “agreeable to former order and precedent in like cases,” was revived and established.

As to the doubt conceived in the case of Mr. Walpole, “at what time the Member should withdraw,” as it was then very properly decided, so that decision has been uniformly supported by the practice in all the familiar instances that have happened since that time.— Where there is any proceeding in the {85.122} House, which affects the character of a Member, as soon as the matter has been examined in to, the Member is to be heard, and then to withdraw, even before any question is moved upon his conduct. In the case of Sir William Wyndham, the question that was moved and proposed, arose out of expressions used by him at the time; he therefore ought to have laid before the House what he had to say in exculpation of the charge, as soon as the motion was made, and then to have immediately withdrawn.—After the examination of the evidence in relation to Lord Clive’s conduct in the East Indies, Lord Clive was heard in his place, before he knew what question was to be moved against him, and withdrew, on the 21st of May, 1773.
Rules of Proceeding.

For not admitting Strangers into the House.

1. On the 5th of March, 1662, upon information that several persons, not Members, had come by the back-door into the Speaker’s chamber, and into the gallery, whilst the House was sitting, it is ordered, that the back-door be constantly kept shut whilst the House is sitting.—See the 8th of April, 1670; the 25th of November, 1696; and the 9th of December, 1697.

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OBSERVATIONS.

{85.129} When a Member in his place takes notice to the Speaker of strangers being in the House or gallery, it is the Speaker’s duty, immediately to order the Sergeant to execute the orders of the House, and to clear the House of all but Members, and this without permitting any debate or question to be moved upon the execution of the order. It very seldom happens that this can be done without a violent struggle from some quarter of the House, that strangers may remain: Members often move for the order to be read, endeavour to explain it, and debate upon it, and the House as often runs into great heats upon this subject; but in about half an hour the confusion subsides, and the dispute ends by clearing the House; for if any one Member insists upon it, the Speaker must enforce the orders, and the House must be cleared. In the violence of debate, it is often threatened to move the House for a day to consider of this order, in order to explain or repeal it, but it is so absolutely and essentially necessary, for the carrying on any business in the House, that such an order should exist (though not always necessary that it should be strictly carried into execution) that it is always found, upon cool consideration, that it cannot admit of any alteration.—The House have, in many {85.130} instances, winked at the breach of it; and it has been often understood, that the observance of it should be remitted with respect to Peers, Members of the Irish Parliament, eldest sons of Members, and with other exceptions; but this has been only on sufferance; the order itself has notwithstanding existed, and must always exist, liable to be put in execution without delay or debate.

Rules of Proceeding.
Leave to make a Motion.
1. On the 25th of November, 1695, it is ordered, that no new motion be made after one o’clock.

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OBSERVATIONS.

{85.132} The principle of this rule is to prevent motions of importance being made, after the House have proceeded on the {85.133} particular business which has been appointed for that day, and which may be a surprise on many Members who are gone away: Formerly this leave was necessary, if it was after the time fixed by the order of the 25th of November, 1695, without any consideration had of the orders of the day; but in later times, particularly from the time Mr. Onslow became Speaker, the having proceeded upon the orders of the day was what made it necessary to have the leave of the House to introduce any new motion: If there remained any orders of the day not proceeded upon, it was not necessary to have leave to make a motion, though it should be six o’clock in the evening; but if the orders of the day had been all read and disposed of, no motion could be made without leave, though but at two o’clock.—The practice of the House, first established by Mr. Onslow (for before his time it was different) and uniformly continued ever since, ought to proceed upon the orders of the day; and therefore, if any person moves for the orders of the day to be read before two o’clock, and there is a division, the Ayes go forth; if it is after two o’clock, the Noes go forth. The having proceeded upon one, two, or three of the orders of the day, does not make it necessary to ask leave to make a new motion, if there remains one order undisposed of.

This doctrine does not extend to motions for new writs, or matters of privilege; the House is at all times ready to admit these, and no leave is necessary.

The instance of the act of April, 1728, of leave granted before the House have proceeded on the orders of the day, is a mistake.—See the 1st of April, 1728, and the practice ever since.

Rules of Proceeding.
On a Division of the House.
1. On the 15th of June, 1604, after a division the Tellers differed in their report, and thereupon the House divided again.—But held not to be regular.

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OBSERVATIONS.

Before the House proceed to a division, either in the House or a Committee of the whole House, indeed, before the question is put, upon which it is probable there may be a division, the Speaker or Chairman should take care that all strangers are withdrawn: If this is not done, it is almost impossible but that there must be great irregularity and confusion; for while strangers are going out, Members will come in, and they will be told in the division, though not present at putting the question, and this can only be prevented by making strangers withdraw, and shutting the doors, before the question is put.

As no Member ought to be told in a division, who was not in the House when the question is put, so all Members who were in the House, must be told on one side or the other, and cannot be suffered to withdraw. It often happens, that Members, not wishing to vote upon particular questions, withdraw into Solomon’s porch, or the Speaker’s room; but there being still considered as part of the House, as there is no avenue to them but through the House, if any Members insist upon it, those Members must return into the body of the House, and must be told: If they were not in the House or gallery when the question was put, but were absent in Solomon’s porch, or the room, and consequently did not hear the question put, they have a right to demand of the Speaker, “what is the question?” and to stay in or go out, even though the door should be then shut; and this I remember to have happened to Mr. Pitt, when Secretary of State, and frequently at other times. But if they were in the body of the House, or in the gallery, when the question was put, and have from inattention, or any other circumstance, neglected to go forth till after the door is shut, it is not then in their option, as in the other case, ‘where’ they will be told; they must be told ‘in’ the House, though by this they are made to vote entirely contrary to their known and avowed inclination.—What is commonly, in the proceedings of the House of Commons, called the Speaker’s ‘chamber,’ is the room behind the clock, and is not in the House; the Speaker’s room, of which I speak here, is that to which he retires from Solomon’s porch, and is in the House. {85.142}
On Monday the 21st of February, 1780, Mr. Baldwyn, Member for Shropshire, had, during the division, staid in the passage from the gallery into the House, behind the clock, and had not, during the telling of the Members in the House, appeared either in the body of the House or in the gallery, but being discovered before the doors were opened, he was brought up by the Tellers to the Table, and the Speaker was, I think very properly, of opinion, that he must be told ‘in’ the house, and that he had no choice of going out or staying in, as is given to those who are in the Speaker’s room when the question is put; and who may be supposed to be ignorant that a division is going forward, and who are therefore at liberty to have the question stated to them, and to make their election how they will vote, but to entitle themselves to this favour, they ought to assure the House they did not hear the question put. In Mr. Baldwyn’s case, he could make no such pretence, but was exactly I the case of a Member, who proposing to go forth, had, from inattention, waited till the doors were shut (as once happened to Lord George Cavendish) and who is then obliged to be told ‘in’ the House, and has no option given him. Endeavours were used to persuade the Speaker, that Mr. Baldwyn ought to have the same liberty as if he had been in the Speaker’s room; but the Speaker decided peremptorily against him, and said, “that Mr. Baldwyn being in the House, after the doors were shut, and after those within the House had been told, he could not claim the excuse, which is admitted for those who are in the Speaker’s room; who, though they are ‘supposed to be in’ the House, are literally ‘out’ of it, and out of the hearing of the question being put, or knowing that a division is going forward.” Mr. Baldwyn was therefore compelled to be told ‘in’ the House. {85.143}

Whilst the Tellers are telling, Members should be silent, that they may not be interrupted; for if any one of them thinks there is a mistake, or if they are not all agreed, they must begin and tell again. No Member must remove from his place, when they have begun telling, nor can any Member be told but sitting in a seat, and not in any of the passages. When they have told the Members in the House, and are all agreed, they should deliver in the number at the Table, to the Clerk, that there may be afterwards no dispute. If any difficulty arises, in point of order, during the division, the Speaker must take upon himself to decide it, ‘peremptorily;’ for, as it cannot be decided by the House, and so have a division upon a division, there is no other mode but to submit implicitly to his determination, subject however to the future censure of the House, if that determination is irregular or
partial. But in order to form that determination, though there can properly be no debate, it has frequently happened that old and experienced Members have, by the permission of the Speaker, assisted him with their advice, sitting on their seats, and speaking with their hats on, to avoid even the appearance of a debate; but even this cannot be done but by the Speaker’s leave, for, if it could, the division might last several hours; the Speaker, therefore, under these circumstances, is absolute, and the Members present ought to submit quietly to his directions.—It has sometimes happened, {85.144} that a division has been demanded, and it has been found, that there is but one Member on one side of the question, and consequently not enough to appoint two Tellers; as on the 9th of July, 1746, and the 12th of December, 1751; in this case the division cannot go on, but the Speaker declares on the other side. If there are two Tellers, the division must go on, and be reported, though on one side the return of the {85.145} numbers should be none, as on the 10th of June, 1758.—See the 12th of May, 1772.

If any difficulty arises upon telling in the Members, or the Tellers should disagree upon their numbers, I do not see how this can be decided but by another division; as was done on the 27th of February, 1771, where a stranger was told in as a Member: But in order to avoid what happened upon that occasion, when some Members went away, who were in the first division, the Sergeant and Door-keepers should, upon every division, not open the doors of the lobby or gallery till the numbers are reported by the Tellers at the Table, and declared by the Speaker for or against the question; for till then the division is not over. In short, it is the duty of the Sergeant, and the persons under him, to keep every avenue into the House, and the doors of the Lobby, shut, from before the putting of the question, till the final declaration by the Speaker, of the determination of the House.

The general rule, of which side ought to go forth upon a division, is very well expressed in the Journal of the 10th of December, 1640; but is subject to a great variety of exceptions, as appears from the instances before cited. The reason {85.146} for these exceptions I will endeavour to explain, as well as I can, under the several heads into which those instances are classed.

{85.PETITIONS}

“That a petition be brought up;” is a question introductory of new matter, as well as the immediate proceeding upon that petition, and therefore, according to the rule, the Ayes go forth: But as the regular course of
proceeding, in the House, requires that a petition should lie upon the Table, for the consideration of Members, before any thing is done upon it, when this question is moved, “That it do lie on the Table,” those that are against preserving this course must go forth. If a negative is put upon its lying on the Table, and the House refuse to consider it at all, nothing remains but to reject it; and therefore, though if the question for rejecting a petition is moved in the first instance, the Ayes go forth, because it ought to lie on the Table; yet after refusing to consider it, on a question put for rejecting it, the Noes go forth.—When it has been read, every question for referring it to a Committee, or farther proceeding upon it, is introductory of new matter, and the Ayes go forth.

{85.BILLS}
“That a Bill be brought in,” or read the first or second time, or committed, or reported, or engrossed, or read the third time, are all questions introductory of new matter, and the Ayes go forth.—But when a Bill is ordered to be committed, and the question only lies between a Select, and a Committee of the whole House, the House pay that respect to the latter, and give it so much the preference, that those who are for the select Committee, and against the Committee of the House, in both instances, go forth.—When a Bill is reported, and the report brought up to the Table, the course of proceeding requires it should lie there for the consideration of Members, before any thing further is done upon it; and therefore those who are against this proceeding go forth, as well as those who are for reading it immediately. But when the House have determined it shall be immediately proceeded upon, and the report has been read once, nothing can be done regularly but to read it a second time; and therefore those who are for putting off the further consideration of the report, and against reading the amendments a second time, must go forth.

{85.COMMITTEES}
When a question is put upon any Member’s taking the Chair of a Committee—as every Member is supposed to be proper, and equal to this office—those, who are against any Member, must go forth. And when there is a difference, whether a Committee, to which a Bill or other matter is referred, be a select Committee, or a Committee of the House, the latter has always the preference; and therefore those go forth, who are against the Committee of the House.

{85.REPORTS FROM COMMITTEES}
The House pay that attention and regard to every thing that has been done, whether by a select Committee or a Committee of the whole House, that, wherever a question is put for agreeing with a Committee, either in the whole or part of a resolution, or in an amendment to a Bill, those who are for disagreeing with the Committee, or making any alteration in what the Committee have done, go forth.

**{85.SPEAKER AND MEMBERS}**
The question “for the Speaker to leave the Chair,” must be preceded by a resolution of the House to resolve itself into a Committee upon that day, and therefore, when the order has been read for going into the Committee, those who are against proceeding in consequence of that order must go forth.—As the House of Commons ought, if possible, to have always its number of Members complete, those who, upon a vacancy, are against the issuing of a warrant for a new writ for the election of a Member, must go forth. For a like reason, as it is the duty of every Member to attend the House, those ought to go forth, who are against enforcing that attendance by a special order.

**{85.QUESTIONS MOVED AND AMENDED}**
When a motion has been made, and a question proposed to the House, those, who are against putting that question, are for altering the usual course of proceeding, and must go forth; the House being, as is commonly said, in possession of the question. One should naturally suppose, that this reasoning would extend to every part of the question, and that the House is as much in possession of ‘every word’ of the question, as of ‘all the words’ put together, and that therefore “on a motion to leave out some of the words, and question put, that these words stand part of the question;” I say, one should imagine that the Noes ought, upon the same principle, {85.149} to go forth; but the uniform practice has been otherwise, and in all instances, upon the question, “that words stand part of a question,” the Ayes have gone forth. I own, I never understood the reason of this distinction, but in a matter, not very important, a regular and uniform practice of fourscore years is of itself a sufficient reason for adhering to that practice. The same argument must be urged in favour of the other instances, “where an amendment is proposed to be made to a question, by inserting words, or by leaving out words, and an amendment is proposed to be made to that amendment, by leaving out part of the words; here, on the question, that these words stand part of the amendment,” the Ayes, in both instances, have gone forth. If it was allowable to argue upon ‘what ought to
be’ the practice, and I was not concluded by what I have just said, I should have thought that, in the case of the 13th of November, 1755, the Noes ought to have gone forth, because they were for the words standing part of the original question, and would therefore, if the question had been put in this form, and not complicated with the other part of the amendment, have then, agreeable to the practice, gone forth. I should also, if it had been a new case, have thought that in the instance of the 16th of March, 1730, the Noes should have gone forth; because I should have considered a question moved by the Chairman of the Committee, in pursuance of their resolution and direction, in the same light with a motion to agree with a Committee in a resolution, and subject to what has been said under the title “Reports,” page 147.

But in these, and every other instance of this sort, it is more material that there should be a rule to go by, than what that rule is; that there may be an uniformity of proceeding in the business of the House, not subject to the momentary caprice of the Speaker, or to the captious disputes of any of the Members. If the maxim, “Stare super vias antiquas” has ever any weight, it is in those matters, where it is not so material, that the rule should be established on the foundation of sound reason and argument, as it is, that order, decency, and regularity, should be preserved in a large, a numerous, and consequently oftentimes a tumultuous assembly.

{85.LORDS}
The Lords having come to a resolution, or having made amendments to a Bill, does not, in the opinion of the Commons, give that weight to either of these questions, but that on a question to agree with them in the whole, or any part, the Ayes go forth. When the Lords amend a Bill, and the House, by reading the Amendments once, have proceeded to take them into consideration, nothing can regularly be done with the amendments but to read them a second time; and therefore upon this question the Noes go forth.—Though the House of Commons ought to be at all times ready to receive messages from the Lords, yet those messages, being introductory of new matter, fall within the general rule, and the Ayes go forth on question for admitting the Lords messengers.

{85.ADJOURNMENT}
The common and regular proceeding, in questions of adjournment, is to adjourn to the next sitting-day, so that upon this question, those who are against this, and for adjourning to a future day, must go forth, as well as
those who are for sitting upon a Sunday, or any other day, not a sitting-day. {85.151} Though it is now become a practice for the House to adjourn over Saturday, yet, there being no reason why the House should not sit on a Saturday, upon a question, “to adjourn from Friday to Monday,” the Ayes should go forth.

When a motion is made “to adjourn,” simply, without specifying any day, if this question is put before four o’clock, the Ayes go forth, because four o’clock is, for the reasons given under the title “Speaker taking the Chair,” the regular hour at which the House may adjourn; but if it is after four o’clock, the Noes go forth, even though this question should be moved in the midst of other business: And this accounts for the difference of the Ayes and Noes going forth upon the same question. If the question is not simply “to adjourn,” but “to adjourn over the next sitting-day,” this distinction does not apply; in all these instances the Ayes go forth.

\{85.ORDERS OF THE DAY\}

It appears, from what has been said before, that two o’clock is the hour now established, by the practice of the last fifty years, for reading the orders of the day; if this question is therefore moved before two o’clock, the Ayes must go forth, as deviating from the usual practice of the House: if it is moved after two o’clock, though in the midst of other business, the Noes go forth, upon the same principle.

There is one observation to be made under this title, which affects the rule of the Ayes or Noes going forth, upon every question that may occur under any of the other titles; which is, that, if there is an order of the day for any thing to be done, when that order is read, if there is a division, those who are against carrying that order into execution must go forth; that is, in all instances, the Noes; and this, in those cases where, if there had been no order of the day, the Ayes would have gone forth.—See the 11th of April, 1771, and in many other instances.

SPEAKER.
His Duty, in keeping Order in the House.

1. On the 14th of April, 1604, rule conceived, That if any man speak impertinently, or beside the question in hand, it stands with the orders of
the House for the Speaker to interrupt him; and to know the pleasure of the House, whether they will further hear him.

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**OBSERVATIONS.**

{85.167} It is very much to be wished, that the rules, which have been from time to time laid down by the House, for the preservation of decency and order, in the debates and behaviour of Members of the House, could be enforced, and adhered to {85.168} more strictly than they have been of late years: It certainly requires a conduct, on the part of the Speaker, full of resolution, yet of delicacy: But, as I very well remember that Mr. Onslow did in fact carry these rules into execution, to a certain point, the fault has not been in the want of rules, or of authority in the Chair to support those rules, if the Speaker thought proper to exercise that authority. The neglect of these orders has been the principal cause of the House sitting so much longer of late years than it did formerly; Members not only assume a liberty of speaking beside the question, but, under pretence of explaining, they speak several times in the same debate, contrary to the express orders of the House. And though, as is said on the 10th of November, 1640, any Member ‘may,’ yet Mr. Speaker ‘ought,’ to interrupt them; for the Speaker is not placed in the Chair, merely to read every bit of paper, which any Member puts into his hand in the form of a question; but it is his duty to make himself perfectly acquainted with the orders of the House, and its ancient practice, and to endeavour to carry those orders and that practice into execution. If, upon repeated trials, he should find that the House, in contempt of the order of the 22d of January, 1693, refuse to support him in the exercise of his authority, he will be then justified, but not till then, in permitting, without censure, every kind of disorder; viz.

Members speaking twice, or oftener, in the same debate, the 14th of May, and 23d of June, 1604, and 24th of April, 1621. {85.169}

Members speaking impertinently, or beside the question—the 28th of June, 1604.

Using unmannerly or indecent language against the proceedings of the House—the 13th and 16th of February, 1606; the 9th of May, 1626; the 27th of May, 1641; and the 7th of December, 1666.

Or against particular Members—the 7th, 8th, and 9th of May, 1621; the 6th of August, 1625. {85.170}
Using the King’s name irreverently, or to influence the debate—the 5th of March, 1557; the 4th of May, 1624, in the Journal, page 697; the 5th of April, 1715.

Hissing or disturbing a Member in his speech—the 20th of June, 1604; and the 8th of February, 1661.

Walking up and down the House, standing on the floor, in the gangways, or in the gallery—the 10th of February, 1698; and the 16th of February, 1720. \{85.171\}

Taking papers and books from the Table, or writing there, to the great interruption of the Clerks—the 3d of April, 1677; and the 25th of March, 1699.

Crossing between the Chair and a Member that is speaking—or between the Chair and the Mace, when the Mace is off the Table.

All these rules I but too well remember that Mr. Onslow endeavoured to preserve with great strictness, yet with civility to the particular Members offending; though I do not pretend to say, that his endeavours had always their full effect. Besides the propriety, that in a senate composed of Gentlemen of the first rank and fortune in the country, and deliberating on subjects of the greatest national importance—that in such an assembly, decency and decorum should be observed, as well in their deportment and behaviour to each other, as in their debates—Mr. Onslow used frequently to assign another reason for adhering strictly to the rules and orders of the House:—He said, it was a maxim he had often heard, when he was a young man, from old and experienced Members, “That nothing tended more to throw power into the hands of Administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, these rules—that the forms of proceeding, as instituted by our ancestors, operated as a check and controul on the actions of Ministers, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power.” So far the maxim is certainly true, and is founded in good-sense—that, as it is always in the power of the majority, by ‘their numbers,’ to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power, are the forms and rules of proceeding; which have been adopted, as they were found necessary, from time to time, and are become the Standing Orders of the House; by a strict adherence to which, the weaker party can only be protected from those irregularities and abuses, which these forms were intended to check, and which the wantonness of power is but too often
apt to suggest to large and successful majorities.—I remember a story of Mr. Onslow, which those, who ridiculed his strict observance of forms, were fond of telling; That, as he often, upon a Member’s not attending to him, but persisting in any disorder, threatened to name him, “Sir, Sir, I must name you.” On being asked, what would be the consequence of putting that threat into execution, and naming a Member, he answered, “The Lord in Heaven knows!”—from whence they collected, that it was nothing but a threatening expression of his own, that would have no consequence at all. {85.173} He might have referred them to the Journal of the 5th of May, 1641, or of the 22d of January, 1693, where they would have found, that if the Speaker is compelled to name a Member, such Member will thereby incur the displeasure and censure of the House.

Speaker.
His Duty in other Particulars.
1. On the 24th of March, 1603, upon a division, it belongs to the Speaker’s place to appoint Tellers, two of either part indifferently.

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OBSERVATIONS.
{85.176} The Speaker, though he ought upon all occasions to be treated with the greatest respect and attention by the individual Members of the House, is in fact, as is said on the 9th of March, 1620, but a servant to the House, and not their master: and it is therefore his first duty, to obey implicitly the orders of the House, without attending to any other commands. This duty is extremely well expressed, in a very few words, by Mr. Speaker Lenthall; who, when that ill-advised monarch, Charles the First, came into the House of Commons, and, having taken the Speaker’s Chair, asked him, “Whether any of the five Members that he came to apprehend, were in the House? Whether he saw any of them? and Where they were?” thus answered,

“May it please Your Majesty, I have neither eyes to see, nor tongue to speak, in this place, but as the House is pleased to direct me; whose servant I am here; and humbly beg your Majesty’s pardon, that I cannot give any other answer than this, to what your Majesty is pleased to demand of me.”
I have always very much admired the cool temper of Rushworth, who was at this time Clerk Assistant, and, as he tells us himself, without being alarmed or astonished at this very new and extraordinary scene, had the presence of mind to take down the King’s speech, and the Speaker’s answer, in short-hand, at the table, as they spoke them; which the King observing, sent for him that evening, and with some difficulty obtained a copy of his notes. The uncommonness of the transaction had, I suppose, made him neglect the order given to him by the House, on his appointment to his office, on the 25th of April, 1640: “That Mr. Rushworth do not take any notes here, without the precedent directions and command of the House, but only of the orders and reports made in the House.”

The Speaker ought to be very cautious, and pay an exact attention to the rule laid down on the 27th of April, 1604, “That ‘in matters of doubt’ he is ‘to explain,’ but not to sway.’ In matters of doubt, or if he is referred to, to inform the House in a point of order or practice, it is his duty to state every thing he knows upon the subject, from the Journals, or the History of Parliament; but he ought not to argue, or draw conclusions from his information. He has no voice, but to utter the sense of the House, when declared.

If, however, as has frequently happened, the numbers upon a division should be equal, and it thereby becomes the Speaker’s office to give a casting voice, it has been sometimes usual, in giving this vote, to give, at the same time, the reasons which induce him to it; but, at that moment, all possibility of his swaying or influencing the House by these reasons is past.

Though it is a standing order, that the Speaker shall not at any time adjourn the House without a question, it is a most ancient rule of the House, that forty Members ought to be present on the decision of every question; and therefore, as we have seen before, when it appears that forty Members are not present, the practice of the House has been, for the Speaker, if it is past four o’clock, to adjourn the House from his own authority, ‘without any question,’ and it is so expressly stated in the entries in the Journal.

CLERK.
His Duty.
1. On the 17th of April, 1628, the Lords desire the Journal of the House of Commons to be brought to a conference, that they may see the speech of a learned Member, in the 18th year of James the First; to which message the Commons answer, “That there was no resolution of the House, in the case mentioned; and that the entry of the Clerk of particular men’s speeches, was without warrant at all times, and in that Parliament, by order of the House, rejected and left.”

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OBSERVATIONS.

{85.194} The duty of the Clerk is summed up in a very few words, in the oath which he takes, before he enters on the execution of his office:— “Ye shall make true entries, remembrances, and journals, of the things done and past in the House of Commons.” This, which also comprehends his being attentive to the other Clerks under him, that they are exact in making the proper entries of the proceedings of Committees, in {85.195} obeying the order of the 18th of April, 1614, for affixing the orders for the meeting of Committees on the door of the House, and in the discharge of their other service to the House, includes the whole of his duty. We see it is ‘without warrant,’ that he should make minutes of particular men’s speeches; and that he ought to confine himself merely to take notes of the orders and proceedings of the House. These he and the Clerk Assistant both do in their Minute-books at the table, and, from these minutes, the Votes, which are ordered to be printed, are made up ‘under the direction of the Speaker.’ At the end of the session, it is the Clerk’s office to see that the Journal of that session is properly made out, and fairly transcribed from the Minute-books, the printed Votes, and the original papers that have been laid before the House; and this is commonly done during the summer vacation.

All Addresses to the Crown, and Orders of the House of Commons, whether for the attendance of persons, or bringing of papers, &c. must be signed by the Clerk, and this he always does with his own hand; it is his duty also to sign the Bills which have passed the House of Commons.—But the orders for bringing in Bills, for the appointment and meeting of {85.196} Committees, and the other common orders of the House, are, for the sake of expedition, signed in his name by a Clerk without doors, who is authorized by the Clerk to affix his name to these papers.
As the Clerk ought to take notes of nothing but the Orders and Reports of the House, he is always under some difficulty, when exception is taken to the words of a Member, as irregular, and the House, or any number of Members, call out to have them taken down; as this call of particular Members, though even so general, is not properly, indeed cannot be, an Order of the House; and as it is always intended to have the words taken down, in order to ground a censure against the Member who used them, the Clerk ought not to be too ready in judging of the sense of the House, or in complying with this call.

I have looked over all the cases that I can find in the Journals, and have consulted Grey’s Debates, to see whether I could collect from them any precise rule for the Clerk to follow upon these occasions; but I cannot find that it is by any express order or authority that he takes down the words. In the case of Mr. Cook, the 18th of November, 1685; of Mr. Manly, the 9th of November, 1696; of Mr. Cresar, the 19th of December, 1705; the entry in the Journal is in these words, “which were ‘directed by the House,’ to be set down in writing at the table,” but does not express how “those directions of the House” were signified to the Clerk. In the instance of Sir Robert Cann, on the 28th of October, 1680, Mr. Powle says, “The Words are to be written down by the Clerk.” It appears from Grey’s Debates, vol viii. P. 305, that great exceptions were taken to the words of Mr. Secretary Jenkins, on the 25th of March, 1681, on his refusing to carry up the impeachment of Fitzharris to the Lords, and the words are stated by a Member, but, notwithstanding this, it does not appear that they were actually written down by the Clerk. Not finding therefore any precise rule, by which I am to judge “what are the directions of the House,” and being of opinion, that the Speaker is the only person from whom the Clerk ought to receive the sense, or directions, or orders of the House; the rule I have laid down to myself, and observed upon these occasions, has been to wait for the directions of the Speaker, and not to consider myself as obliged to look upon the call of one Member, or any number of Members, as the directions of the House, unless they are conveyed to me through the usual and only channel by which, in my opinion, the Clerk can receive them. I was therefore put under very extraordinary difficulties, when, upon the 16th of February, 1770, exceptions were taken to some expressions, used from the Chair by the Speaker himself, but, notwithstanding the loud and repeated cries of several Members, and that I was often particularly called upon by Mr. Dowdeswell, and many others, to do my duty, and write down the words, I recollected my own rule, and declined writing them down, till I had the
consent of the Speaker for so doing. And if the Speaker had not given me that consent, I should have persisted in declining to take them down, and would afterwards have submitted the regularity of my conduct, in this particular, to the House, and received their explanation of the rule, Whether the Clerk is justified in obeying any other order or directions but what are signified to him by the Speaker? {85.200}

When the House resolves itself into a Committee of the whole House, it has been always the practice for the Clerk Assistant alone, and not the Clerk, to officiate in this Committee, and from the circumstance it arises, that the office of Clerk Assistant is much the most laborious of the two, as the principal business of the House of Commons, particularly all enquiries into matters of trade, the state of any of our colonies, or of the East India Company, &c. &c. are generally carried on in Committees; and it is the duty of the Clerk Assistant to make out the reports from these Committees, and from Committees of the whole House on Bills.—The Clerk has properly nothing to do in the House, but whilst the House is sitting, with the Speaker in the Chair.

There is a particular Clerk appointed to attend the Committee of Privileges, and, as the Committee of Privileges and Elections was formerly the same, the Clerk of the Committee of Privileges is more directed to attend the select Committee of Elections, and when two or more of these select Committees are sitting at the same time, the Clerk of the House appoints other Clerks to attend these, as deputies to the Clerk of the select Committees. {85.201}

There are also four principal Clerks without doors, appointed to attend Committees, who take their attendance by rotation; each of these four has a Deputy to assist him. There are also two Clerks who have the direction of the Ingrossing Office, and have writing Clerks under them, for the Ingrossing of Bills.

Besides these, there is a Clerk appointed expressly to collect the fees, and to distribute them to the Speaker, and to the Officers of the House; another Clerk, who has the custody of the Journals and papers, and who has several writing Clerks under him. The office of the Clerk of the papers, was formerly kept in the room, which was anciently the Court of Wards; from whence it has happened, that though this office has been frequently
removed from place to place, the chamber in which it has been held, has been always improperly stiled, The Court of Wards.