

order is displaced by the use of special orders of business or the intervention of privileged business.

When a session is drawing to a close and the important bills are all brought in, the House, in order to prevent interruption by further unimportant bills, sometimes comes to a resolution that no new bill be brought in, except it be sent from the other House. *3 Grey, 156.*

§ 385. Business at the end of a session.

This provision is obsolete so far as the practice of the House is concerned, because business goes on uninterruptedly until the Congress expires (clause 6 of rule XI).

All orders of the House determine with the session; and one taken under such an order may, after the session is ended, be discharged on a habeas corpus. *Raym., 120; Jacob's L. D. by Ruffhead; Parliament, 1 Lev., 165, Pitchara's case.*

§ 386. Effect of end of the session on existing orders, especially as to imprisonment.

The House, by clause 6 of rule XI and the practice thereunder, has modified the rule of Parliament as to business pending at the end of a session that is not at the same time the end of a Congress. A standing order, like that providing for the hour of daily meeting of the House, expires with a session (I, 104-109). The House uses few standing orders. However, in the first session of the 104th Congress, the House continued a standing order regarding special-order and morning-hour speeches for the remainder of the entire Congress (May 12, 1995, p. 12765). In 1866 the House discussed its power to imprison for a period longer than the duration of the existing session (II, 1629), and in 1870, for assaulting a Member returning to the House from absence on leave. Patrick Woods was committed for a term extending beyond the adjournment of the session, but not beyond the term of the existing House (II, 1628).

Where the Constitution authorizes each House to determine the rules of its proceedings it must mean in those cases (legislative, executive, or judiciary) submitted to them by the Constitution, or in something relating to these, and necessary to-

§ 387. Jefferson's views as to the constitutional power to make rules.

ward their execution. But orders and resolutions are sometimes entered in the journals having no relation to these, such as acceptances of invitations to attend orations, to take part in procession, etc. These must be understood to be merely conventional among those who are willing to participate in the ceremony, and are therefore, perhaps, improperly placed among the records of the House.

The House has frequently examined its constitutional power to make rules, and this power also has been discussed by the Supreme Court (V, 6755). It has been settled that Congress may not by law interfere with the constitutional right of a future House to make its own rules (I, 82; V, 6765, 6766), or to determine for itself the order of proceedings in effecting its organization (I, 242–245; V, 6765, 6766). It also has been determined, after long discussion and trial by practice, that one House may not continue its rules in force to and over its successor (I, 187, 210; V, 6002, 6743–6747; Jan. 22, 1971, p. 132). Congress may bind itself in matters of procedure (II, 1341; V, 6767, 6768), but its ability to so bind a succeeding Congress has been called into doubt (V, 6766). In one case the Chair denied the authority of such a law that conflicted with a rule of the House (IV, 3579). The theories involved in this question have been most carefully examined and decisively determined in reference to the law of 1851, which directs the method of procedure for the House in its constitutional function of judging the elections of its Members; and it has been determined that this law is not of absolute binding force on the House, but rather a wholesome rule not to be departed from except for cause (I, 597, 713, 726, 833; II, 1122). In modern practice, existing statutory procedures, including provisions of concurrent resolutions, are readopted as Rules of the House at the beginning of each Congress (see, *e.g.*, H. Res. 6, Jan. 4, 1995, p. 462). This practice was codified in clause 1 of rule XXVIII (current rule XXIX) when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 75, see § 1105, *infra*). Where the House amended a standing rule of general applicability during a session and the amended rule did not require prospective application, the rule was interpreted to apply retroactively (Sept. 28, 1993, p. 22719).

As to the participation on occasions of ceremony, the House has entered its orders on its journal; but it rarely attends outside the Capitol building as a body (July 25, 2002, p. 14645), usually preferring that its Members go individually (V, 7061–7064) or that it be represented by a committee (V, 7053–7056) or other delegation (May 28, 1987, p. 14031). It has dis-