"It is not the visible presence of members, but their judgment and their votes the constitution calls for."

And whether ten years afterward he said a different thing while occupying the speaker's chair, when it was necessary in order to secure an increased representation of his party in congress.

Mr. Grosvenor: Does the gentleman think it any reflection upon the statesmanship of a member of congress for him to change his mind upon a question?

Mr. Bryan: Not at all, sir. In fact, I believe it is the duty of a man to change his mind if he finds that he is wrong.

Mr. Grosvenor: There have been some changes of opinion lately in this house, and I did not know whether the gentleman was passing criticism upon that. (Laughter.)

Mr. Bryan: I will say this, however, that it sometimes is the case that where one party is in power, and desires to do a thing, one of the party out of power will denounce the act as wrong, and then when that man comes into power he will change his mind, when party necessity requires a change of action. I say that is possible; and I am sure that the gentleman from Ohio (Mr. Grosvenor) will agree with me that such a change of mind is not to be defended. Only that change of mind which is an honest change, brought about by an honest consideration of all the questions involved, is to be commended.

But I say, Mr. Speaker, it is not a question whether the speaker of this house at that time violated the precedents of a hundred years and placed a construction upon the constitution which no previous congress had placed there. It is not a question whether his opinion in power was different from that which he expressed when out of power. The question is simply as to the wisdom of adopting the rule which was adopted at that time.

I quote from the supreme court decision, where the court says that this house has the right to select, not only the method selected in the Fifty-first congress, but the right to select the method which has been selected in every other congress from the beginning of this government to this time; in other words, that the house can determine for itself how the presence of a quorum shall be ascertained. In the decision the rule adopted February 14, 1890, authorizing the speaker to count a quorum, is set forth, and then follows this language:

"The action taken was in direct compliance with this rule. The question, therefore, is as to the validity of this rule, and not what methods the speaker may of his own motion resort to for determining the presence of a quorum, nor what matters the speaker or clerk may of their own volition place upon the journal.

"Neither do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration. With the courts the question is only one of power.

"The constitution empowers each house to determine rules of proceeding. It may not by its rules ignore constitutional restraint or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of methods are open to the determination of the house, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just.

"It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time.

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"But how shall the presence of a majority be determined? The constitution has prescribed no method of making this determination, and it is therefore within the competency of the house to prescribe any method which shall be reasonably certain to ascertain the fact. It may prescribe answer to roll call as the only method of determination; or require the passage of members between tellers, and their count as the sole test; or the count of the speaker or the clerk, and an announcement from the desk of the names of those who are present.

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"Summing up this matter, this law is found in the secretary of the treasury's office, properly authenticated. If we appeal to the journal of the house, we find that a majority of its members were present when the bill passed, a majority creating by the constitution a quorum, with authority to act upon any measure; that the presence of that quorum was determined in accordance with a reasonable and valid rule theretofore adopted by the house."

But when we say, that instead of adopting the method adopted in the Fifty-first congress, we will adopt the method adopted by all preceding congresses and by the Fifty-second congress, I believe that we follow the safer course, and that our action in not counting a quorum or allowing it to be done, is based on solid wisdom.

And just a word, Mr. Speaker, to show the wisdom of our method. The gentleman from Texas (Mr. Bailey) in the last congress showed what various states had done; and while I can not give the states as he gave them, yet my recollection is that more than half of the states of this union provide by their constitutions that no bill shall become a law until a majority of all the members elected shall express their consent upon a yea and nay vote. I believe that provision is a wise one. I believe it is only a safe provision that before a bill shall become a law a majority of all members elected to congress shall express it as their wish, and not merely a majority of those who happen to be present if a quorum is present.

A great deal was said about wanting the majority to rule. Mr. Speaker, I call attention to the fact that the counting of a quorum is not a device by which a majority can rule. It is a device by which a minority can enact laws. A majority in favor of a bill requires no counting of a quorum. It is when there is not a majority in favor of a bill, that a quorum must be counted in order to pass the bill. Now, what is possible under it? We have in this house 356 members. One hundred and seventy-nine make a quorum.

According to all rules, if we have present 179 members, and 90 members vote aye and 89 vote no, the bill will be passed. Now that is because the constitution says that, a quorum being present, a majority of the majority is sufficient to pass a bill. But for one hundred years our people have placed a construction on that, and they have given to the minority the right, by refusing to vote, to compel the concurrence of a majority in legislation.

I believe that that safeguard is a wise one, and that no great interest will suffer if you simply stay the hand of legislative power until you bring in a majority who are in favor of the proposition. But in the rules of the Fifty-first congress that safeguard was taken away, and with 89 refusing to vote, the speaker, according to the rules afterward adopted, and in accordance with his own opinion before the rules were adopted, was able to count the 89 as present, and thus two more than one-fourth of the house were able to unseat a member and put another member in his place.

The first instance where this rule was called into effect was in the case of Smith vs. Jackson, which came up on the 29th day of January, 1890. There 162 members of congress voted in favor of unseating the man who held the certificate. It was not a majority of the members of that congress, and yet it illustrates what could be done under the rules of the Fifty-first congress. We have refused to adopt these rules. We have gone back to the precedents of a hundred years, and left it in the power of those dissenting to compel the concurrency of a majority in the passage of a measure by refusing to vote, thereby breaking a quorum, whenever, in their judgement, such action would be justifiable.

There is another question. The Fifty-first congress gave to the speaker the right to determine what was a dilatory motion. That power, sir, when wisely exercised is perhaps not a dangerous power; but that power the fifty-second congress refused to give the speaker; that power this congress has so far refused to trust to the speaker; and I believe we are wise in refusing that power to any man.

Mr. Hopkins, of Illinois: Will the gentleman permit me to interrupt him there?

Mr. Bryan: Certainly.

Mr. Hopkins, of Illinois: Do I understand the gentleman to say that we have no rule that would permit the speaker to determine what is a dilatory motion?

Mr. Bryan: I do not believe the speaker of the house should be invested with the power to declare by his judgment what is a dilatory motion, and thus stop what we call filibustering.

Mr. Hopkins, of Illinois: Now, if the gentleman will permit me, did he not, as a member of the last congress, vote for a code of rules that clothed the speaker with that authority?

Mr. Bryan: Under the provision with regard to suspension of the rules?

Mr. Hopkins, of Illinois: Yes, sir.

Mr. Bryan: I believe that no motion is in order—

Mr. Hopkins, of Illinois: But did not the gentleman in the last congress vote for a code of rules which clothed the speaker with that authority?

Mr. Springer: In two cases only.

Mr. Hopkins, of Illinois: I do not care whether it is two or one.

Mr. Bryan: I was going to say—

Mr. Outhwaite: It does not clothe him with the power to determine what is a dilatory motion—

Mr. Reed: It takes three of them to answer.

Mr. Outhwaite, continuing: Or what the motive of the maker is. It only enables him to declare a motion dilatory when the motion itself shows it is a dilatory motion, and for delay.

Mr. Bryan: And that is what the rule says.

Mr. Hopkins, of Illinois: Does it not clothe the speaker with authority to declare what is a dilatory motion?

Mr. Bryan: It does not give the speaker the right to determine what the motive of the maker was, but simply what the effect was; and that was the rule.

Mr. Hopkins, of Illinois: Has not the speaker, under section 8, rule 14, the same power, when it comes to a question of suspending the rules, that the speaker of the Fifty-first congress was clothed with under the rules adopted by that body?

Mr. Payne: And in language precisely the same?

Mr. Reed: It is on pages 14 and 19.

Mr. Bryan: It seems to take three gentlemen to propound the question. (Laughter.)

The Speaker, pro tempore: Does the gentleman from Nebraska yield to the gentleman from Illinois?

Mr. Bryan: Yes, sir; I yield to the three gentlemen. (Laughter.)

Mr. Hopkins, of Illinois: Before the gentleman yields to the others, if he will simply answer my question, I will be obliged. Did not he, as a member of the last congress, vote for a code of rules that lodged with the speaker the power to determine what is a dilatory motion? He has refused to answer that question yet.

Mr. Bryan: I voted for the rules adopted.

Mr. Hopkins, of Illinois: Can not the gentleman be frank, and say yes or no? Will the gentleman allow me—

Mr. Bryan: *I will allow you to frame your question if you will allow me to frame my answer.*

Mr. Hopkins, of Illinois: Does it require an argument to answer? Can not you answer by yes or no?

Mr. Bryan: Are you ready to let me answer?

Mr. Hopkins, of Illinois: Do you decline to answer my question?

Mr. Bryan: If the gentleman is through with the question I will answer.

Mr. Hopkins, of Illinois: Well, Mr. Speaker, I will not press the gentleman upon that point, as I see it is a delicate subject with him. It is a question which could have been answered with a direct yes or no.

Mr. Bryan: The gentleman has submitted his question, and I will try to answer it and go back to the point where he interrupted me. Now, while such a provision is in the rules of the last congress, those rules provided that in the instances which the gentleman refers to the speaker was permitted to decide that a motion which delayed action was not in order.

But I do not understand that the decision of the speaker in the last congress was at all like the decision of the speaker of the Fifty-first congress. And furthermore, the decision of the speaker of the last congress was based upon the decisions of speakers in other congresses previous to the Fifty-first, under the same rule, and presents a very different question from that which was raised in the Fifty-first congress.

Mr. Hopkins, of Illinois: In the last congress, in the two instances to which the gentleman's attention has been called, is not the language which lodges this power in the speaker precisely the language in which the rule was clothed that was adopted by the Fifty-first congress?

Mr. Bryan: I can not say. Will you answer that question yourself?

Mr. Hopkins, of Illinois: I think it was.

Mr. Bryan: The gentleman thinks it was, and I do not know, so we will leave it there. (Laughter.) Now, Mr. Speaker, I want to say this: The provision of the rules in this congress and in the last congress is very different from that in the rules of the Fifty-first congress, in that, instead of lodging the power in the speaker to stop filibustering, they lodge that power in the house itself, and to my mind there is a very great distinction between allowing a speaker to say that filibustering shall stop and allowing