

## CONSIDERATION, QUESTION OF

Bills and resolutions, not passed on a call of the Calendar or taken up by unanimous consent, are brought before the Senate for consideration by the adoption of a motion to proceed to consider the bill or resolution. Other types of business are likewise brought up for Senate consideration by the adoption of a motion to consider that business, such as: Motions entered to reconsider an action taken by the Senate, or bills and resolutions under "Subjects on the Table," put there by unanimous consent.

A motion to proceed to the consideration of any matter is debatable, except during the Morning Hour. However, if the motion is directed at a proposal to amend the standing rules, it would be debatable at any time the motion is made. But if such a measure were a Senate resolution or a Senate concurrent resolution, it could be considered under the "Over Under the Rule" procedure. This procedure has its limitation and would, if the measure were controversial, result in brief consideration of the measure during the Morning Hour when the Calendar of Resolutions and Motions Over Under the Rule was reached (see "Over Under the Rule," pp. 957-967). If the measure were not disposed of during this time, it would go on the Calendar of General Orders from which it could only be reached on a debatable motion to proceed.

Motions to proceed to the consideration of bills and resolutions on the Calendar are usually made by the Majority Leader or his designee, who, as spokesman of his party and in consultation with his policy committee, implements and directs the legislative schedule and program.

A motion to proceed to the consideration of a measure requires a majority vote, but in the event of a filibuster on such a motion, cloture could be necessary. Cloture on a motion to proceed generally requires a vote of three-fifths of the Senators duly chosen and sworn. However, if the measure to be taken up amends the Standing Rules of the Senate, the vote required to invoke cloture on the motion to proceed thereto is two-thirds of the Senators voting, a quorum being present.

Until a motion to proceed to the consideration of a measure has been agreed to, amendments or actions thereon would not be in order. After a motion to consider a measure has been agreed to, that measure itself would then be debatable and amendable. Of course, when any "question is pending," any motion set forth in Rule XXII would be in order.

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### Rule VII, Paragraph 2

#### [Motion To Consider—When in Order and Conditions]

Until the morning business shall have been concluded, and so announced from the Chair, or until one hour after the Senate convenes at the beginning of a new legislative day, no motion to proceed to the

consideration of any bill, resolution, report of a committee, or other subject upon the Calendar shall be entertained by the Presiding Officer, unless by unanimous consent: *Provided, however,* That on Mondays which are the beginning of a legislative day the Calendar shall be called under rule VIII, and until two hours after the Senate convenes no motion shall be entertained to proceed to the consideration of any bill, resolution, or other subject upon the Calendar except the motion to continue the consideration of a bill, resolution, or other subject against objection as provided in rule VIII, or until the call of the Calendar has been completed.

### **Rule VIII**

#### **[Call of Calendar and Motion To Consider]**

1. At the conclusion of the morning business at the beginning of a new legislative day, unless upon motion the Senate shall at any time otherwise order, the Senate shall proceed to the consideration of the Calendar of Bills and Resolutions, and shall continue such consideration until 2 hours after the Senate convenes on such day (the end of the morning hour); and bills and resolutions that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question; and an objection may be interposed at any stage of the proceedings, but upon motion the Senate may continue such consideration; and this order shall commence immediately after the call for "other resolutions", or after disposition of resolutions coming "over under the rule", and shall take precedence of the unfinished business and other special orders. But if the Senate shall proceed on motion with the consideration of any matter notwithstanding an objection, the foregoing provisions touching debate shall not apply.

2. All motions made during the first hours of a new legislative day to proceed to the consideration of any matter shall be determined without debate, except motions to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable. Motions made after the first two hours of a new legislative day to proceed to the consideration of bills and resolutions are debatable.

### **Rule XV, Paragraphs 1 and 2**

#### **[Motions To Consider in Writing and Withdrawal of]**

1. All motions and amendments shall be reduced to writing, if desired by the Presiding Officer or by any Senator, and shall be read before the same shall be debated.

2. Any motion, amendment, or resolution may be withdrawn or modified by the mover at any time before a decision, amendment, or ordering of the yeas and nays, except a motion to reconsider, which shall not be withdrawn without leave.

## Rule XVII, Paragraphs 4(a) and 5

### [Reported Bills and Certain Motions Lie Over One Legislative Day and Reports Lie Over Two Days]

4. (a) All reports of committees and motions to discharge a committee from the consideration of a subject, and all subjects from which a committee shall be discharged, shall lie over one day for consideration, unless by unanimous consent the Senate shall otherwise direct.

5. Any measure or matter reported by any standing committee shall not be considered in the Senate unless the report of that committee upon that measure or matter has been available to Members for at least two calendar days (excluding Sundays and legal holidays) prior to the consideration of that measure or matter. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the Senate prior to the consideration of such measure or matter in the Senate. This paragraph—

(1) may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate; and

(2) shall not apply to—

(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress, and

(B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

### Adjournment Kills Motion To Consider:

A motion to proceed to the consideration of a matter, if unacted upon, dies with an adjournment of the Senate.<sup>1</sup>

### Amend Motion To Consider, Out of Order:

See also "Motions for Consideration, Out of Order," pp. 672-673.

A motion to proceed to the consideration of one proposition is not amendable by the substitution of another therefor;<sup>2</sup> for example: pending a motion to consider one

<sup>1</sup> Nov. 13 and 16, 1942, 77-2, *Record*, pp. 8848, 8861-64; Apr. 8, 1935, 74-1, *Record*, p. 5245; Apr. 26, 1935, 74-1, *Record*, p. 6468; Dec. 16, 1904, and Jan. 4, 1905, 58-3, *Record*, pp. 363, 442; July 7, 1897, 55-1, *Record*, p. 2447; see also Dec. 6, 1963, 88-1, *Record*, pp. 23706-07; Jan. 23, 1963, 88-1, *Record*, p. 856; Jan. 25, 1887, 49-2, *Record*, p. 1004; Dec. 19, 1928, 70-2, *Record*, p. 876; Jan. 26, 1921, 66-3, *Record*, p. 2054; Dec. 21, 1945, 79-1, *Record*, p. 12522; Nov. 27, 1950, 81-2, *Record*, p. 15779; Aug. 11, 1937, 75-1, *Record*, pp. 8695-96. See proceedings for Jan. 25 and 26, 1921, 66-3, *Record*, p. 2055; Dec. 21, 1922, 67-4, *Record*, p. 799.

<sup>2</sup> Oct. 9, 1968, 90-2, *Record*, p. 30175; Apr. 17, 1950, 81-2, *Record*, p. 5284; Aug. 23, 1950, 81-2, *Record*, p. 13213; Mar. 19, 1928, 70-1, *Journal*, p. 278, *Record*, p. 4973; June

bill or measure, it would not be in order to substitute another bill on the Calendar;<sup>3</sup> to add a proviso that upon the conclusion of a measure another measure shall be taken up;<sup>4</sup> to propose a provision postponing the consideration of a measure until after the disposition of another;<sup>5</sup> or to include a motion to discharge a committee from the consideration of another bill and proceed to its consideration.<sup>6</sup>

Only one motion to consider any one bill is in order at any one time, and during the Morning Hour that question is not debatable.<sup>7</sup>

While one bill is pending before the Senate, a motion to proceed to the consideration of a different bill is not subject to amendment by adding a provision for the postponement of the pending bill to a day certain.<sup>8</sup>

While a motion to proceed to the consideration of a resolution is pending, it is not in order for the mover of the resolution to modify the same.<sup>9</sup>

### **Appropriations, Consideration of:**

*See* "Consideration of Appropriation Bills," pp. 157-158.

### **Bills and Resolutions Brought Up on Motion To Consider:**

*See also* "Consideration, Question of," p. 655.

In order for a Senator to offer a motion to consider a bill, he must first be recognized. For details on recognition, *see* "Recognition," pp. 1091-1105.

In order to bring a matter before the Senate, in legislative session, including bills and resolutions on Calendar, a motion to proceed to the consideration thereof must be made instead of a motion that it be laid before the Senate

1, 1926, 69-1, *Record*, p. 10398; Mar. 2, 1917, 64-2, *Record*, p. 4744; June 25, 1914, 63-2, *Record*, pp. 11099-100; June 15, 1914, 63-2, *Record*, p. 10468; Mar. 21, 1914, 63-2, *Record*, p. 5219; Mar. 2, 1911, 61-3, *Record*, p. 3890; Feb. 23, 1895, 53-3, *Record*, p. 2623; Feb. 15, 1887, 49-2, *Record*, p. 1759; Mar. 7, 1884, 48-1, *Record*, p. 1672; Mar. 12, 1884, 48-1, *Record*, p. 1791; *see also* Apr. 23, 1951, 82-1, *Record*, p. 4175; Feb. 27, 1952, 82-2, *Record*, p. 1538; Oct. 4, 1949, 81-1, *Record*, pp. 13791-792; May 2, 1914, 63-2, *Record*, p. 7614; June 21, 1962, 87-2, *Record*, p. 11297.

<sup>3</sup> Feb. 28 and Mar. 2, 1914, 63-2, *Record*, pp. 4092, 4135-36; Jan. 23, 1963, 88-1, *Record*, p. 856.

<sup>4</sup> Jan. 27, 1931, 71-3, *Record*, p. 3276.

<sup>5</sup> *See* Aug. 27, 1951, 82-1, *Record*, pp. 10714-15.

<sup>6</sup> Apr. 17, 1934, 73-2, *Journal*, p. 303, *Record*, p. 6722.

<sup>7</sup> Oct. 9, 1968, 90-2, *Record*, p. 30175.

<sup>8</sup> Feb. 21, 1938, 75-3, *Record*, p. 2202.

<sup>9</sup> Mar. 17, 1925, 69-Special Session, *Record*, p. 310.

as unfinished business.<sup>10</sup> For precedents and practices on the motion to proceed to the consideration of bills and resolutions on the Calendar of business during the Morning Hour, see "Calendar," pp. 253-267, and "Morning Hour," pp. 927-934.

A motion to take up a Senate resolution or bill which has been on the Calendar for one legislative day is in order at any time after the conclusion of the morning business or 1 hour after convening a new legislative day, except on Mondays,<sup>11</sup> as far as the requirements under Rule XVII, paragraph 4(a), are concerned, but the requirements set forth in Rule XVII, paragraph 5, must also be complied with. For details, see "Reports Lie Over Two Days Before Consideration," pp. 677-678. See also, "Calendar," pp. 253-267, and "Morning Hour," pp. 927-934.

The Presiding Officer, upon objection, has no authority to lay before the Senate, as coming over from a preceding day, a resolution previously reported and placed on the Calendar.<sup>12</sup>

The consideration of a bill taken up during the Morning Hour would stop 2 hours after the Senate convenes to give way to the unfinished business at that hour; <sup>13</sup> on motion, it could be continued, or if there is no unfinished business, and it were not brought up during a call of the Calendar over an objection,<sup>14</sup> it would be continued beyond 2 hours unless action was taken to bring up some other measure.<sup>15</sup> The consideration of any measure taken up on motion over an objection, during a call of the Calendar under Rule VIII, would be terminated at the close of the Morning Hour, although there is no unfinished business; a further motion would be in order at that time to proceed to the consideration of the said measure and, thereby continue its consideration. See "Motions to Consider Specific Bills," pp. 261-262.

While a matter, or unfinished business, is pending before the Senate, a motion to proceed to the consider-

<sup>10</sup> June 25, 1935, 74-1, *Record*, p. 10071.

<sup>11</sup> Mar. 11, 1916, 64-1, *Record*, p. 3941; Rule VII; Feb. 28, 1913, 62-3, *Record*, p. 4258; Apr. 24, 1918, 65-2, *Record*, pp. 5546-47; Apr. 28, 1928, 70-1, *Record*, p. 7371; Feb. 25, 1927, 69-2, *Journal*, p. 234, *Record*, p. 4820; Dec. 12, 1894, 53-3, *Record*, p. 240; Mar. 2, 1901, 56-2, *Record*, p. 3419; Feb. 20, 1885, 48-2, *Record*, p. 1932.

<sup>12</sup> Mar. 11, 1916, 64-1, *Record*, p. 3941.

<sup>13</sup> Mar. 21, 1914, 63-2, *Record*, p. 5219; see Feb. 26, 1927, 69-2, *Record*, p. 4901; July 17, 1912, 62-2, *Record*, p. 9166; Apr. 28, 1914, 63-2, *Record*, p. 7357.

<sup>14</sup> See "Motions to Consider Specific Bills," pp. 261-262.

<sup>15</sup> See June 25, 1914, 63-2, *Record*, p. 11099.

ation of another matter on the Calendar, including a Senate resolution, is in order.<sup>16</sup>

If a motion to take up a bill is rejected, a Senator obtaining the floor may move to take up another bill,<sup>17</sup> or the same bill after intervening business.<sup>18</sup>

Following action on a motion to proceed to the consideration of a matter, a motion to take up another matter is in order whether the prior motion was agreed to or rejected.<sup>19</sup>

A motion for an executive session, if defeated (when made 1 hour after convening on a new legislative day except Mondays), may be followed by a motion to take up any bill on the Calendar.<sup>20</sup>

The status of a motion for the consideration of a House bill on the Calendar is not changed by an order for an executive session.<sup>21</sup>

Under Rule XVII, paragraph 4(a), all measures must have been on the Calendar for one legislative day before it is in order for them to be brought up on motion, but Rule XVII, paragraph 5, places additional requirements that reports must lie over for 2 calendar days. See "Reports Lie Over Two Days Before Consideration," pp. 677-678. They may be brought up without objection or by unanimous consent. See also "Calendar Bills and Resolutions Eligible for Consideration on Motion," pp. 662-663; "Lie Over Before Consideration," p. 671; and "Lie Over One Day, Reports Required To," pp. 1186-1188.

Unanimous consent for the consideration of a matter may be asked for under the rules,<sup>22</sup> and having been given, an objection subsequently made to its consideration is not in order if there is no unfinished business to come down,<sup>23</sup> even if taken up by unanimous consent in the Morning Hour;<sup>24</sup> a motion to take up another bill pending its consideration, however, would be in order<sup>25</sup> if the

<sup>16</sup> Feb. 25, 1927, 69-2, *Journal*, p. 234, *Record*, pp. 4820-21.

<sup>17</sup> See Feb. 27, 1952, 82-2, *Record*, p. 1538.

<sup>18</sup> Mar. 21, 1914, 63-2, *Record*, pp. 5216-17.

<sup>19</sup> Apr. 17, 1950, 81-2, *Record*, p. 5284.

<sup>20</sup> See Feb. 1, 1945, 79-1, *Record*, p. 678.

<sup>21</sup> Aug. 24, 1912, 62-2, *Record*, p. 11798.

<sup>22</sup> Feb. 19, 1947, 80-1, *Record*, p. 1176.

<sup>23</sup> June 22, 1940, 76-3, *Record*, p. 8991; Apr. 22, 1926, 69-1, *Journal*, p. 343; *Record*, p. 7974; Feb. 1, 1924, 68-1, *Journal*, p. 132, *Record*, pp. 1806, 1810-11; June 24, 1886, 49-1, *Record*, p. 6069; Apr. 14, 1886, 49-1, *Record*, p. 3465; see Mar. 3, 1909, 60-2, *Record*, p. 3742.

<sup>24</sup> Mar. 17, 1916, 64-1, *Record*, pp. 4272, 4274, 4278.

<sup>25</sup> Dec. 12, 1928, 70-2, *Journal*, p. 53.

agreement did not exclude the consideration of any other bill.

### **Bills Before a Committee, Consideration of:**

*See* "Business Pending Before Committee," p. 661.

### **Bills Taken Up on Motion Before Expiration of Two Hours:**

Bills brought up on motion during the Morning Hour may be continued beyond that hour on motion even if there is unfinished business. *See* "Displacement of Pending or Unfinished Business," pp. 664-669, and "Morning Hour," pp. 927-934.

### **Business on Calendar Brought Up on Motion:**

*See* below "Calendar Bills and Resolutions Eligible for Consideration on Motion," pp. 662-663.

### **Business Pending Before Committee:**

*See also* "Discharge of Committees," pp. 802-806.

A motion to proceed to the consideration of a bill which is pending before a committee,<sup>26</sup> or to the consideration of a nomination before a committee<sup>27</sup> is not in order unless the committee is first discharged from its consideration.

A motion in executive session that, when a nomination under consideration was disposed of, the Senate proceed to the consideration of a resolution relating to membership in the World Court, then pending before a committee, was held not to be in order on the ground that such a motion was in the nature of a special order and, further, that the resolution was before the Committee on Foreign Relations.<sup>28</sup>

On one occasion, by unanimous consent, a resolution pending before a committee was modified by the Senate.<sup>29</sup>

<sup>26</sup> May 29, 1924, 68-1, *Record*, pp. 9866-67; Aug. 10, 1962, 87-2, *Record*, p. 16123.

<sup>27</sup> May 16, 1935, 74-1, *Record*, pp. 7684-685.

<sup>28</sup> Mar. 10, 1925, 69-Special Session of Senate, *Record*, p. 92.

<sup>29</sup> Nov. 19, 1941, 77-1, *Record*, pp. 8999-9000.

### Calendar Bills and Resolutions Eligible for Consideration on Motion:

*See also* "House Bills or Joint Resolutions," p. 670.

Bills and resolutions which have been on the Calendar for one legislative day and which comply with the provisions of Rule XVII, paragraph 5, as to reports being available for 2 calendar days may be brought up on motion. *See* "Reports Lie Over Before Consideration," pp. 677-678; *see also* "Calendar," pp. 253-267, and references for "Lie Over Before Consideration," p. 671; and "Lie Over One Day, Reports Required To," pp. 1186-1188.

A motion to proceed to the consideration of a bill, resolution, or report, on the same legislative day that it is reported is not in order; it must lie over one legislative day, on objection, as distinguished from a calendar day.<sup>30</sup>

The same is true in the case of a bill reported after it was recommitted with instructions.<sup>31</sup>

The consideration of a bill is not in order on the same day on which it is read a second time,<sup>32</sup> except by unanimous consent.

Bills or resolutions reported during a recess, pursuant to an order may be taken up for consideration on the next legislative day following the recess<sup>33</sup> if they have complied with the additional requirements set forth in Rule XVII, paragraph 5, relative to reports lying over 2 calendar days. *See* "Reports Lie Over Two Days Before Consideration," pp. 677-678.

A bill which was reported under a unanimous consent agreement during an adjournment of several days has satisfied the 1-day requirement of Rule XVII, paragraph 4(a), as soon as the Senate reconvenes.<sup>34</sup>

A bill considered by unanimous consent in the Morning Hour of the day it is reported, and then temporarily laid aside by unanimous consent, cannot thereafter on the same day be taken up on motion over an objection.<sup>35</sup>

<sup>30</sup> Mar. 2, 1927, 69-2, *Record*, p. 5349; Mar. 3, 1927, 69-2, *Journal* p. 274, *Record*, p. 5573; Dec. 10, 1941, 77-1, *Record*, pp. 9601-05; Apr. 30, 1948, 80-2, *Record*, p. 5090; Mar. 4, 1927, 69-2, *Journal*, pp. 277, 282, *Record*, pp. 5885, 5919; Feb. 28, 1921, 66-3, *Journal*, p. 150, *Record*, p. 4064; Feb. 14, 1913, 62-3, *Record*, p. 3148; Aug. 6, 1912, 62-2, *Record*, pp. 10260-61; *see also* Apr. 28, 1928, 70-1, *Record*, p. 7369; July 3, 1952, 82-2, *Record*, p. 9122; Sept. 5, 1959, 86-1, *Record*, p. 18262.

<sup>31</sup> Oct. 4, 1949, 81-1, *Record*, pp. 13791-92.

<sup>32</sup> Nov. 2, 1893, 53-1, *Record*, p. 3075.

<sup>33</sup> June 25, 1942, 77-2, *Record*, pp. 5535-36.

<sup>34</sup> *See* July 10, 1985, 99-1, *Record*, p. 18326.

<sup>35</sup> May 23, 1917, 65-1, *Record*, pp. 2784, 2793.



Where a bill is reported and considered on the same day by motion, an objection subsequently interposed to such consideration and requesting that the bill lie over a day is not in order as having been made too late.<sup>36</sup>

A measure can be taken up by unanimous consent on the day it is reported.<sup>37</sup>

Matters which must lie over a legislative day before consideration are not affected by a recess and are subject to a point of order against their consideration until the Senate adjourns instead of recessing even though it may have recessed over many calendar days.<sup>38</sup>

### **Committees—Bills Before, Not Open to Consideration on Motion:**

*See* "Business Pending Before Committee," p. 661.

### **Communications and Messages, Consideration of:**

*See* "Communications and Messages to the Senate," pp. 430-441.

### **Concurrent Resolutions, Consideration of:**

*See* "Concurrent Resolutions," pp. 442-448.

### **Conference Reports, Consideration of:**

*See* "Conferences and Conference Reports," pp. 449-493.

### **Consideration of Business During Morning Hours:**

*For details and conditions of considering business during Morning Hour, see* "Calendar," pp. 253-267; "Morning Business," pp. 918-926; "Morning Hour," pp. 927-934.

### **Contested Election Cases, Consideration of:**

*See* "Credentials and Oath of Office," pp. 695-710.

### **Debate of Motion To Consider:**

*See* "Consideration of Bills or Resolutions, Debate of," p. 733.

<sup>36</sup> Mar. 2, 1901, 56-2, *Record*, p. 3392.

<sup>37</sup> Dec. 10, 1941, 77-1, *Record*, pp. 9601-05; Apr. 30, 1948, 80-2, *Record*, p. 5090.

<sup>38</sup> Mar. 3 and 4, 1927, 69-2, *Journal*, pp. 274, 277, 282, *Record*, pp. 5573, 5885, 5918; Dec. 10, 1941, 77-1, *Record*, pp. 9601-05; Apr. 30, 1948, 80-2, *Record*, p. 5090; Feb. 28, 1921, 66-3, *Journal*, p. 150, *Record*, p. 4064; Feb. 28, 1921, 66-3, *Record*, pp. 4243-44; *see also* Apr. 5, 1938, 75-3, *Journal*, p. 275, *Record*, pp. 4709-10.

A motion to proceed to the consideration of a House bill made outside the Morning Hour is debatable.<sup>39</sup>

A motion to proceed made in the Morning Hour is non-debatable and if agreed to outside of the Morning Hour, displaces the unfinished business.<sup>40</sup>

A motion made during the Morning Hour to proceed to the consideration of a bill, but not acted upon, does not become debatable after the Morning Hour.<sup>41</sup>

### Dilatory Motions, Consideration of:

See "Dilatory Motions," pp. 800-801.

### Displacement of Pending or Unfinished Business:

See also "Privileged Business," pp. 1034-1037; "Amendment to," pp. 1371-1372; "Unfinished Business," pp. 1370-1380.

While one measure, including a treaty, if in executive session,<sup>42</sup> or unfinished business, even if privileged and brought up on motion,<sup>43</sup> is pending before the Senate, a motion to take up a non-privileged measure,<sup>44</sup> including a treaty (if in executive session), resolution, or joint resolution<sup>45</sup> is in order at any time,<sup>46</sup> and if made and agreed to after the close of the Morning Hour, the pending or unfinished business would be displaced,<sup>47</sup> and goes (back

<sup>39</sup> See Nov. 23, 1985, 99-1, *Record*, p. 33363.

<sup>40</sup> Sept. 11, 1987, 100-1, *Record*, pp. S 11991-93.

<sup>41</sup> Apr. 22, 1940, 76-3, *Record*, pp. 4829-31, 4835; Mar. 3, 1923, 67-4, *Record*, p. 5274; Mar. 3, 1923, 67-4, *Record*, pp. 5273-74; see also Nov. 13, 1942, 77-2, *Record*, p. 8814; Oct. 12, 1943, 78-1, *Record*, pp. 8246-47; decision to the contrary found at Mar. 23, 1939, 76-1, *Record*, pp. 3161-65.

<sup>42</sup> Mar. 19 and 23, 1945, 79-1, *Record*, pp. 2107, 2652.

<sup>43</sup> Jan. 6, 1932, 72-1, *Journal*, p. 126; see Dec. 5, 1929, 71-2, *Journal*, p. 26, *Record*, p. 128.

<sup>44</sup> Jan. 6, 1932, 72-1, *Journal*, p. 126; June 19, 1941, 77-1, *Record*, p. 5326; Mar. 11, 1940, 76-3, *Record*, pp. 2630-31; Mar. 3, 1903, 57-2, *Record*, p. 2964; see also Nov. 27, 1950, 81-2, *Record*, p. 15778; Nov. 28, 1950, 81-2, *Record*, p. 15919; Dec. 4, 1950, 81-2, *Record*, p. 16045; Jan. 25 and 26, 1921, 66-3, *Record*, pp. 2005, 2054.

<sup>45</sup> See May 3, 1951, 82-1, *Record*, p. 4769; Mar. 29 and 23, 1945, 79-1, *Record*, pp. 2107, 2652; Jan. 21, 1887, 49-2, *Record*, p. 878.

<sup>46</sup> Jan. 6, 1932, 72-1, *Journal*, p. 126; June 19, 1941, 77-1, *Record*, p. 5326; June 3, 1924, 68-1, *Journal*, p. 418; Apr. 17, 1950, 81-2, *Record*, p. 5284; Mar. 11, 1940, 76-3, *Record*, pp. 2630-31; June 3, 1924, 68-1, *Record*, p. 10291; Jan. 26, 1921, 66-3, *Record*, p. 2054; Mar. 2, 1917, 64-2, *Record*, p. 4744; Mar. 3, 1903, 57-2, *Record*, p. 2964; Feb. 20, 1895, 53-3, *Record*, p. 2429; Feb. 7, 1895, 53-3, *Record*, p. 1887; see also July 11, 1939, 76-1, *Record*, p. 8812; Jan. 25 and 26, 1921, 66-3, *Record*, pp. 2005, 2055.

<sup>47</sup> *Ibid.*; Dec. 4, 1950, 81-2, *Record*, p. 16045; Nov. 28, 1950, 81-2, *Record*, p. 15919; Nov. 27, 1950, 81-2, *Record*, p. 15778; Feb. 4, 1938, 75-3, *Record*, p. 1499; Mar. 27, 1936, 74-1, *Record*, p. 4491; see also June 21, 1962, 87-2, *Record*, p. 11274; Aug. 22, 1958, 85-2, *Record*, pp. 19162-63; May 22, 1956, 84-2, *Record*, pp. 8819-20; May 14, 1956, 84-2, *Record*, p. 8071; Aug. 3, 1939, 76-1, *Record*, p. 10932; May 15, 1944, 78-1, *Record*, pp. 4476-79; Feb. 5, 1948, 80-2, *Record*, p. 1145; Dec. 3, 1945, 79-1, *Record*, pp. 11303-04; Nov. 27, 1950, 81-2, *Record*, pp. 15778-79; Apr. 14, 1948, 80-2, *Record*, p. 4410; July 31,

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to the Calendar and loses its place as unfinished business.<sup>48</sup>

When the unfinished business is laid before the Senate at the close of the Morning Hour, it will be displaced if a motion to take up another matter is adopted.<sup>49</sup>

A privileged motion (pursuant to section 904(b) of the Budget Act of 1974) would be displaced by the adoption of a motion to proceed to the consideration of either a privileged or non-privileged matter.<sup>50</sup>

The unfinished business of the Senate cannot be displaced except by a majority vote of the Senate,<sup>51</sup> and an objection to a motion to consider a bill, even though unfinished business is pending, is not in order.<sup>52</sup>

A motion to proceed to a matter made in the Morning Hour but agreed to outside of the Morning Hour, displaces the unfinished business.<sup>53</sup>

In executive session, the same procedure applies, and a motion to take up a nomination would thereby displace a pending treaty.<sup>54</sup>

While any pending privileged matter may be displaced by agreement to a motion to take up a non-privileged matter,<sup>55</sup> consideration of a privileged matter would merely suspend consideration of the pending non-privileged matter, and not affect its parliamentary status.<sup>56</sup>

A privileged matter under consideration in the Senate may be displaced by another privileged matter by a majority vote.<sup>57</sup>

1946, 79-2, *Record*, p. 10553; Dec. 11, 1919, 66-2, *Record*, pp. 396-97; July 5, 1916, 64-1, *Record*, p. 10424; June 3, 1924, 68-1, *Record*, p. 10291; Feb. 20, 1885, 48-2, *Record*, p. 1935; Aug. 21, 1912, 62-2, *Record*, pp. 11466, 11468-69; Jan. 19, 1915, 63-3, *Record*, p. 1815, Mar. 7, 1894, 53-2, *Record*, p. 2673; Jan. 21, 1887, 49-2, *Record*, p. 878; May 29, 1928, 70-1, *Journal*, p. 565, *Record*, p. 10463; Feb. 3, 1911, 61-3, *Record*, p. 1898; June 19, 1884, 48-1, *Record*, p. 5332; Dec. 2, 1896, 51-2, *Record*, p. 18; May 27, 1949, 81-1, *Record*, p. 6962; Aug. 22, 1893, 52-1, *Record*, p. 604; Aug. 22, 25, and 31, 1893, 52-1, *Record*, pp. 604, 878, 992, 1102.

<sup>48</sup> Feb. 24, 1914, 63-2, *Record*, pp. 3829-30; see June 21, 1962, 87-2, *Record*, p. 11274.

<sup>49</sup> See Mar. 24, 1960, 86-2, *Record*, pp. 6469-71.

<sup>50</sup> Dec. 9, 1982, 97-2, *Record*, pp. 29550-51.

<sup>51</sup> Dec. 17, 1919, 66-2, *Journal*, p. 32, *Record*, pp. 734-35.

<sup>52</sup> See Aug. 22, 1958, 85-2, *Record*, pp. 19162-63.

<sup>53</sup> Sept. 15, 1987, 100-1, *Record*, p. S 12070-71.

<sup>54</sup> Mar. 19, 1945, 79-1, *Record*, p. 2107; see also Mar. 13, 1945, 79-1, *Record*, p. 2107; Mar. 16, 1945, 79-1, *Record*, pp. 2348-49.

<sup>55</sup> Jan. 6, 1932, 72-1, *Journal*, p. 126.

<sup>56</sup> See June 11, 1929, 71-1, *Journal*, p. 107, *Record*, pp. 2666-67; Dec. 13, 1945, 79-1, *Record*, pp. 11939-40.

<sup>57</sup> May 12, 1981, 97-1, *Record*, p. 9455; Dec. 5, 1929, 71-2, *Journal*, p. 26, *Record*, p. 128.

Likewise, a subsequent motion to proceed again to the consideration of recently displaced business would be in order.<sup>58</sup>

A motion to proceed to the consideration of a bill is not displaced by an executive session or the transaction of privileged business or business by unanimous consent.<sup>59</sup>

A bill on which a cloture motion has been presented will be displaced by the adoption of a motion to proceed to the consideration of another bill,<sup>60</sup> but will come back for a vote on the cloture motion at the proper time under the rule.

A motion to proceed to the consideration of a bill upon which a cloture motion is presented and is then temporarily laid aside by unanimous consent for the consideration of a general appropriation bill will be held, where the cloture motion was rejected, to be again laid aside and the appropriation bill regarded as the pending business.<sup>61</sup>

Where the Senate, under a unanimous consent order, proceeds to the consideration of a matter at a specified time, and there is no provision for a final vote, a motion during the consideration of such matter to proceed to the consideration of a different matter is in order and not in violation of such agreement.<sup>62</sup>

The unfinished business is not displaced by a bill taken up in the Morning Hour,<sup>63</sup> but is automatically laid before the Senate at the expiration of the Morning Hour.<sup>64</sup>

Legislative business, including the unfinished business or a bill taken up on motion, is not displaced, but merely suspended for the duration of an executive session.<sup>65</sup> The status of proposed legislation is not changed by an executive session.<sup>66</sup>

The unfinished business is not displaced by an executive session which continues beyond the Morning Hour and its status is in no way disturbed; a majority of the

<sup>58</sup> See July 26, 1937, 75-1, *Record*, p. 7585; Feb. 20, 1885, 48-2, *Record*, p. 1935.

<sup>59</sup> Feb. 28 and Mar. 2, 1925, 68-2, *Journal*, pp. 269-70, *Record*, pp. 5010, 5090-92, 5112.

<sup>60</sup> See Feb. 26, 1927, 69-2, *Record*, p. 4901.

<sup>61</sup> See July 10, 1950, 81-2, *Record*, pp. 9982, 10003.

<sup>62</sup> Dec. 20, 1928, 70-2, *Journal*, p. 53, *Record*, pp. 915-16.

<sup>63</sup> Mar. 21, 1914, 63-2, *Record*, p. 5219; see also Feb. 18, 1909, 60-2, *Record*, p. 2615; July 17, 1912, 62-2, *Record*, p. 9166; June 6, 1930, 71-2, *Record*, p. 10172.

<sup>64</sup> Mar. 21, 1914, 63-2, *Record*, p. 5219; May 12, 1953, 83-1, *Record*, p. 4770-71; see also July 17, 1912, 62-2, *Record*, p. 9166.

<sup>65</sup> See Dec. 9, 1926, 69-2, *Record*, p. 124; Dec. 13, 1921, 67-2, *Record*, p. 300; Feb. 23, 1960, 86-2, *Record*, p. 3191.

<sup>66</sup> *Ibid.*

Senate, on motion, may return to legislative session at that hour, or any time thereafter, and the consideration of the unfinished business is resumed.<sup>67</sup>

The consideration of a bill in the Morning Hour, which is interrupted by an executive session, is resumed when the Senate returns to legislative session prior to the expiration of 2 hours after the Senate convenes.<sup>68</sup>

The pending bill is not displaced by the entering of a motion to reconsider or by the accompanying motion requesting the House to return the bill to the Senate,<sup>69</sup> but would be by agreeing to a motion to consider the motion to reconsider.<sup>70</sup>

The parliamentary status of the unfinished or pending business brought up on motion is not changed nor is it displaced by taking up for consideration by unanimous consent a joint resolution,<sup>71</sup> a bill,<sup>72</sup> or other matters,<sup>73</sup> and it is not necessary in such cases to make a specific request that the unfinished business be temporarily laid aside.<sup>74</sup>

The unfinished business is not displaced by offering a motion, made on the previous day to take up another bill, which was unacted upon at the time of the adjournment of the Senate.<sup>75</sup>

Where a unanimous consent agreement has been entered into, to vote on a specified day on the passage of the pending or unfinished business, that business may then be displaced by taking up another bill in the meantime on motion,<sup>76</sup> which motion is in order;<sup>77</sup> such action does not nullify the agreement,<sup>78</sup> and the said measure will be laid before the Senate again for a vote at the hour fixed in the agreement.<sup>79</sup> The pending or unfinished business on

<sup>67</sup> See Jan. 19, 1903, 57-2, *Record*, p. 947.

<sup>68</sup> Dec. 22, 1914, 63-3, *Record*, p. 491.

<sup>69</sup> July 23, 1917, 65-1, *Record*, p. 5381; see chapter on "Reconsideration," footnote 62.

<sup>70</sup> See Mar. 2, 1954, 83-2, *Record*, p. 2460.

<sup>71</sup> Apr. 27, 1914, 63-2, *Record*, p. 7307.

<sup>72</sup> Mar. 5 and 6, 1924, 68-1, *Journal*, pp. 189, 191, *Record*, pp. 3622, 3674.

<sup>73</sup> See Dec. 21, 1914, 63-3, *Record*, pp. 440-41; Aug. 12, 1949, 81-1, *Record*, p. 11363; Mar. 30, 1939, 76-1, *Record*, p. 3529; Apr. 27, 1942, 77-2, *Record*, p. 3704; Apr. 25, 1945, 79-1, *Record*, p. 3768; Jan. 10, 1927, 69-2, *Record*, p. 1343.

<sup>74</sup> See Jan. 10, 1927, 69-2, *Record*, p. 1343.

<sup>75</sup> Jan. 25, 1921, 66-3, *Record*, p. 2005.

<sup>76</sup> See May 27, 1924, 68-1, *Record*, pp. 9602-03; Feb. 20, 1950, 81-2, *Record*, p. 1944.

<sup>77</sup> July 5, 1921, 67-1, *Journal*, p. 181, *Record*, pp. 3348-51; see Jan. 13, 1923, 70-1, *Record*, p. 1441.

<sup>78</sup> Dec. 16, 1924, 68-2, *Journal*, p. 39, *Record*, p. 646.

<sup>79</sup> See Feb. 25, 1948, 80-2, *Record*, p. 1693; May 25, 1911, 62-1, *Record*, pp. 1592-93; Jan. 13, 1928, 70-1, *Record*, p. 1441; Feb. 17, 1925, 68-2, *Record*, pp. 3938-39; Feb. 20, 1950, 81-2, *Record*, p. 1944; Apr. 16, 1926, 69-1, *Record*, p. 7570; May 27, 1924, 68-1,

which such an agreement has been reached does not lose its status nor is it permanently displaced if laid aside by unanimous consent to take up another matter.<sup>80</sup>

Likewise, the consideration of the unfinished business, when interrupted by the arrival of the hour previously fixed under a unanimous consent agreement for a vote on the final passage of another bill, will automatically be resumed after such vote has been taken.<sup>81</sup>

A unanimous consent agreement fixing a day for a final vote on a measure, which is the unfinished business, does not affect its status as such.<sup>82</sup>

Unfinished business or pending business brought up on motion but temporarily laid aside by unanimous consent, or if temporarily laid aside by unanimous consent and again laid before the Senate upon demand for the regular order, would be displaced by another bill or resolution taken up on motion;<sup>83</sup> and if the latter is under consideration at adjournment, it becomes the unfinished business.<sup>84</sup>

A measure whose status as pending business remained unchanged when the Senate adjourned the previous day while in a period for the transaction of morning business, was displaced and returned to the Calendar, when the Senate agreed to a motion made at the end of the Morning Hour to proceed to another measure.<sup>85</sup>

The unfinished or pending business, when temporarily laid aside by unanimous consent to consider another matter, is not displaced, and will be brought back before the Senate for further consideration automatically upon a demand for the regular order or on objection to the further consideration<sup>86</sup> of the latter, and the latter on one

*Record*, pp. 9602-03; Feb. 2, 1927, 69-2, *Record*, p. 2774; Feb. 5, 1948, 80-2, *Record*, p. 1145.

<sup>80</sup> Mar. 5 and 6, 1924, 68-1, *Journal*, pp. 189, 191, *Record*, pp. 3622, 3674.

<sup>81</sup> See July 20, 1921, 67-1, *Record*, p. 4116.

<sup>82</sup> See May 25, 1911, 62-1, *Record*, pp. 1592-93.

<sup>83</sup> Aug. 21, 1912, 62-2, *Record*, pp. 11468-70; see July 16, 1912, 62-2, *Record*, p. 9119; Mar. 21, 1914, 63-2, *Record*, p. 5223; Feb. 14, 1929, 70-2, *Record*, p. 3436; Sept. 26, 1961, 87-1, *Record*, p. 21239.

<sup>84</sup> See Mar. 21, 1914, 63-2, *Record*, p. 5223.

<sup>85</sup> Sept. 26, 1988, 100-2, *Record*, p. S 13239.

<sup>86</sup> Sept. 9, 1986, 99-2, *Record*, p. 22444; Apr. 19, 1950, 81-2, *Record*, pp. 5379-80; June 17, 1949, 81-1, *Record*, p. 7864; Mar. 12, 1943, 78-1, *Record*, pp. 1915-16; Dec. 10, 1941, 77-1, *Record*, p. 9606; May 9, 1938, 75-3, *Record*, p. 6463; Apr. 7, 1933, 73-1, *Record*, p. 1381; Jan. 6, 1932, 72-1, *Journal*, p. 126; Feb. 7, 1925, 68-2, *Journal*, p. 165; Feb. 9, 1925, 68-2, *Record*, p. 3279; Aug. 10, 1921, 67-1, *Record*, p. 4820; Feb. 17, 1917, 64-2, *Record*, p. 3479; see also Dec. 17, 1945, 79-1, *Record*, pp. 12136-37, 12142-43; May 27, 1948, 80-2, *Record*, pp. 6552, 6560; May 9, 1949, 81-1, *Record*, p. 5887; May 17, 1949, 81-1, *Record*, p. 2647-6309; May 11, and 12, 1938, 75-3, *Record*, p. 6724; Mar. 11, 1940, 76-3, *Record*, p. 2647-

occasion went back to the Calendar.<sup>87</sup> The same procedure applies in the case of a treaty.<sup>88</sup>

When a bill is brought up under unanimous consent and there is unfinished business, a call for the regular order at any time after that unfinished business would have properly come down will bring the unfinished business back before the Senate, and the bill brought up under unanimous consent would go back to the Calendar, unless a unanimous consent request is made and granted that the unfinished business not come down until after the bill brought up under unanimous consent is disposed of.<sup>89</sup>

The unfinished or pending business brought up on motion and temporarily laid aside by unanimous consent to consider another matter automatically comes back before the Senate when action on the latter pursuant to the agreement has been disposed of or concluded.<sup>90</sup> Likewise when such business is temporarily put aside to take up another matter by unanimous consent, which is pending when a recess is taken, will be the business before the Senate when it reconvenes.<sup>91</sup>

The unfinished business, which has been temporarily laid aside by unanimous consent for the consideration of another measure, which is also subsequently laid aside, does not lose its status as the unfinished business<sup>92</sup> nor is its status changed by an adjournment taken in the absence of a quorum while considering another matter brought up by unanimous consent.<sup>93</sup>

Under a unanimous consent agreement to consider unobjected-to bills on the Calendar, followed by a call of the Calendar under Rule VIII, the unfinished business will not be displaced by a bill taken up on motion over an objection.<sup>94</sup>

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48; Feb. 14, 1911, 61-3, *Record*, pp. 2502-03; Mar. 25, 1884, 48-1, *Record*, p. 2241; July 26, 1937, 75-1, *Record*, p. 7585; Apr. 25, 1953, 83-1, *Record*, p. 3874; Dec. 18, 1944, 78-2, *Record*, p. 9629.

<sup>87</sup> Mar. 21, 1932, 72-1, *Journal*, p. 343, *Record*, pp. 6544-49.

<sup>88</sup> See Mar. 19 and 23, 1945, 79-1, *Record*, pp. 2107, 2652.

<sup>89</sup> April 9, 1979, 96-1, *Record*, p. 7638.

<sup>90</sup> May 16, 1888, 50-1, *Record*, p. 4216; see also Mar. 11, 1940, 76-3, *Record*, p. 2641; May 28, 1928, 70-1, *Record*, p. 10257.

<sup>91</sup> See Feb. 9, 1925, 68-2, *Record*, p. 3279.

<sup>92</sup> Apr. 24 and 25, 1916, 64-1, *Journal*, p. 316, *Record*, pp. 6698, 6785-86.

<sup>93</sup> See Dec. 16, 1920, 66-3, *Record*, p. 424.

<sup>94</sup> See Apr. 2, 1926, 69-1, *Record*, p. 6779.

**Executive Business, Consideration of:**

*See also* "Executive Business and Executive Sessions," pp. 832-842.

The submittal of a resolution dealing with executive business is not in order in legislative session.<sup>95</sup>

**Executive Session, To Consider Executive Business:**

*See also* "Displacement of Pending or Unfinished Business," pp. 664-669; "Executive Business and Executive Sessions," pp. 832-842; "Nominations," pp. 938-953; "Privileged Business," pp. 1034-1037; "Treaties," pp. 1294-1310.

An executive session suspends the legislative business and has no effect on it except to stay action thereon until the Senate returns to legislative session.<sup>96</sup>

**House Amendments, Consideration of, Privileged:**

*See* "Amendments Between Houses," pp. 126-143; "Communications and Messages to the Senate," pp. 430-441; "Privileged Business," pp. 1034-1037.

**House Bills or Joint Resolutions:**

*See also* "Calendar Bills, etc.," pp. 662-663.

Unanimous consent is required for the consideration of a bill on the same day it is received from the House of Representatives.<sup>97</sup>

It takes unanimous consent to proceed to the immediate consideration of a House joint resolution messaged to the Senate; otherwise the bill would have to be read twice and referred or placed on the Calendar under the procedure set forth in Rule XIV, paragraph 4.<sup>98</sup>

**Investigatory Resolutions, Consideration of:**

*See* "Investigations and Inquiries," pp. 881-890.

<sup>95</sup> Jan. 21, 1884, 48-1, *Journal*, p. 195, *Record*, p. 519.

<sup>96</sup> Dec. 9, 1926, 69-2, *Record*, p. 124.

<sup>97</sup> *See* June 23, 1962, 87-2, *Record*, p. 11494.

<sup>98</sup> Nov. 6, 1969, 91-1, *Record*, pp. 33397, 33579, 33584.



**Lay Aside Business Temporarily, Motion To:**

To lay aside temporarily the pending or unfinished business on motion is not in order but the adoption of a motion to consider another bill would displace the said business. *See* "Lay Aside Temporarily," pp. 902-904; "Motions for Consideration, Out of Order," pp. 672-673.

**Legislative Business Not Affected by Executive Session:**

*See* "Executive Business and Executive Sessions," pp. 832-842.

**Lie on Table, Bills Ordered To—Consideration of:**

*See* "Lie on Table," pp. 910-911.

**Lie Over Before Consideration:**

*See also* "Calendar," pp. 253-267; "Over Under the Rule," pp. 957-967; "Reports," pp. 1176-1201.

A motion to proceed to the consideration of a bill, resolution, or report on the same legislative day that it is reported is not in order.<sup>99</sup> *See* "Calendar Bills and Resolutions Eligible for Consideration on Motion," pp. 662-663. Reports of committees are required to lie over 2 calendar days before consideration of the bill or measure which they accompany with certain exceptions. *See* "Reports Lie Over Two Days Before Consideration," pp. 677-678; and "Lie Over One Day, Reports Required To," pp. 1186-1188.

Privileged business may be considered when submitted without having to lie over one legislative day. *See* "Privileged Business," pp. 1034-1037; and the consideration of privileged business does not displace the pending or unfinished, business, but suspends its consideration. *See also* "Displacement of Pending or Unfinished Business," pp. 664-669.

**Morning Business, Consideration of:**

*See* "Morning Business," pp. 918-926.

<sup>99</sup> Feb. 22, 1983, 98-1, *Record* p. 2694.

### **Morning Hour, Consideration of Business During:**

*See also* "Morning Hour," pp. 927-934; "Consideration of Rules Change," p. 1220.

A motion to proceed to the consideration of a bill in the Morning Hour is not debatable<sup>100</sup> except resolutions to amend the rules as provided in Rule VIII, paragraph 2; once the bill is before the Senate, it is debatable on its own merits.<sup>101</sup>

### **Motion—Consider Not Subject to Objection:**

A motion to proceed to the consideration of a bill is not subject to an objection as such.<sup>102</sup>

### **Motions for Consideration, Not Affected by Unanimous Consent Business:**

A motion to consider a bill will not be displaced by the transaction of business by unanimous consent.<sup>103</sup>

### **Motions for Consideration, Out of Order:**

While a motion to take up a matter is pending, a motion to proceed to the consideration of another bill is not in order;<sup>104</sup> and the Chair has so held without a point of order being made from the floor.<sup>105</sup>

A motion that the unfinished business not be proceeded with is not in order,<sup>106</sup> nor is a motion to take up House bills on the Calendar; but a motion to take up a specific House bill on the Calendar would be in order.<sup>107</sup>

The following motions have been held not to be in order:

<sup>100</sup> June 12, 1959, 86-1, *Record*, p. 10616; Apr. 13, 1961, 87-1, *Record*, p. 5750; Dec. 31, 1970, 91-2, *Record*, pp. 44409-10.

<sup>101</sup> *See* Dec. 31, 1970, 91-2, *Record*, pp. 44409-10.

<sup>102</sup> Aug. 2, 1958, 75-2, *Record*, p. 17747.

<sup>103</sup> *See* Mar. 15, 1962, 87-2, *Record*, pp. 4173, 4176.

<sup>104</sup> Jan. 5, 1927, 69-2, *Journal*, p. 63; Mar. 19, 1928, 70-1, *Journal*, p. 278; Aug. 19, 1935, 74-1, *Journal*, p. 657; June 10, 1938, 75-3, *Record*, p. 8739; June 16, 1938, 75-3, *Record*, pp. 9586-87; July 19, 1947, 80-1, *Record*, pp. 9350-51; Aug. 23, 1950, 81-2, *Record*, p. 13213; Dec. 15, 1950, 81-2, *Record*, p. 16634; Feb. 28, 1949, 81-1, *Record*, p. 1585; *see* July 25, 1947, 80-1, *Record*, p. 10128.

<sup>105</sup> June 10, 1938, 75-3, *Record*, p. 8739; July 24, 1947, 80-1, *Record*, p. 9982; Feb. 28, 1949, 81-1, *Record*, p. 1585.

<sup>106</sup> Mar. 17, 1948, 80-2, *Record*, pp. 2991-92; Apr. 19, 1950, 81-2, *Record*, pp. 5379-81; Mar. 11, 1940, 76-3, *Record*, pp. 2630-31; Sept. 29, 1917, 65-1, *Record*, p. 7515; Nov. 27, 1950, 81-2, *Record*, p. 15778.

<sup>107</sup> July 18, 1892, 52-1, *Record*, pp. 6334-36; Dec. 17, 1937, 75-2, *Record*, pp. 1767-68.

(1) to take up a bill without displacing the unfinished business, the consideration of the latter to be resumed upon the conclusion of the bill taken up;<sup>108</sup>

(2) to make a bill the unfinished business, while another bill is under consideration;<sup>109</sup>

(3) to proceed to the consideration of a bill which is pending before a committee;<sup>110</sup>

(4) to proceed to the consideration of a bill following the disposition of a bill pending before the Senate as unfinished business;<sup>111</sup> and

(5) a motion to consider another bill is not in order while a motion to lay on the table a motion to reconsider the vote by which another bill was passed is pending.<sup>112</sup>

A motion to lay aside, or lay aside temporarily the unfinished business or the pending business brought up on motion, for the purpose of taking up another bill, including an appropriation bill, is not in order; the motion must be positive; that is, to move to proceed to the consideration of another bill, which, if agreed to, would have the effect of displacing the pending measure or the unfinished business.<sup>113</sup> See also "Lay Aside Temporarily," pp. 902-904.

#### **Motion—Table, Postpone, or Adjourn Disposes of:**

A motion to consider a proposition or measure may be disposed of by tabling it, by postponing it, or by an adjournment before action thereon.<sup>114</sup>

#### **Nominations, Consideration of:**

See "Nominations," pp. 938-953.

#### **Notices of Consideration:**

A statement by a Senator that on a certain day he would ask the Senate to consider a joint resolution is to be

<sup>108</sup> Mar. 7, 1894, 53-2, *Record*, p. 2673.

<sup>109</sup> Jan. 18, 1922, 67-2, *Record*, p. 1224.

<sup>110</sup> May 29, 1924, 68-1, *Record*, pp. 9866-67.

<sup>111</sup> Feb. 25, 1927, 69-2, *Record*, p. 4759.

<sup>112</sup> See July 18, 1975, 94-1, *Record*, pp. 23591-95.

<sup>113</sup> Feb. 7, 1895, 53-3, *Record*, p. 1887; Apr. 19, 1950, 81-2, *Record*, pp. 5379-81; Mar. 11, 1940, 76-3, *Record*, pp. 2630-31; Mar. 19 and 23, 1945, 79-1, *Record*, pp. 2107, 2652; Jan. 26, 1921, 66-3, *Record*, p. 2054; Sept. 29, 1917, 65-1, *Record*, p. 7515; see also Nov. 27, 1950, 81-2, *Record*, pp. 15778-79; Jan. 25 and 26, 1921, 66-3, *Record*, pp. 2005, 2054.

<sup>114</sup> See Jan. 23, 1963, 88-1, *Record*, p. 856.

regarded as in the nature of a notice and not as an order of business of the Senate.<sup>115</sup>

A notice by a Senator that upon the conclusion of the unfinished business he would move to take up a certain bill should not be placed on the Calendar.<sup>116</sup>

### **Oath of Office, Administration of:**

*See* "Credentials and Oath of Office," pp. 695-710.

### **Out of Order:**

*See* "Motions for Consideration, Out of Order," pp. 672-673.

### **Over Under the Rule:**

*See* "Over Under the Rule," pp. 957-967.

### **Personal Privilege:**

*See* "Personal Privilege," pp. 984-985.

### **Point of Order as Dilatory:**

*See* "Dilatory Motions," pp. 800-801; "Cloture Procedure," pp. 282-334.

### **Postpone Motion To Consider:**

*See also* "Postpone, Motion To," pp. 997-1003.

It is not in order to postpone action on a bill when a motion to proceed to its consideration is pending,<sup>117</sup> but a motion to consider may be postponed.<sup>118</sup>

A motion or request to postpone a bill to a day certain does not change its status if adopted, and when again considered may be displaced by a majority vote.<sup>119</sup>

Where the consideration of a bill has been postponed to a day certain, a motion to take up such bill prior to the date indicated is not in order.<sup>120</sup>

While a debatable motion to proceed to the consideration of a measure (on which a cloture motion had been

<sup>115</sup> May 13, 1908, 60-1, *Record*, pp. 6175-80.

<sup>116</sup> Dec. 6, 1916, 64-2, *Record*, pp. 40-41.

<sup>117</sup> *See* July 20, 1945, 79-1, *Record*, p. 7853.

<sup>118</sup> *See* Jan. 23, 1963, 88-1, *Record*, p. 856.

<sup>119</sup> *See* Dec. 20, 1937, 75-2, *Record*, pp. 1932, 1934.

<sup>120</sup> *See* July 18, 1945, 79-1, *Record*, p. 7674.

filed) is pending, it is in order to move to postpone that motion to a date certain.<sup>121</sup>

### **Preamble to Bills and Resolutions, Consideration of:**

*See* "Preambles," pp. 1005-1007.

### **Precedence of Motions To Consider:**

A motion to consider during the Morning Hour, after the conclusion of the morning business, has precedence over a call of the Calendar under Rule VIII;<sup>122</sup> or during the consideration of a motion to recommit a pending bill, a motion to take up another takes precedence.<sup>123</sup>

A question of personal privilege is not in order pending action on a motion in the Morning Hour to proceed to the consideration of a matter.<sup>124</sup>

Pending a motion to proceed to the consideration of a bill, a motion that the Presiding Officer lay before the Senate a message received from the House of Representatives is in order and has priority over the former motion.<sup>125</sup>

### **Privileged Business, Consideration of:**

*See* "Privileged Business," pp. 1034-1037.

### **Quorum Call To Vote on Motion To Consider Not Required:**

*See also* "Quorum," pp. 1038-1078.

A quorum call is not required in the case of submission to the Senate of a unanimous consent agreement to fix a time to vote on a motion to proceed to the consideration of a joint resolution.<sup>126</sup>

### **Reading of Bill Before Consideration:**

*See* "Bills," pp. 225-250; "Reading of Bill," pp. 240-248.

<sup>121</sup> Dec. 10, 1982, 97-2, *Record*, p. 29938.

<sup>122</sup> Feb. 28, 1907, 59-2, *Record*, p. 4223; July 17, 1916, 64-1, *Record*, pp. 11151-52; Feb. 20, 1885, 48-2, *Record*, p. 1932.

<sup>123</sup> *See* Apr. 8, 1935, 74-1, *Record*, p. 5234.

<sup>124</sup> Feb. 12, 1927, 69-2, *Journal*, p. 170.

<sup>125</sup> May 21, 1896, 54-1, *Record*, p. 5516.

<sup>126</sup> July 5, 1918, 65-2, *Record*, p. 8690; Nov. 30, 1950, 81-2, *Record*, p. 15970.

**Recess—Effect on Motion To Consider:**

A motion to proceed to the consideration of a matter is not affected by a recess of the Senate, and, unless otherwise disposed of, continues as the pending question when the Senate reconvenes.<sup>127</sup>

**Recognition Before Offering Motion To Consider:**

*See also* "Recognition," pp. 1091-1105.

A Senator must have been recognized to make a motion to proceed to the consideration of a matter,<sup>128</sup> since a motion by a Senator who has not been recognized is not in order while another Senator has the floor and has not yielded for that purpose.<sup>129</sup>

A bill having been taken up on motion, the right to the floor of the Senator making the motion is exhausted, and a motion made immediately thereafter by a Senator who obtained recognition to proceed to the consideration of a different bill is in order.<sup>130</sup>

**Recommit, Consideration of:**

*See* "Recommit," pp. 1106-1123.

**Reconsider:**

*See also* "Reconsideration," pp. 1124-1149.

A bill pending before the Senate is displaced by the adoption of a motion to proceed to the consideration of a motion to reconsider;<sup>131</sup> but a pending bill is not displaced by entering a motion to reconsider.<sup>132</sup>

**Refer:**

*See also* "References to Committees," pp. 1150-1169.

A motion to refer a measure is not in order unless it is before the Senate for consideration.

<sup>127</sup> Apr. 8, 1935, 74-1, *Record*, p. 5245; *see also* June 21, 1952, 82-2, *Record*, pp. 7819-20; Apr. 26, 1935, 74-1, *Record*, p. 6448; Aug. 11, 1937, 75-1, *Record*, pp. 8695-96; Apr. 26, 1935, 74-1, *Record*, p. 6468; Feb. 28, 1925, 68-2, *Record*, p. 5010.

<sup>128</sup> Apr. 15, 1893, 53-Special Session, *Record*, p. 189.

<sup>129</sup> June 7, 1924, 68-1, *Record*, p. 11151.

<sup>130</sup> Feb. 22, 1887, 49-2, *Record*, p. 2067.

<sup>131</sup> *See* Feb. 28, 1885, 48-2, *Record*, pp. 2284, 2292; Mar. 2, 1954, 83-2, *Record*, p. 2460.

<sup>132</sup> July 23, 1917, 65-1, *Record*, p. 5381.

### Reports Lie Over Two Days Before Consideration:

See also "Reports," pp. 1176-1201; "Lie Over Before Consideration," p. 671.

Under Rule XVII, paragraph 4(a), "all reports of committees and motions to discharge a committee from the consideration of a subject, and all subjects from which a committee shall be discharged, shall lie over one day for consideration, unless by unanimous consent the Senate shall otherwise direct," and this has been interpreted to mean legislative days as opposed to calendar days,<sup>133</sup> and applies to reported bills and resolutions on the Calendar.

Rule XVII, paragraph 5, as amended in 1986, provides an additional limitation that, with certain exceptions, no measure or matter shall be considered in the Senate unless the report of the committee upon that measure or matter has been available to the Members of the Senate for at least 2 calendar days, excluding Sundays and legal holidays.<sup>134</sup>

The precedents that were established while this rule required a layover of 3 days are nonetheless still valid, and are set forth below as enunciated at the time they occurred.

For the purposes of the 3-day rule, the report on a matter is considered to be available when copies of it are available at the offices of the (Republican) Legislative Scheduling Office, the Democratic Policy Committee, and the Printing Clerk.<sup>135</sup>

The 3 days contemplated by the rule is a period of 72 hours, and legal holidays are excluded even if the Senate is in session on such day,<sup>136</sup> the Chair having ruled in 1973 that under this rule holidays will not be counted even if the Senate is in session on those days.<sup>137</sup> The Chair has held on different occasions that a report of a committee must be available in printed form for 3 days before it is in order to proceed to the consideration of the

<sup>133</sup> See "Day" as used in "Report To Lie Over One Day," p. 713 of *Senate Procedure*.

<sup>134</sup> This had been 3 calendar days until the adoption of S. Res. 28 on February 27, 1986, which changed the restriction to 2 calendar days. In addition, this resolution removed Saturdays from those days excluded in the computation of the layover period.

<sup>135</sup> See July 10, 1985, 99-1, *Record*, p. 18326.

<sup>136</sup> Oct. 12, 1978, 95-2, *Record*, pp. 35967-69.

<sup>137</sup> Dec. 4, 1973, 93-1, *Record*, p. 39432.

matter to which it pertains,<sup>138</sup> unless the Majority and Minority Leaders waive that requirement.<sup>139</sup>

The current 2-day limitation on the time that a report must lie over before consideration of the bill it accompanies is applicable to all bills, although the original provision applied only to general appropriation bills.<sup>140</sup>

Under the rule, although applicable only to general appropriation bills at that time, the Chair ruled in the case of a general appropriation bill which had been recommitted and was thereafter reported without a written report that, "there is no requirement in the rules that a bill be accompanied by a report." The Chair then overruled a point of order that the bill in question had not lain over for 3 days, since the rule was applicable only to printed committee reports and not to the bill itself. Appeals were taken from both of these rulings, and the decisions of the Chair were sustained.<sup>141</sup>

Under the previous comparable limitation requiring that a report had to lie over 3 days, but which was applicable only to general appropriation bills, the Chair had interpreted the rule to calculate the time not on the basis of hours, "but that the time is figured in the basis of 3 calendar days,"<sup>142</sup> and that reports on such a bill must have been available for at least 3 calendar days for the Members of the House in which such bill is to be considered,<sup>143</sup> and that means 3 days must intervene between the reporting of a general appropriation bill and its consideration;<sup>144</sup> but such a motion would not be in order unless the Senate had adjourned since the bill was reported,<sup>145</sup> because of the provisions of Rule XVII, paragraph 4(a).

### Resolutions, Consideration of:

*See also*, "Over Under the Rule," pp. 957-967; "Resolutions," pp. 1202-1213.

<sup>138</sup> Feb. 25, 1977, 95-1, *Record*, p. 5499; Aug. 11, 1978, 95-2, *Record*, p. 25348; *see* Aug. 2, 1978, 95-2, *Record*, p. 23884.

<sup>139</sup> Rule XVII, para. 5.

<sup>140</sup> *See* Rule XVII, para. 5; originally, this provision applied only to general appropriation bills, Legislative Reorganization Act of 1946, ch. 753, 60 Stat. 831, sec. 139(a), Aug. 2, 1946; the provision was amended to apply to any measure or matter, Legislative Reorganization Act of 1946, sec. 133(f) as amended by Legislative Reorganization Act of 1970, Pub. L. 91-510, 84 Stat. 1148, sec. 108(a), Oct. 26, 1970.

<sup>141</sup> July 23, 1968, 90-2, *Record*, pp. 22873-74.

<sup>142</sup> May 13, 1954, 83-2, *Record*, p. 6520; *see also* proceedings for Apr. 29, 1952, 82-2, *Record*, pp. 4549-51.

<sup>143</sup> *See* Oct. 8, 1962, 87-2, *Record*, p. 22745.

<sup>144</sup> *See* July 30, 1959, 86-1, *Record*, p. 14735.

<sup>145</sup> *See* June 10, 1955, 84-1, *Record*, pp. 8006-07.



Resolutions reported and placed on the Calendar are brought up and considered by the Senate under the same general conditions and procedures applicable to the disposition of bills. For procedures peculiar to the consideration of resolutions, *see* pp. 1202-1213.

### **Sessions of Congress, Involving Consideration of Business:**

*See* "Congress," pp. 494-495.

### **Special Order:**

*See also* "Special Orders," pp. 1258-1264.

A special order will be displaced by a majority vote to take up another bill,<sup>146</sup> and if displaced, it is restored to its position on the Calendar of General Orders.<sup>147</sup>

When a bill has been made a special order for a particular time, a motion subsequently made to take it up at a time prior thereto is in order.<sup>148</sup>

When a special order is laid before the Senate, a motion, under Rule X, paragraph 2, to proceed to the consideration of another bill is in order and shall be decided without debate and if agreed to displaces the special order, which is restored to its position on the Calendar of General Orders.<sup>149</sup>

A motion to consider a bill as a special order or that it will not displace the unfinished business for more than a day is not in order.<sup>150</sup>

### **Suspension of Pending Business:**

The consideration of privileged business on motion merely suspends the pending business, and does not displace it. *See* "Displacement of Pending or Unfinished Business," pp. 664-669; "Privileged Business," pp. 1034-1037.

<sup>146</sup> *See* Mar. 12, 1884, 48-1, *Record*, p. 1795.

<sup>147</sup> Feb. 12, 1885, 48-2, *Record*, p. 1549.

<sup>148</sup> Nov. 16, 1937, 75-2, *Record*, p. 39; Nov. 23, 1937, 75-2, *Record*, p. 266.

<sup>149</sup> Feb. 12, 1885, 48-2, *Record*, p. 1549; July 12, 1932, 72-1, *Record*, p. 15096; *see* Mar. 12, 1884, 48-1, *Record*, p. 1795.

<sup>150</sup> Mar. 27, 1936, 74-2, *Record*, p. 4491.

**Table:**

A motion to lay on the table a motion to proceed to the consideration of a bill is in order.<sup>151</sup>

**Treaties, Consideration of:**

See "Treaties," pp. 1294-1310.

**Unanimous Consent Agreement:**

A bill that is pending when the Senate proceeds by unanimous consent to consider another measure, is only suspended for the duration of the consideration of the second measure. It is not displaced and returned to the Calendar.<sup>152</sup>

A unanimous consent agreement giving the right to the Majority Leader to call up a measure or matter on or after a date certain, allows him to bring up that measure or matter without debate.<sup>153</sup>

The following are the general principles for the relative status of two or three measures that the Senate might consider simultaneously:

When a first bill (brought up on motion or by unanimous consent) is set aside by unanimous consent for the consideration of a second bill, and the Senate then takes up a third bill by unanimous consent, the second bill is displaced, (the first bill continues to be the underlying pending business).

When a first bill (brought up on motion or by unanimous consent) is set aside by unanimous consent for the consideration of a second bill, and the Senate then sets aside the second bill by unanimous consent to take up a third bill, the second bill recurs upon disposition of third bill, (the first bill continues to be the underlying pending business).

When a first bill (brought up on motion or by unanimous consent) is set aside by unanimous consent for the consideration of a second bill, and the Senate then adjourns, the first (underlying) bill becomes the unfinished business and the second bill goes to the Calendar.

<sup>151</sup> Feb. 23, 1887, 49-2, *Record*, p. 2122; Jan. 22, 1891, 51-2, *Record*, p. 1664; Feb. 15, 1875, 43-2, *Journal*, pp. 270-71, Jan. 29, 1915, 63-3, *Record*, pp. 2584-85; see Jan. 23, 1963, 88-1, *Record*, p. 856.

<sup>152</sup> Dec. 2, 1982, 97-2, *Record*, p. 28443.

<sup>153</sup> See Feb. 7 and July 21, 1980, 96-2, *Record*, pp. 2455, 18710.

When a first bill (brought up on motion or by unanimous consent) is set aside by unanimous consent for the consideration of a second bill, and the Senate then agrees to a motion to proceed to the consideration of a third bill, the first and second bills are displaced and placed on the Calendar.

When the Senate by unanimous consent sets aside the unfinished business for a second measure, and contemplates the consideration by an unspecified method of a third measure provided that upon its disposition the Senate return to the unfinished business, a call for the regular order brings back the unfinished business.

When the Senate is considering a first measure (the unfinished business) and by unanimous consent takes up a second measure, and then takes up a third measure by unanimous consent without setting the second measure aside, the second measure is placed on the Calendar.

When a unanimous consent request entered into when the Senate is on a second measure (having set aside the unfinished business by unanimous consent), stipulates that upon the disposition of a third measure the Senate resume consideration of the unfinished business, the Senate will resume consideration of the unfinished business if the third measure is for whatever reason no longer the pending business, because the second measure was placed on the Calendar by the act of proceeding to the third measure, leaving the first measure (the unfinished business) as the only underlying pending business.<sup>154</sup>

#### **Unanimous Consent Consideration:**

Unanimous consent procedure may suspend practically all of the established rules of procedure. For details see "Unanimous Consent Agreements," pp. 1311-1369.

#### **Unanimous Consent To Put Aside Bars Motion To Consider:**

A unanimous consent agreement having been reached to put aside the further consideration of a bill for the remainder of that day, a subsequent motion on that day to proceed to its consideration would be out of order.<sup>155</sup>

<sup>154</sup> See June 6, 1984, 98-2, *Record*, pp. 15037-38.

<sup>155</sup> Nov. 14, 1975, 94-1, *Record*, p. 36764.

**Unfinished Business, Consideration of:**

*See also* "Unfinished Business," pp. 1370-1380.

Unfinished business is laid before the Senate at the close of the Morning Hour, but may be proceeded with earlier by motion.

**Veto, Consideration of:**

*See* "Vetoes," pp. 1381-1389.

**Vote on Motion To Consider:**

*See* "Quorum Call To Vote on Motion To Consider Not Required," p. 675; "Voting," pp. 1397-1437.

**When Not in Order:**

*See* "Motions for Consideration, Out of Order," pp. 672-673.

**Withdrawal of Motion To Consider:**

A motion to proceed to the consideration of a matter may be withdrawn by the mover if the yeas and nays have not been ordered,<sup>156</sup> or there has been no action or amendment;<sup>157</sup> and in such case it is not possible to have a yea and nay vote on such withdrawal.<sup>158</sup>

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<sup>156</sup> *See* Nov. 22, 1937, 75-2, *Record*, pp. 228-29; Apr. 28, 1942, 77-2, *Record*, pp. 3741-42, 3745; June 5, 1950, 81-2, *Record*, p. 8010.

<sup>157</sup> *See* June 5, 1950, 81-2, *Record*, p. 8010; Sept. 19, 1966, 89-2, *Record*, p. 23046.

<sup>158</sup> *See* June 5, 1950, 81-2, *Record*, p. 8010.