

## Chapter CXXIII.

### THE MOTION TO RECONSIDER.<sup>1</sup>

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**5605. When a motion has been carried or lost, a motion to reconsider may be made on the same or succeeding day, and after the said succeeding day may not be withdrawn without consent of the House.**

**The motion to reconsider may be made “by any Member of the majority.”**

**A motion to reconsider takes precedence of all other questions except a conference report or a motion to adjourn.**

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<sup>1</sup>The motion not in order in Committee of the Whole. (Sec. 47165 of Vol. IV.)

The motion in select and standing committees. (Sec. 4596 of Vol. IV.)

<sup>2</sup>During a call of the House. (Sec. 3037 of Vol. IV.)

<sup>3</sup>Where the two-thirds vote is required. (Sec. 1656 of Vol. II.)

<sup>4</sup>In order to reconsider affirmative vote to lay on the table. (Sec. 6288 of this volume.)

<sup>5</sup>See also sections 5491–5494 of this volume.

<sup>6</sup>See also section 2028 of Volume III.

<sup>7</sup>A majority is also required to reconsider a two-thirds vote. (Sec. 1656 of Vol. II.)

**After the day succeeding that on which it is made, a motion to reconsider may be called up by any Member; but on the last six days of a session such motion must be disposed of when made.**

**Present form and history of section 1 of Rule XVIII.**

Section I of Rule XVIII provides:

When a motion has been made and carried or lost, it shall be in order for any Member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any Member may call it up for consideration: *Provided*, That such motion, if made during the last six days of a session, shall be disposed of when made.

This form of the rule dates from the revision of 1880,<sup>1</sup> and has not been changed since, except that the motions to fix the day to which the House shall adjourn and for a recess, which were included with the motion to adjourn and conference reports as questions not yielding to the motion to reconsider, were dropped in 1890,<sup>2</sup> and, although restored in the two succeeding Congresses, were left out in the Fifty-fourth and succeeding Congresses.

Although not mentioned in the first rules of the House, adopted April 7, 1789,<sup>3</sup> the motion to reconsider was at that time well known in parliamentary American practice and was at once used in the House. In the Continental Congress it had been of quite frequent use, but was not mentioned in the rules of that body.

On March 13, 1779, a question of order arising, it was determined that a vote to reconsider a resolution did not involve its repeal, but left it open for consideration and such disposal as the Congress might prefer. There was no limit of time for the motion, and the Congress reconsidered matters passed on the preceding day or several days or months before.<sup>4</sup> Also the motion was sometimes made to reconsider a matter "in order to take into consideration" a proposition on a kindred subject.<sup>5</sup>

The first rule of the House on the subject dates from January 7, 1802,<sup>6</sup> and was as follows:

When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any Member of the majority to move for the reconsideration thereof.

On December 23, 1811,<sup>7</sup> the rule of 1802 was modified by limiting the time during which the motion might be made to "the same or succeeding day."

The making of this rule does not seem to have been wholly satisfactory, and on January 13, 1815,<sup>8</sup> a rule was proposed that motions to reconsider should be in order each day after the reports of committees, and also that all bills should be retained in the possession of the House until the time for motions to reconsider should have expired. No action was taken on this proposition. On March 2, 1820,<sup>9</sup> the

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<sup>1</sup>Second session Forty-sixth Congress, Record, p. 206.

<sup>2</sup>House Report No. 23, first session Fifty-first Congress.

<sup>3</sup>First session First Congress, Journal, p. 9.

<sup>4</sup>See Journals of Continental Congress, April 23, 1778; March 13, 1779, and October 30, 1783.

<sup>5</sup>Journal, April 16, 1783.

<sup>6</sup>Journal Seventh and Eighth Congresses (Gales & Seaton ed.), p. 39; Annals, p. 410.

<sup>7</sup>First session Twelfth Congress, Report No. 38.

<sup>8</sup>Third session Thirteenth Congress, Journal, p. 697; Annals, p. 1112.

<sup>9</sup>First session Sixteenth Congress, Journal, pp. 277, 281; Annals, pp. 1587–1590.

bill for the admission of Missouri into the Union was before the House with Senate amendments, among them the clause inhibiting slavery in the territory north of 36° 30' north latitude. The House concurred in that amendment. The next day, after the reading of the Journal, Mr. John Randolph, of Virginia, arose to move to reconsider the vote whereby the House concurred. Mr. Speaker Clay declared the motion out of order until the morning business prescribed by the rules, the presentation of petitions, should have been concluded. After one more unsuccessful trial Mr. Randolph awaited the end of the morning business, and then submitted his motion. The Speaker declined to entertain it, on the ground that the Clerk had taken the bill to the Senate. Mr. Randolph attempted to have the Clerk censured for taking the message, but the House declined to consider the resolution, yeas 61, nays 71.

Soon after this, on May 5, 1820,<sup>1</sup> Mr. Charles Pinckney, of South Carolina, proposed a rule that a bill, after its passage in the House, should not be carried to the Senate until two hours after the reading of the Journal on the next day; but the House took no action on the proposition.<sup>2</sup>

On May 2, 1828,<sup>3</sup> Mr. Speaker Stevenson ruled that the motion to reconsider might be made only in the hour devoted to the presentation of motions by Members, etc., and if not made before the expiration of that hour on the second day was wholly precluded. This ruling seems to have had the effect of calling attention anew to the unsatisfactory state of the rule, and four days later, on May 6, 1828,<sup>4</sup> the House agreed to a rule proposed by Mr. Philip P. Barbour, of Virginia, providing that the motion to reconsider—

shall take precedence of all other questions, except a motion to adjourn.

On May 17, 1834,<sup>5</sup> Mr. Speaker Stevenson ruled that a Member might at any time withdraw a motion to reconsider previously made by him, even though such time had elapsed that another Member would be prevented by the rule from renewing the motion; and on July 20, 1842,<sup>6</sup> Mr. Speaker White made a similar decision.

In view of the practice established by these decisions, on March 2, 1848,<sup>7</sup> Mr. Charles J. Ingersoll, of Pennsylvania, reported from the Committee on Rules a rule providing that the motion to reconsider—

shall not be withdrawn after the said succeeding day without the consent of the House; and thereafter any Member may call it up for consideration.

The original rule, with these additions, became old Rule 49, from which in 1880 the present rule was framed.

**5606. In the absence of a quorum it is not in order to move to reconsider a vote on which a quorum is required.**—On March 31, 1904,<sup>8</sup> the vote

<sup>1</sup> First session Sixteenth Congress, Journal, p. 491; Annals, p. 2202.

<sup>2</sup> The principle was later established that a motion to reconsider might be made even though the papers had passed out of the possession of the House.

<sup>3</sup> First session Twentieth Congress, Journal, p. 1041; Debates, p. 2563.

<sup>4</sup> First session Twentieth Congress, Journal, p. 691; Debates, p. 2578.

<sup>5</sup> First session Twenty-third Congress, Debates, p. 4139.

<sup>6</sup> Second session Twenty-seventh Congress, Journal, p. 1118.

<sup>7</sup> First session Thirtieth Congress, Journal, p. 483; Globe, p. 412.

<sup>8</sup> Second session Fifty-eighth Congress, Record, p. 4077.

was taken by yeas and nays on a motion to recommit the sundry civil appropriation bill, and the Speaker announced that the roll call disclosed the absence of a quorum.

Thereupon Mr. John J. Fitzgerald, of New York, proposed to enter a motion to reconsider the vote whereby the House had changed the reference of a bill.

The Speaker<sup>1</sup> said:

In the absence of a quorum no business can be transacted except to adjourn or a call of the House. The rule compels the Speaker on a roll call to ascertain the vote. The Speaker has ascertained the vote, has announced the vote, and is compelled under the rule to take notice that there is no quorum present, and has so announced.

**5607. On votes incident to a call of the House the motion to reconsider may be entertained and laid on the table, although a quorum may not be present.**—On February 6, 1893,<sup>2</sup> during a call of the House, it was voted that Mr. Charles T. O’Ferrall, of Virginia, be excused from attendance. Mr. C. B. Kilgore, of Texas, moved to reconsider the vote by which Mr. O’Ferrall was excused.

Mr. George D. Wise, of Virginia, moved to lay that motion on the table.

The question being put on the latter motion, the Speaker pro tempore declared that the motion was carried.

Mr. Kilgore made the point that no quorum had voted,<sup>3</sup> and that a quorum was necessary to dispose of the motion.

The Speaker pro tempore<sup>4</sup> overruled the point of order, holding that a quorum was not required to decide a question incidental to a call of the House.

**5608.** On February 24, 1875,<sup>5</sup> there was a call of the House incident to dilatory proceedings arising over the consideration of reports relating to the affairs in the States of Alabama and Arkansas. It was voted, on motion of Mr. B. F. Butler, of Massachusetts, to dispense with all proceedings under the call—132 yeas to 67 nays.

Mr. Samuel J. Randall, of Pennsylvania, moved that this vote be reconsidered, and Mr. Omar D. Conger, of Michigan, moved that the motion to reconsider be laid upon the table. On a roll call there were 137 yeas and 3 nays.

Mr. Randall made the point that less than a quorum had voted.<sup>6</sup>

The Speaker<sup>7</sup> said:

There is no need of a quorum. Less than a quorum can agree to dispense with the proceedings under the call; and there can not be any sort of doubt that the same vote is sufficient on reconsideration as on the direct question.

**5609. A question having been divided for the vote, a separate motion to reconsider was held necessary for each vote, and was made first as to the first portion of the resolution.**—On December 11, 1839,<sup>8</sup> before the organization of the House, and while the Members-elect, with Mr. John Quincy Adams, of Massachusetts, as Chairman, were endeavoring to settle the complications arising

<sup>1</sup> Joseph G. Cannon, of Illinois, Speaker.

<sup>2</sup> Second session Fifty-second Congress, Journal, p. 77; Record, p. 1259.

<sup>3</sup> At this time the quorum voting and not the quorum present was required.

<sup>4</sup> Alexander M. Dockery, of Missouri, Speaker pro tempore.

<sup>5</sup> Second session Forty-third Congress, Record, p. 1731; Journal, p. 548, has no mention of the ruling.

<sup>6</sup> At that time the quorum voting and not the quorum present was required.

<sup>7</sup> James G. Blaine, of Maine, Speaker.

<sup>8</sup> First session Twenty-sixth Congress, Journal, pp. 16, 18; Globe, pp. 40, 42.

out of the contests over five of the New Jersey seats, a resolution was presented providing, first, for a call of the roll of all gentlemen whose seats were not contested, and, secondly, for passing on the contested cases.

A division of the question was called for, and was put first on the first branch of the resolution, which was agreed to. Then the second branch was also agreed to.

Then Mr. John Campbell, of South Carolina, moved that the House do reconsider the votes adopting the resolution.

The previous question was put on this motion and carried.

The motion to reconsider being about to be put, a question arose as whether or not the two votes by which the resolution was agreed to could be reconsidered at one vote. After some discussion, the Chairman decided that, as the question on the resolution had been divided, the question to reconsider would be first put on reconsidering the first portion.

The House having voted to reconsider the vote agreeing to the first part, the question was next put on reconsidering the second portion.

**5610. A Member may make the motion to reconsider at any time, without thereby abandoning a prior motion made by himself and pending.**—On November 3, 1893,<sup>1</sup> Mr. James D. Richardson, of Tennessee, moved to reconsider the vote whereby the joint resolution (H. Res. 86) relating to the pay of session employees was passed, and also moved to lay that motion on the table.

Pending this Mr. Joseph C. Hutcheson, of Texas, moved that the House take a recess until 2 o'clock and 45 minutes p. m.

Pending this latter motion, Mr. Richardson withdrew his motion to lay on the table the motion to reconsider, and also withdrew the motion to reconsider.

Mr. Hutcheson thereupon renewed the motion to reconsider.

Mr. Richardson moved to suspend the rules and lay the motion to reconsider on the table.

The Speaker stated the question to be on the pending motion of Mr. Hutcheson for a recess until 2 o'clock and 45 minutes p. m.

Mr. Richardson made the point of order that Mr. Hutcheson, pending his motion for a recess, having made another motion, to wit, the motion to reconsider, had thereby abandoned the motion for a recess.

The Speaker<sup>2</sup> overruled the point of order, holding as follows:

The gentleman from Texas [Mr. Hutcheson] made the point that no quorum had voted upon the motion for a recess. Tellers were appointed. The tellers had taken their places. The House was divided. In that state of the case the gentleman from Tennessee [Mr. Richardson] withdrew his motion—not the motion for the recess, but the motion that was pending to reconsider and lay upon the table. The gentleman from Texas [Mr. Hutcheson] then stated that he renewed the motion. Any gentleman who voted in the affirmative of course had the right to renew the motion to reconsider, and that could be entered, the Chair will state, pending any business, because it must be entered, under the rules, within a limited time.

**5611. Where the yeas and nays on a vote have not been ordered recorded in the Journal, any Member, irrespective of whether he voted with the majority or not, may make the motion to reconsider.**<sup>3</sup>—On Feb-

<sup>1</sup> First session Fifty-third Congress, Journal, pp. 172: 173; Record, p. 3122.

<sup>2</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>3</sup> See also section 5689 of this chapter.

ruary 8, 1894,<sup>1</sup> Mr. Thomas B. Reed, of Maine, moved to reconsider the vote by which, on the preceding day, the House had passed an order for taking absent Members into custody.

Mr. Benjamin A. Enloe, of Tennessee, made the point that Mr. Reed, not having voted in the affirmative, could not move to reconsider.

The Speaker<sup>2</sup> overruled the point, holding that under the practice of the House where there was no yea-and-nay vote on a proposition it was competent for any Member to move to reconsider.<sup>3</sup>

**5612.** On May 15, 1896,<sup>4</sup> Mr. George D. Perkins, of Iowa, rising to a question of order, stated that on May 1 the House had rejected a bill (H. R. 3826), and that on the following day, just before adjournment, Mr. William S. Knox, of Massachusetts, had moved to reconsider the vote. Mr. Perkins raised the point that the gentleman from Massachusetts, having voted with the minority, might not make the motion to reconsider.

The Speaker<sup>5</sup> said:

The question is not now before the House. The Chair will state, however, that the uniform decisions are, where there is no record vote, that a gentleman entering such motion is assumed to have acted with the prevailing side.<sup>6</sup>

**5613.** On February 16, 1855,<sup>7</sup> during the consideration of a resolution to close debate in Committee of the Whole House on the state of the Union, on the bill (H. R. 595) making an appropriation for mail steamers, an amendment was proposed to the resolution, and on a vote by tellers was agreed to.

Mr. James L. Orr, of South Carolina, moved to reconsider the vote whereby the amendment had been adopted.

Mr. Thomas L. Clingman, of North Carolina, made the point of order that the gentleman from South Carolina had voted with the minority.

The Speaker<sup>8</sup> said:

If there had been a recorded vote, the point would have been good; but in no other case does the question arise as to whether the individual who moves to reconsider voted in the majority or not.

**5614. The motion to reconsider a yea-and-nay vote may not be made by a Member who not voting was paired in favor of the majority's contention.**—On May 18, 1906,<sup>9</sup> the House was considering the bill (H. R. 9297) for

<sup>1</sup> Second session Fifty-third Congress, Journal, p. 149; Record, p. 2034.

<sup>2</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>3</sup> So also on December 10, 1879 (second session Forty-sixth Congress, Record, p. 58), in the Senate Vice-President William A. Wheeler ruled that where there had been no record vote any Senator might move to reconsider.

<sup>4</sup> First session Fifty-fourth Congress, Record, p. 5298.

<sup>5</sup> Thomas B. Reed, of Maine, Speaker.

<sup>6</sup> In the earlier years the Speaker sometimes attempted by inquiry to ascertain how a Member had voted in cases where there was no record; but there were difficulties in this course. See instance April 4, 1832. (First session Twenty-second Congress, Debates, pp. 2374, 2375.)

<sup>7</sup> Second session Thirty-third Congress, Globe, p. 774.

<sup>8</sup> Linn Boyd, of Kentucky, Speaker.

<sup>9</sup> First session Fifty-ninth Congress, Record, p. 7095.

the relief of Henry E. Rhodes, when on a yea-and-nay vote of yeas 128, nays 68, the bill was passed.

Mr. John S. Williams, of Mississippi, moved to reconsider the bill.

Mr. James M. Miller, of Kansas, having by inquiry ascertained that Mr. Williams had not voted with the majority, and therefore was not entitled to make the motion to reconsider, Mr. William S. McNary, of Massachusetts, proposed to make the motion.

It appeared on inquiry that Mr. McNary had not voted at all, but he declared that he had been paired in favor of the contention of the majority.

The Speaker<sup>1</sup> held that Mr. McNary might not make the motion.

**5615. The most carefully considered ruling has been that in case of a tie vote any Member recorded on the prevailing side may move to reconsider.**—On December 13, 1839,<sup>2</sup> before the organization of the House, and while Mr. John Quincy Adams, of Massachusetts, was presiding over the meeting of the Members-elect who were endeavoring to solve the difficulties occasioned by the contests over five seats belonging to the State of New Jersey, Mr. Henry A. Wise, of Virginia, moved a resolution that the credentials of the New Jersey Members commissioned by the governor of that State were sufficient to enable them to take their seats.

On this question there were, ayes 117, noes 117; and so the motion to agree to the resolution was disagreed to.

On December 14 Mr. Charles F. Mercer, of Virginia, who voted in the affirmative, moved to reconsider this vote.

The Chairman decided that as the vote proposed to be reconsidered was a tie vote, in consequence of which the proposition was lost, he did not consider the motion to reconsider in order. The rule provided that—

When a motion has been once made and carried in the affirmative or negative, it shall be in order for any Member of the majority to move for the reconsideration thereof.

There was no majority on either side of the question, and he did not, therefore, think the rule applied to the case. No motion to reconsider a tie vote would be in order on either side.

Mr. Mercer appealed from this decision, and the decision of the Chair was sustained, yeas 147, nays 64.

**5616.** On July 18, 1848,<sup>3</sup> during the consideration of the bill (H. R. 298) making appropriations for the civil and diplomatic expenses of the Government, a question was taken on an amendment relating to the improvement of Savannah Harbor, and the announcement was made that there were yeas 86, nays 83, and that the amendment was agreed to.

On July 19 Mr. Alexander H. Stephens, of Georgia, arose and stated that he had voted in the negative on the preceding day, and asked that his vote be changed. This being done, the Speaker announced the vote on the amendment to be yeas 85,

<sup>1</sup> Joseph G. Cannon, of Illinois, Speaker.

<sup>2</sup> First session Twenty-sixth Congress, Journal, pp. 32, 61; Globe, p. 53.

<sup>3</sup> First session Thirtieth Congress, Journal, pp. 1064, 1066, 1078–1081; Globe, p. 954.

nays 84. Thereupon he voted in the negative, and there being yeas 85, nays 85, the question on the amendment was lost.

Later in the day Mr. Charles E. Stuart, of Michigan, moved to reconsider this vote.

Mr. Thomas B. King, of Georgia, raised the question of order that the gentleman from Michigan could not make the motion to reconsider, since he had voted in the affirmative.

On July 20 the Speaker<sup>1</sup> gave his decision. He quoted first the precedent of December 14, 1839, and said that that decision was made under very peculiar circumstances, arising out of the case of the contested election from New Jersey, and while there was no regularly elected Speaker in the chair. The Chair had no hesitation in saying that he differed from the decision in this case. In his own opinion a fair construction of the rule was that anyone who voted on the prevailing side had the right to move a reconsideration. This, he thought, was the spirit of the rule. The Chair therefore decided that the motion to reconsider must be made by a gentleman who had voted with the prevailing side, the negative. Therefore Mr. Stuart was precluded from making the motion.

**5617. Where a two-thirds vote is required, the motion to reconsider may be made by anyone who voted on the prevailing side.**

**Apparently a majority is required to reconsider a vote taken under the requirement that two-thirds shall be necessary to carry the question.**

On August 17, 1842,<sup>2</sup> the House was considering a proposed amendment to the Constitution in relation to the veto power of the Executive, and there were in favor of the amendment 99, and opposed 90, not the required two-thirds.

Thereupon, Mr. Thomas F. Marshall, of Kentucky, who was one of those opposed, and "who voted on the prevailing side," made a motion to reconsider, which was entertained.

On August 18 the motion to reconsider was disagreed to, yeas 12, nays 140.<sup>3</sup>

**5618.** On July 17, 1866,<sup>4</sup> the House disagreed to a resolution for the expulsion of Mr. Lovell H. Rousseau, of Kentucky, by a vote of 73 yeas, 51 nays, not the required two-thirds vote.

Then Mr. Nathaniel P. Banks, of Massachusetts, who had voted with the nays, moved to reconsider the vote.

Mr. William E. Finck, of Ohio, made the point of order that Mr. Banks had voted with the minority and was not entitled to make the motion.

The Speaker<sup>5</sup> said:

The Chair overrules the point of order. Some Member must have the right to move a reconsideration. In this case he certainly could not move a reconsideration if he voted on the side which did not prevail, for he is evidently not in the constitutional majority on that question. And if the gentleman from Ohio is right in his point of order, no one can move a reconsideration, for the side which prevailed was in the minority. The usage upon this subject has been uniform, and the Chair is surprised that

<sup>1</sup> Robert C. Winthrop, of Massachusetts, Speaker.

<sup>2</sup> Second session Twenty-seventh Congress, Journal, p. 1353. John White, of Kentucky, Speaker.

<sup>3</sup> Journal, p. 1355.

<sup>4</sup> First session Thirty-ninth Congress, Globe, p. 3892.

<sup>5</sup> Schuyler Colfax, of Indiana, Speaker.



there are no cases cited in the Digest. But it is plain that any Member voting on the prevailing side has the right to move a reconsideration. Such has always been the practice in Congress, as well as in all State legislative bodies, so far as the Chair is informed.<sup>1</sup>

**5619. A Member who was absent when a vote was taken may not move to reconsider. (Speaker overruled.)**—On July 8, 1846,<sup>2</sup> Mr. Robert W. Roberts, of Mississippi, moved to reconsider the vote whereby on the preceding day a decision of the Speaker had been overruled.

Mr. Thomas J. Henley, of Indiana, raised the question of order that the record of the proceedings of the day before showed that Mr. Roberts was absent from the House at the time the vote on the decision was taken. Therefore it could not be presumed that he voted in the majority, as the rule required, and he could not, therefore, move a reconsideration.

The Speaker<sup>3</sup> decided that, under the common practice of the House, where a vote had been taken without a division, it was presumed that every Member voted in the affirmative, and therefore a motion to reconsider made by any Member of the House had, in such cases, been entertained. He therefore overruled the point of order made by Mr. Henley and decided that Mr. Roberts was entitled to make the motion to reconsider.

Mr. George Ashmun, of Massachusetts, having appealed, the House overruled the decision of the Speaker, and so Mr. Roberts was precluded from making the motion to reconsider.

**5620. A motion to reconsider a vote whereby the House has refused to adjourn is not in order.**—On December 15, 1877<sup>4</sup> during dilatory proceedings which had begun on the day before when Mr. Fernando Wood, of New York, presented from the Ways and Means Committee a resolution authorizing a general investigation of the Executive Departments of the Government, the House had decided in the negative, yeas 29, nays 141, a motion to adjourn.

When the result of the vote had been announced, Mr. Omar D. Conger, of Michigan, moved to reconsider the vote by which the House refused to adjourn.

The Speaker<sup>5</sup> decided that a motion to adjourn might not be reconsidered.

**5621.** On April 4, 1888,<sup>6</sup> during prolonged dilatory proceedings over the subject of refunding the direct tax of 1861, Mr. J. B. Weaver, of Iowa, moved that the House do adjourn.

This motion was decided in the negative, 181 nays to 6 yeas.

Thereupon, Mr. William C. Oates, of Alabama, moved to reconsider the vote just taken.

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<sup>1</sup>The question on the motion to reconsider being taken, the Journal thus records the result: "The motion to reconsider was agreed to." There was no division, but from the language of the Journal it is evident that the Chair considered the ordinary majority vote required. Otherwise the requirements should have been expressed. (Journal, pp. 1036, 1037.)

<sup>2</sup>First session Twenty-ninth Congress, Journal, pp. 1049, 1050 Globe, p. 1070.

<sup>3</sup>John W. Davis, of Indiana, Speaker.

<sup>4</sup>Second session Forty-fifth Congress, Journal, p. 139; Record, p. 243.

<sup>5</sup>Samuel J. Randall, of Pennsylvania, Speaker.

<sup>6</sup>First session Fiftieth Congress, Record, p. 2706.

The Speaker <sup>1</sup> ruled:

Under a ruling heretofore made in the House, that motion is not in order. The point was made during the second session of the Forty-fifth Congress that a motion to reconsider a vote by which the House refused to adjourn was not in order, and the point was sustained by the Chair, and that has been the ruling ever since. The reason is that the motion to adjourn can be repeated again and again after other business has intervened.

**5622.** On July 14, 1846,<sup>2</sup> Mr. Truman Smith, of Connecticut, moved that the House adjourn, and the question being taken, there were yeas 6, nays 164. So the House declined to adjourn.

Then Mr. Robert C. Schenck, of Ohio, moved to reconsider the last-mentioned vote refusing to adjourn.

The Speaker <sup>3</sup> decided that a motion to reconsider a vote on a motion to adjourn was not in order.

Mr. Schenck having appealed, the decision of the Chair was sustained, yeas 164, nays 1.

**5623. A motion to reconsider the vote whereby the House refused to fix a day to which the House should adjourn, has been the subject of conflicting rulings.**—On May 24, 1882,<sup>4</sup> the House was considering the contested election case of Mackey *v.* Dibble, and a motion that when the House adjourn it be to meet on Friday next, had been decided in the negative.

After the Speaker had announced the vote, Mr. Henry, L. Muldrow, of Mississippi, moved to reconsider the vote.

Mr. George C. Hazleton, of Wisconsin, rising to a parliamentary inquiry, stated that a motion to reconsider a vote on a motion to adjourn was not in order, and asked if the same ruling would apply to the motion to fix the day.

The Speaker <sup>5</sup> said:

The Chair holds that the motion to fix the time to which the House shall adjourn presents a different question from that of a mere motion to adjourn.

Thereupon, the Speaker entertained the motion to reconsider.

**5624.** On January 11, 1889,<sup>6</sup> Mr. J. B. Weaver, of Iowa, moved that when the House adjourn it adjourn until Monday next.

This motion having been disagreed to, Mr. Weaver moved to reconsider the vote.

Mr. Samuel J. Randall, of Pennsylvania, made a point of order against the motion to reconsider.

The Speaker <sup>7</sup> sustained the point of order.

**5625. A motion to reconsider the vote whereby the House refuses to take a recess is not in order.**—On January 25, 1893,<sup>8</sup> Mr. Rice A. Pierce, of Ten-

<sup>1</sup> John G. Carlisle, of Kentucky, Speaker.

<sup>2</sup> First session Twenty-ninth Congress, Journal, p. 1089; Globe, p. 1093.

<sup>3</sup> John W. Davis, of Indiana, Speaker.

<sup>4</sup> First session Forty-seventh Congress, Record, p. 4218.

<sup>5</sup> J. Warren Keifer, of Ohio, Speaker.

<sup>6</sup> Second session Fiftieth Congress, Journal, p. 201; Record, p. 677.

<sup>7</sup> John G. Carlisle, of Kentucky, Speaker.

<sup>8</sup> Second session Fifty-second Congress, Journal, p. 58; Record, p. 836.

nessee, moved that the House take a recess until 5 p. m. On a vote by yeas and nays the House refused to take a recess, yeas 1, nays 211.

Mr. Pierce moved to reconsider the vote by which the House refused to take a recess.

The Speaker pro tempore<sup>1</sup> declined to entertain the motion to reconsider, holding that it was not in order to move a reconsideration of the vote by which the House refuses to take a recess.

Mr. C. B. Kilgore, of Texas, having appealed, the decision of the Chair was sustained, yeas 208, nays 6.

**5626. It is not in order to reconsider the vote whereby the House refuses to consider a bill.**—On December 14, 1898,<sup>2</sup> the House refused, by a vote of 100 yeas to 103 nays, to consider the bill (S. 112) to amend the immigration laws of the United States.

Mr. Richard Bartholdt, of Missouri, rising to a parliamentary inquiry, asked: Is a motion to reconsider the vote by which the House refused to consider the bill in order now?

The Speaker<sup>3</sup> replied:

The Chair thinks not.

**5627.** On March 1, 1900,<sup>4</sup> the contested election case of Aldrich *v.* Robbins, from Alabama, had been called up, and the question of consideration had been raised. On a yea-and-nay vote the question of consideration was decided in the negative, 137 yeas to 144 nays.

The result of the vote having been announced, Mr. James R. Mann, of Illinois, moved to reconsider the vote whereby consideration was refused.

Mr. Charles L. Bartlett, of Georgia, made the point of order that the vote might not be reconsidered.

The Speaker<sup>5</sup> sustained the point of order.

**5628. An affirmative vote on the motion to lay on the table may be reconsidered.**—On December 14, 1904,<sup>6</sup> the House had agreed to a motion laying on the table a resolution (H. Res. 383) relating to an alleged combination of certain manufacturing interests, when Mr. John J. Jenkins, of Wisconsin, moved to reconsider the vote and lay that motion on the table.

Mr. James R. Mann, of Illinois, rising to a parliamentary inquiry, asked if a motion to lay on the table might be reconsidered.

The Speaker<sup>7</sup> said:

The Chair is of opinion that a motion to reconsider would apply to a motion to lay a resolution on the table, which is primary in its nature and is one way of disposing of a bill or resolution. The Chair thinks that a motion to reconsider and lay that motion on the table is proper, because the substance of

<sup>1</sup>Joseph H. O'Neil, of Massachusetts, Speaker pro tempore.

<sup>2</sup>Third session Fifty-fifth Congress, Record, p. 197.

<sup>3</sup>Thomas B. Reed, of Maine, Speaker.

<sup>4</sup>First session Fifty-sixth Congress, Record, p. 2453; Journal, p. 299.

<sup>5</sup>David B. Henderson, of Iowa, Speaker.

<sup>6</sup>Third session Fifty-eighth Congress, Record, p. 278.

<sup>7</sup>Joseph G. Cannon, of Illinois, Speaker.

the motion to lay on the table is to finally dispose of the proposition, and the substance should govern rather than the form of the motion.

The question is on the motion to reconsider and lay that motion on the table.<sup>1</sup>

**5629. The motion to reconsider may be applied to a negative vote on the motion to lay on the table.**—On February 4, 1853,<sup>2</sup> a motion to reconsider the vote by which the House refused to lay on the table a Senate bill (No. 13) entitled “An act granting to the State of Wisconsin the right of way and a donation of public land for the purpose of locating and constructing certain railroads in that State,” was called up.

Mr. Gilbert Dean, of New York, made the point of order that it was not in order

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<sup>1</sup>Under the general parliamentary law, when a matter is laid on the table, a motion to take it from the table may be made, hence there is no necessity for a motion to reconsider the vote to lay on the table. Hence the rule of general parliamentary law that the motion to reconsider may not be applied to the motion to lay on the table when decided affirmatively. But in the United States House of Representatives the motion to lay on the table has a very different use, significance, and effect from what it does in general parliamentary law. (See secs. 204, 114, and 115 of Reed’s Parliamentary Rules.) In the House of Representatives the motion to lay on the table is used only for the purpose of making a final unfavorable disposition of a matter, and this difference in practice formerly caused some uncertainties in the practice of the House. On February 17, 1897 (Record, second session Fifty-fourth Congress, p. 1947), Mr. Walter Evans, of Kentucky, moved to reconsider the vote whereby a certain bill was laid on the table. Mr. W. Jasper Talbert, of South Carolina, raised a point of order against the motion. Mr. Alexander M. Dockery, of Missouri, also made the point that such a motion would be in order only by unanimous consent. The Speaker [Mr. Reed] said: “The Chair will entertain the motion subject to the point of order presented by the gentleman from South Carolina. When the matter comes before the House, the Chair will pass upon the question of order. The Chair has a very strong impression that, under general parliamentary law, a motion to reconsider the vote laying a bill on the table would not be in order. \* \* \* Whether the practice of the House has changed the general rule is what the Chair desires to ascertain.” This particular question did not arise again.

On March 3, 1898 (Record, second session Fifty-fifth Congress, p. 2448), the House having voted to lay on the table the bill (H. R. 5359) to amend the postal laws relating to second-class matter, Mr. James D. Richardson, of Tennessee, inquired if it was in order to reconsider the vote, meaning if necessary to make such a motion and have it laid on the table in order to make the action of the House final. The Speaker [Mr. Reed] said: “The impression the Chair holds is that it is not necessary. The Chair will protect the gentleman’s rights.”

Before this, however, it had been a common practice, in order to make sure that the question was settled, to make the motion and have it laid on the table. Thus, on June 12, 1858, a bill was laid on the table, the motion to reconsider was made, and that, in turn, was laid on the table. On June 14 the bill was taken from the table by a suspension of the rules.

Also, on February 12, 1869, after a subject had been laid on the table, a motion to reconsider was made, and the motion to lay the latter motion on the table was made and carried by a yea-and-nay vote. (Third session Fortieth Congress, Journal, p. 335; Globe, p. 1148.) And earlier than this, on February 6, 1849, the House reconsidered the vote whereby it had laid on the table the bill (H. R. 751) relating to courts in Virginia. (Second session Thirtieth Congress, Journal, p. 381.)

On May 4, 1822, a motion was made to reconsider the vote whereby a bill for the relief of Robert Purdy was laid on the table. The motion failed, and the bill remained on the table. (First session Seventeenth Congress, Journal, p. 563; Annals, p. 1806.)

On March 23, 1880 (Second session Forty-sixth Congress, Record, p. 1807), Mr. Speaker Randall, in a case where the House had just voted to lay on the table a motion to amend the Journal, held that a motion to reconsider that vote was in order, and the House, in fact, did reconsider, although the mover of the motion had intended to have his motion to reconsider laid on the table, the Speaker understanding that to be the object of the motion.

See also sections 5632, 5640.

<sup>2</sup>Second session Thirty-second Congress, Journal, p. 234; Globe, pp. 509–511.

to move to reconsider a vote by which the House had refused to lay a measure upon the table, the motion to lay on the table, like that to adjourn, being one that can be made at any time without that necessity for a reconsideration which exists in other cases.

The Speaker<sup>1</sup> stated that while he was willing to admit that the weight of argument might be on the side of the gentleman from New York [Mr. Dean], the precedents were the other way, and he was not disposed to change the practice.

An appeal, taken by Mr. George W. Jones, of Tennessee, was laid on the table by a vote of 110 yeas to 57 nays.

**5630. After careful consideration it was held in order to reconsider the vote laying an appeal on the table.**—On May 11, 1854,<sup>2</sup> during prolonged dilatory proceedings over a proposition to close debate in Committee of the Whole House on the state of the Union on the bill (H. R. 236) to organize the Territories of Kansas and Nebraska, an appeal was taken from the decision of the Speaker, and that appeal was laid on the table by a vote of the House.

Mr. Reuben E. Fenton, of New York, moved to reconsider the vote laying the appeal on the table.

The Speaker<sup>1</sup> stated that in an earlier part of the day he had hastily decided a similar motion to be out of order. Subsequent reflection<sup>3</sup> had satisfied him that he was wrong, and he would consequently now entertain the motion.

**5631. During proceedings under a call of the House it was held that a motion might not be made to reconsider the vote whereby an appeal was laid on the table.**—On August 14, 1876,<sup>4</sup> during proceedings under a call of the House, Mr. George F. Hoar, of Massachusetts, appealed from a decision of the Chair, and this appeal was laid on the table, 82 yeas to 19 nays, a quorum not being present.

Mr. John K. Luttrell, of California, moved to reconsider the vote last taken, and also moved that the motion to reconsider be laid on the table.

Mr. William M. Springer, of Illinois, made the point of order that a motion to reconsider the vote by which an appeal from a decision of the Chair was laid on the table was not in order.

The Speaker pro tempore<sup>5</sup> sustained the point of order, holding that the only motions in order were the motion to issue the Speaker's warrant to compel the attendance of absentees and the motion to adjourn.

**5632. The motion to reconsider may not be applied to the vote whereby the House has laid another motion to reconsider on the table.**

**In the practice of the House the motion to reconsider has been applied to an affirmative vote to lay on the table, although some doubts have been expressed on the question.**<sup>6</sup>

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<sup>1</sup> Linn Boyd, of Kentucky, Speaker.

<sup>2</sup> First session Thirty-third Congress, Journal, pp. 769, 770.

<sup>3</sup> Journal, pp. 735, 762.

<sup>4</sup> First session Forty-fourth Congress, Journal, pp. 1492 1493; Record, p. 5650.

<sup>5</sup> Milton Saylor, of Ohio, Speaker pro tempore.

<sup>6</sup> See sections 5628 and footnote.

On February 8, 1843,<sup>1</sup> a situation arose over the following facts:

On February 1 Mr. Caleb Cushing, of Massachusetts, from the Committee on Foreign Affairs, reported a resolution to close debate in Committee of the Whole House on the state of the Union<sup>2</sup> on House bill No. 57, to provide for the satisfaction of claims due to certain American citizens for spoliations committed on their commerce prior to July 31, 1800.

This resolution was laid upon the table on February 3.

Mr. Isaac D. Jones, of Maryland, moved to reconsider the vote whereby the resolution was laid on the table, and this motion was laid on the table on February 7.

On February 8, Mr. Richard W. Thompson, of Indiana, moved to reconsider the vote whereby Mr. Jones's motion to reconsider was laid on the table.

The Speaker<sup>3</sup> decided that inasmuch as this was a motion to reconsider a vote which laid upon the table a motion to reconsider<sup>4</sup> a subject already laid upon the table, and which, if entertained, must lead to inextricable confusion by piling motion upon motion to reconsider, it could not be entertained.<sup>5</sup>

From this decision Mr. Richard W. Thompson took an appeal to the House, which appeal was laid on the table; so the decision of the Speaker was sustained.

**5633.** On February 10, 1854,<sup>6</sup> Mr. George W. Jones, of Tennessee, moved that the vote by which the House, on the preceding day, laid on the table the motion to reconsider the vote by which the bill of the House No. 49 (deficiency) was rejected be reconsidered.

The Speaker<sup>7</sup> decided that the motion was not in order, on the ground that it had been the invariable practice of the House, under the existing rules, to regard the laying upon the table the motion to reconsider as conclusive against a further motion to reconsider.

The Speaker said:

If this bill had been decided, either by a vote rejecting or passing it, it would be in order to move for a reconsideration of that vote. In this case a motion was made to reconsider the vote by which the bill was rejected, and that motion was laid upon the table. What did the House do by laying that motion upon the table? It determined that it would not reconsider the vote by which the bill was rejected. The gentleman from Tennessee [Mr. Jones] moves to reconsider the vote by which the motion to reconsider was laid on the table. The Chair states that the practice of this body has been uniform on this subject, and he thinks he may defy the gentleman from Tennessee, or any other Member, to point to a single case in the history of this House differing from the course which the Chair here deems to be the correct one; which is, that a motion to lay upon the table such a vote as that is final until it be in order to take that vote or bill from the table.

From this decision of the Chair Mr. Jones appealed, on the ground that the fifty-sixth rule<sup>8</sup> conferred on any Member voting with the majority the right to move a

<sup>1</sup>Third session Twenty-seventh Congress, Journal, pp. 310, 328, 334; Globe, p. 256.

<sup>2</sup>This was the old method of taking a bill from Committee of the Whole.

<sup>3</sup>John White, of Kentucky, Speaker.

<sup>4</sup>The laying on the table of a motion to reconsider is a common method of disposing of that motion. See instances as early as June 23, 1832. (First session Twenty-second Congress, Journal, pp. 932, 935; Debates, pp. 3719, 3720.)

<sup>5</sup>See also sections 5638, 5639.

<sup>6</sup>First session Thirty-third Congress, Journal, p. 357; Globe, p. 397.

<sup>7</sup>Linn Boyd, of Kentucky, Speaker.

<sup>8</sup>Now section 1 of Rule XVIII.

reconsideration upon the same day or that succeeding the one upon which the vote was taken.

The appeal was laid on the table, 134 yeas to 35 nays.

**5634. Origin of the practice of preventing reconsideration by laying the motion to reconsider on the table.**—On February 16, 1835,<sup>1</sup> Mr. Henry A. Wise, of Virginia, moved to reconsider the vote by which the House had ordered to be printed a memorial relating to the abolition of slavery in the District of Columbia. After debate a motion was made to lay the motion to reconsider on the table. Thereupon a question arose as to whether or not the Clerk would be justified in having the memorial printed.

The Speaker<sup>2</sup> said it was a matter not entirely belonging to him, but as the question had been put he should say that the Clerk of the House could not order the memorial to be printed, inasmuch as there would be, if the motion to lay on the table prevailed, a motion pending to reconsider the vote to print the memorial. The motion to lay on the table prevailing would not finally dispose of the matter, because the House might call it up, on doing which the question would recur on the motion to reconsider.<sup>3</sup>

**5635.** On February 16, 1842,<sup>4</sup> a motion was made to reconsider the vote whereby, on the preceding day, the House had passed the bill (H. R. 112) relating to the charters of certain banks in the District of Columbia. On motion of Mr. Lewis Williams, of North Carolina, the motion to reconsider was laid on the table. On this proceeding the Journal has this entry:

And so the motion to reconsider was laid on the table, and the bill stands passed.

On February 28<sup>5</sup> the House agreed to a resolution of inquiry in regard to compensation of the General of the Army, and immediately upon the announcement of the vote, a motion was made to reconsider the vote on the passage.

Thereupon a motion was made and agreed to, that the motion to reconsider lay upon the table. "And so the resolution stands passed," is the entry of the Journal on this proceeding.<sup>6</sup>

**5636.** On July 30, 1846,<sup>7</sup> the House was considering the bill (H. R. 435) to amend the law relating to the rates of postage, etc., when Mr. George W. Hopkins, of Virginia, moved to amend the same by striking out all after the enacting clause and inserting a new text.

Mr. Hannibal Hamlin, of Maine, offered an amendment to the amendment proposed by Mr. Hopkins.

<sup>1</sup> Second session Twenty-third Congress, Debates, p. 1397.

<sup>2</sup> John Bell, of Tennessee, Speaker.

<sup>3</sup> As early as June 23, 1832 (first session, Twenty-second Congress, Journal, pp. 932, 935; Debates, pp. 3719-3720), occurs an instance of laying on the table a motion to reconsider.

<sup>4</sup> Second session Twenty-seventh Congress, Journal, p. 406.

<sup>5</sup> Journal, p. 452; Globe, p. 267.

<sup>6</sup> See Journal January 22, 1851, for an instance where a motion was made to reconsider the vote laying a bill on the table. Then that motion to reconsider was laid on the table. (Second session Thirty-first Congress, Journal, p. 171.)

<sup>7</sup> First session Twenty-ninth Congress, Journal, pp. 1183-1185; Globe, p. 1169.

Mr. Hamlin's amendment to the amendment was rejected, and then the question recurred on the amendment proposed by Mr. Hopkins, and it was rejected.

The question recurred on ordering the bill to be engrossed, when Mr. Robert Dale Owen, of Indiana, moved that the vote by which the amendment of Mr. Hopkins had been rejected be reconsidered.

Mr. George Rathbun, of New York, moved that the motion to reconsider be laid on the table, and this motion was decided in the affirmative.

The Speaker<sup>1</sup> then stated that the motion to reconsider the vote upon a pending amendment having been laid on the table, no further proceeding could take place in relation to said bill until the said motion to reconsider was taken up and finally disposed of.<sup>2</sup>

**5637.** On June 12, 1852,<sup>3</sup> the practice of moving to reconsider and then moving to lay that motion on the table, was spoken of as a practice that had grown up in the two preceding Congresses. Mr. Speaker Boyd justified this practice of one Member making such a double motion, as in accordance with the usage of the House.

**5638.** On March 3, 1853,<sup>4</sup> the House rejected the report of the conference committee on the disagreeing votes of the two Houses on the amendments of the Senate to the civil and diplomatic appropriation bill. At the time of the disagreement to the report, a motion was made to reconsider the vote, and that motion was laid on the table.

Later in the day, Mr. Josiah Sutherland, of New York, moved to reconsider the motion whereby the motion to reconsider had been laid on the table.

Mr. Fayette McMullen, of Virginia, made the point of order that the motion to reconsider was not in order.

The Speaker<sup>5</sup> sustained the point of order.

**5639.** On July 15, 1868,<sup>6</sup> the Senate requested the House to return the Senate resolution of concurrence in the report of the committee of conference on the bill (H. R. 818) making appropriations for the sundry civil expenses of the Government, in order that an error might be corrected.

The House directed the Clerk to inform the Senate that the House had agreed to the report, and laid on the table the motion to reconsider the vote thereon, and that it was out of the power of the House, except by unanimous consent, which was refused, to return the Senate's resolution of concurrence in the report, as was requested.

**5640. The House having laid on the table a motion to reconsider the vote by which a proposition has been laid on the table, the proposition may be taken up only by unanimous consent or a suspension of the rules.—** On June 12, 1858,<sup>7</sup> the conferees on the Post-Office appropriation bill reported an inability to agree. Thereupon a motion was made and carried that the

<sup>1</sup> John W. Davis, of Indiana, Speaker.

<sup>2</sup> This is not the present practice.

<sup>3</sup> First session Thirty-second Congress, *Globe*, p. 1560.

<sup>4</sup> Second session Thirty-second Congress, *Globe*, pp. 1155, 1156.

<sup>5</sup> Linn Boyd, of Kentucky, Speaker.

<sup>6</sup> Second session Fortieth Congress, *Journal*, p. 1075; *Globe*, pp. 4070, 4075.

<sup>7</sup> First session Thirty-third Congress, *Journal*, pp. 1125, 1126, 1135; *Globe*, pp. 3044, 3045.



said bill and amendments be laid on the table. Then a motion to reconsider the vote last taken having been made, the motion to reconsider was laid on the table. Subsequently, on June 14, by a suspension of the rules and a two-thirds vote, the bill was taken up and a further conference asked. Speaker Orr held that the two-third votes was necessary to take the bill from the table.<sup>1</sup>

**5641. A motion to go into Committee of the Whole, when decided in the negative, may not be reconsidered.**—On February 15, 1906,<sup>2</sup> the House, by a vote of yeas 87, nays 163, disagreed to a motion that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 14606) to provide for the consolidation and reorganization of customs collection districts, and for other purposes.

Mr. Charles R. Thomas, of North Carolina, proposed a motion to reconsider, and a motion to lay the motion to reconsider on the table.

The Speaker<sup>3</sup> said:

It occurs to the Chair that that motion is not in order. In the opinion of the Chair it is like unto a motion to adjourn. The Chair reads from the House precedents:

“The Speaker decided that a motion to adjourn might not be reconsidered”—

**5642. The vote whereby a second is ordered may be reconsidered.**—On March 26, 1856,<sup>4</sup> a question arose as to whether or not the vote whereby the previous question had been seconded<sup>5</sup> might be reconsidered. Mr. Howell Cobb, of Georgia (an ex-Speaker), contended that this second, which was never taken by the yeas and nays, was not properly a vote, and might not be reconsidered. But Mr. Speaker Banks held that the vote on the second, like the vote whereby the yeas and nays were ordered, might be reconsidered. The House sustained this decision.

**5643. It is in order to reconsider a vote postponing a bill to a day certain, even on a later day.**—On January 19, 1857,<sup>6</sup> Mr. Thomas J. D. Fuller, of Maine, called up the motion<sup>7</sup> to reconsider the vote whereby the bill (H. R. 187) establishing the collection districts of the United States, etc., was postponed until the 9th of December last.

Mr. George W. Jones, of Tennessee, made the point of order that, inasmuch as the day had gone by to which the said bill was postponed, it was not now in order to entertain the motion to reconsider the vote on its postponement.

The Speaker<sup>8</sup> overruled the point of order on the ground that the rules conferred the privilege upon a Member voting with the prevailing side to move a reconsideration; and the right to consider such motion whenever regularly called up must, as a matter of course, follow.

<sup>1</sup> Of course this result might also be effected by majority vote on a report from the Committee on Rules, a procedure unknown in 1858.

<sup>2</sup> First session Fifty-ninth Congress, Record, pp. 2609, 2610.

<sup>3</sup> Joseph G. Cannon, of Illinois, Speaker.

<sup>4</sup> First session Thirty-fourth Congress, Journal, pp. 727, 733; Globe, p. 752.

<sup>5</sup> This second is no longer required by the rules.

<sup>6</sup> Third session Thirty-fourth Congress, Journal, pp. 257, 339.

<sup>7</sup> A motion to reconsider must be made on “the same or succeeding day,” but as in this case its consideration may not take place until a much later time.

<sup>8</sup> Nathaniel P. Banks, of Massachusetts, Speaker.

Mr. Jones having appealed, on February 2 the decision of the Chair was sustained.<sup>1</sup>

**5644. The motion to reconsider may not be applied to the vote on reconsideration of a bill returned with the objections of the President.**—On June 12, 1844,<sup>2</sup> a motion was made by Mr. Orville Hungerford, of New York, to reconsider the vote by which the House on the previous day refused, on reconsideration, to pass the bill (No. 203) entitled “An act making appropriations for the improvement of certain harbors and rivers,” which had been returned with the objections of the President.

The Speaker<sup>3</sup> decided that inasmuch as the vote now proposed to be reconsidered was taken in a manner expressly provided for by the Constitution of the United States, and having been thus taken, the decision must be considered final, and no motion to reconsider was in order.

From this decision Mr. John Quincy Adams, of Massachusetts, appealed.<sup>4</sup> After debate the Chair was sustained by a vote of 97 to 85.

**5645. The motion to reconsider may not be applied to the vote on a motion to suspend the rules.**—On January 13, 1851,<sup>5</sup> Mr. Williamson R. W. Cobb, of Alabama, having called up the motion submitted by him on Tuesday previous to reconsider the vote by which the House, on the previous day, had refused to suspend the rules, so as to enable the gentleman from Indiana [Mr. George W. Julian] to present the memorial of the meeting of Anti-slavery Friends, held at Newport, Ind., on the subject of slavery and the repeal of the “Fugitive-slave law.”

The Speaker<sup>6</sup> stated that, when he permitted this motion to be entered upon the Journal, he expressed doubts as to the propriety of entertaining it. Subsequent examination of the subject had confirmed him in the opinion that a motion to reconsider a vote upon a motion to suspend the rules was not in order. He therefore ruled the motion out of order.

<sup>1</sup>For statement of the practice in regard to the motion to reconsider, see *Globe*, p. 510, February 4, 1853. (Second session Thirty-second Congress.)

<sup>2</sup>First session Twenty-eighth Congress, *Journal*, pp. 1093, 1097; *Globe*, pp. 665–675.

<sup>3</sup>John W. Jones, of Virginia, Speaker.

<sup>4</sup>On June 13 Mr. Adams gave his reasons for the appeal. He said the Constitution provided that the bill should be reconsidered with the President’s objections. Reconsideration implied deliberation. But the vote had been taken under the operation of the previous question, which allowed no deliberation. Therefore the provision of the Constitution had been violated.

The Speaker, replying, asked how it was that a motion to reconsider was ever entertained? It was only in virtue of the rules of the House. The bill was passed some days ago, and it was no sooner passed than a motion was made to reconsider it. That motion was rejected; all power under the rule was exhausted. Had it ever been heard of that a motion to reconsider, being once rejected, could be renewed? There was, however, a power higher than the rules which provided that whenever a bill was returned by the President of the United States with objections it was the duty of the House to proceed to reconsider it. Without that provision of the Constitution the House could never again have touched the bill; and the requirement of the Constitution having been complied with, there was no power in the House to touch the subject again.

Messrs. Thomas H. Bayly and George C. Dromgoole, of Virginia, replied to the point made by Mr. Adams, Mr. Dromgoole contending that Mr. Adams had confounded discussion with consideration.

<sup>5</sup>Second session Thirty-first Congress, *Journal*, p. 134; *Globe*, pp. 182, 225.

<sup>6</sup>Howell Cobb, of Georgia, Speaker.

In this decision of the Chair the House acquiesced.<sup>1</sup>

**5646.** On December 20, 1858,<sup>2</sup> a vote was taken on a motion to suspend the rules for the purpose of taking up a concurrent resolution from the Senate providing for adjournment over the holidays. There appeared on this vote 122 yeas and 75 nays.

Two-thirds not voting therefor, the rules were not suspended.

Mr. James Hughes, of Indiana, moved to reconsider the vote just taken.

The Speaker<sup>3</sup> said:

The Chair can not entertain the motion to reconsider. The motion to suspend the rules is one which can be repeated an indefinite number of times; and a motion to reconsider would not therefore be in order. \* \* \*

**5647. No bill, petition, memorial, or resolution referred to a committee may be brought back into the House on a motion to reconsider.**

**All bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.**

**The rules contemplate that a committee may report a matter to the House for printing and recommitment.**

**Present form and history of section 2 of Rule XVIII.**

Section 2 of Rule XVIII provides:

No bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment,<sup>4</sup> shall be brought back into the House on a motion to reconsider; and all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.

This rule was reported and adopted as a new rule in the revision of 1880,<sup>5</sup> the Committee on Rules in their report explaining its purpose as follows:

Clause 2 of Rule XVIII is added for the purpose of preventing a Member from bringing back into the House, on a motion to reconsider, any matter which he has obtained unanimous consent to introduce or submit for reference or to report from a committee for printing and recommitment. Such proceeding being a matter of favor and courtesy outside of the regular order of business, it is certainly not proper that undue advantage should be taken of that consent by bringing up out of order any matter so introduced, submitted, or reported.

This was not a new rule in 1880, however, as the prohibition in regard to bringing back bills introduced during the Monday morning call<sup>6</sup> had been adopted in the revision of 1860;<sup>7</sup> and on January 11, 1872, the prohibition was extended to bills

<sup>1</sup>On June 5, 1840, a motion to reconsider the vote whereby the rules had been suspended was admitted without question by Mr. Speaker Hunter. (First session Twenty-sixth Congress, Journal, p. 1081; Globe, p. 447.)

On September 2, 1850, also, an instance occurs of reconsidering and laying on the table a motion to reconsider a vote which had been agreed to by a two-thirds vote under suspension of the rules. (First session Thirty-first Congress, Journal, p. 1358.)

<sup>2</sup>Second session Thirty-fifth Congress, Globe, p. 152.

<sup>3</sup>James L. Orr, of South Carolina, Speaker.

<sup>4</sup>In the present practice bills are rarely reported for printing and recommitment. It is quite common for the committees to order them printed under the provisions of the printing law without having recourse to the House.

<sup>5</sup>Second session Forty-sixth Congress, Record, p. 203.

<sup>6</sup>This was the earlier method of introducing bills.

<sup>7</sup>Record, first session Thirty-sixth Congress, March 15, 1860.

introduced and referred by unanimous consent.<sup>1</sup> On March 21, 1871,<sup>2</sup> Mr. Speaker Blaine referred to the inconvenience and vexatiousness of the practice of getting bills before the House by the motion to reconsider.<sup>3</sup>

**5648. There is a question as to whether or not the rule forbidding a bill to be brought back from a committee on a motion to reconsider applies to a case wherein the House, after considering a bill, commits it.**—On December 10, 1894,<sup>4</sup> the Committee of the Whole House on the state of the Union rose, and the Chairman reported that the Committee having had under consideration the bill (H. R. 6642) had directed him to report the same with the recommendation that the bill and amendments be committed to the Committee on Public Buildings and Grounds.

The report of the Committee was then agreed to, and the said bill was accordingly committed to the Committee on Public Buildings and Grounds.

Mr. Alexander M. Dockery, of Missouri, moved to reconsider the vote last taken.

The Speaker<sup>5</sup> held that the motion should not be entertained, inasmuch as the bill having been committed to a committee could not be brought back into the House on a motion to reconsider, and that such motion would therefore be without effect.

**5649.** On May 13, 1896,<sup>6</sup> the House had voted that the contested election case of Rinaker *v.* Downing, from Illinois, which had been under consideration, should be recommitted to the Committee on Elections No. 1, with certain instructions.

Mr. William H. Moody, of Massachusetts, having made the usual motions, to reconsider and that that motion lie on the table, objection was made to a pro forma agreement to these motions.

Mr. James D. Richardson, of Tennessee, raised the point that when a matter had once been before the House and been recommitted, it was not in order to bring that matter again before the House by a motion to reconsider.

The Speaker<sup>7</sup> said:

Without undertaking to decide, if the gentleman desires to cite any authority, the idea of the Chair is that this rule was intended to apply to cases of formal reference; for instance, reference after a first reading. Those matters are not to be brought back upon a motion to reconsider. The Chair thinks the rule was intended to cover a first reference, the policy of the rules of the House of Representatives having

<sup>1</sup> See report of Mr. S. S. Cox from Committee on Rules, second session Forty-second Congress, Globe, p. 359.

<sup>2</sup> First session Forty-second Congress, Globe, pp. 212, 213.

<sup>3</sup> An instance of the disarrangement of business resulting from this practice is afforded by the older practice. On December 23, 1835, Mr. John M. Patton, of Virginia, moved to reconsider the vote by which the House had referred to the Committee on the District of Columbia a petition presented by Mr. George N. Briggs, of Massachusetts, from sundry citizens of Massachusetts, who prayed for the abolition of slavery in the District of Columbia. The motion to reconsider was the subject of a long debate, which involved the merits of the slavery question. The motion was finally agreed to, yeas 148, nays 61. The motion of reference being again before the House a motion was made to lay that motion and the petition on the table as the most effective method of ending agitation on the subject. (First session Twenty-fourth Congress, Journal, p. 84; Debates, pp. 2042–2077.)

<sup>4</sup> Third session Fifty-third Congress, Journal, p. 22.

<sup>5</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>6</sup> First session Fifty-fourth Congress, Record, p. 5208.

<sup>7</sup> Thomas B. Reed, of Maine, Speaker.

always been to cause everything to be referred to a committee before action by the House. The opinion of the Chair is that the rule was intended to cover such cases as that, and not cases where a report has been made by a committee and the matter is sent back with instructions.

**5650.** On January 21, 1901,<sup>1</sup> the House recommitted to the Committee on the District of Columbia the bill (H. R. 13660) "relating to the Washington Gas Light Company, and for other purposes," with certain instructions.

On the same day Mr. Joseph W. Babcock, of Wisconsin, proposed to enter a motion to reconsider the vote.

The Speaker,<sup>2</sup> after referring to section 2 of Rule XVIII,<sup>3</sup> admitted the motion, subject to a point of order in case one should be made and sustained.

On January 28,<sup>4</sup> the motion to reconsider was called up and acted on without question as to the procedure.

**5651. After a committee has reported a matter it is too late to reconsider the vote by which it was referred.**—On May 18, 1876,<sup>5</sup> Mr. Otho R. Singleton, of Mississippi, from the Committee on Printing, to which was recommitted a resolution heretofore reported by that committee, instructing the Committee on Appropriations to insert certain sections in the sundry civil appropriation bill relative to the management of the Government Printing Office, with instructions to modify the same, reported the same back with an amendment, as instructed by the House. Mr. Singleton moved to reconsider the vote by which the report was recommitted to the Committee on Printing.

Mr. Eugene Hale, of Maine, made the point of order that the Committee on Printing having reported back a resolution recommitted to the committee a motion to reconsider the vote by which the resolution was recommitted was not in order.

The Speaker pro tempore<sup>6</sup> sustained the point of order, holding that the report having been made it had passed the stage where a motion to reconsider the vote of recommitment could be made.<sup>7</sup>

**5652. When the House has passed a bill and disposed of a motion to reconsider the vote on its passage, it is too late to move to reconsider the vote sustaining the decision of the Chair which brought the bill before the House.**—On April 29, 1850,<sup>8</sup> Mr. George W. Jones, of Tennessee, moved to reconsider the vote by which the House had, on Friday last, sustained the decision of the Chair bringing before the House the joint resolution (No. 16) authorizing the President of the United States to accept and attach to the Navy two vessels offered by Henry Grinnell, esq., of New York, to be sent to the Arctic seas in search of Sir John Franklin and his companions, which had previously passed from under its consideration by a process other than the one by which the reconsideration had been proposed.

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<sup>1</sup> Second session Fifty-sixth Congress, Record, pp. 1262, 1266.

<sup>2</sup> David B. Henderson, of Iowa, Speaker.

<sup>3</sup> See section 5647 of this chapter.

<sup>4</sup> Record, pp. 1577–1581.

<sup>5</sup> First session Forty-fourth Congress, Journal, p. 973.

<sup>6</sup> Samuel S. Cox, of New York, Speaker pro tempore.

<sup>7</sup> It is now a rule of the House that no bill may be brought back from a committee on a motion to reconsider. See section 5647 of this chapter.

<sup>8</sup> First session Thirty-first Congress, Journal, pp. 860, 861, Globe; p. 843.

The Speaker<sup>1</sup> held:

The motion now made to reconsider is ruled out of order, because it is not in order to move a reconsideration of any measure after subsequent action has been had by the House, which renders it impossible for the House to reverse that action. In the present case, subsequent action has been had, for the joint resolution which was brought before the House by the operation of the decision referred to, was engrossed and passed, and a motion to reconsider made and disposed of. So that, if now the decision of the Chair should be reconsidered, no effect could result. In the opinion of the Chair, therefore, the motion to reconsider the vote on the appeal is out of order, and can not be entertained.

From this decision of the Chair Mr. Jones appealed, and on the next day the appeal was laid on the table, the decision being thereby sustained.

**5653. The motion to reconsider may not be applied to a vote for the previous question which has been partially executed. (Speaker overruled.)**—On July 8, 1850,<sup>2</sup> the House was considering resolutions relating to the relations of Hon. George W. Crawford to a certain claim (the Galphin claim). Several amendments to the resolutions had been voted on, when Mr. W. S. Featherston, of Mississippi, moved to reconsider the vote by which the main question had been ordered to be put.

Mr. Robert C. Baker, of Massachusetts, raised the question of order that the motion was not in order, on the ground that the previous question had been partly executed.

The Speaker<sup>1</sup> decided that the motion to reconsider having been made within the time prescribed by the rules, the House has the right to reconsider the vote ordering the main question, notwithstanding the previous question had been partly executed by voting upon most of the pending questions. He referred to the fact that during the present session (on the 12th of February) the right of a Member to make a similar motion under like circumstances with those now existing was admitted by the Speaker and acquiesced in by the House. He therefore overruled the point of order and would entertain the motion.

From this decision of the Chair Mr. Robert C. Winthrop, of Massachusetts, appealed, and the question being put, "Shall the decision of the Chair stand as the judgment of the House?" it was decided in the negative, yeas 94, nays 102.

**5654.** On September 5, 1850,<sup>3</sup> the House was considering, under a special order, the bill of the Senate (No. 307) entitled "An act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States."

On the previous day an amendment offered by Mr. Linn Boyd, of Kentucky, in the nature of a substitute had been voted on under the operation of the previous question and had been defeated. The question on the third reading of the bill was decided in the negative, and Mr. Boyd moved to reconsider the vote whereby the third reading of the bill was refused.

This motion to reconsider was the pending question when the bill came up September 5.

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<sup>1</sup> Howell Cobb, of Georgia, Speaker.

<sup>2</sup> First session Thirty-first Congress, Journal, pp. 1074, 1101, 1398.

<sup>3</sup> First session Thirty-first Congress, Globe, p. 1352.

After a motion to lay the motion to reconsider on the table had been negatived the previous question was ordered, and under its operation the House voted to reconsider, yeas 131, nays 75.

The question then recurred on ordering the bill to a third reading, pending which Mr. Joseph Grinnell, of Massachusetts, moved that the vote be reconsidered by which the House on the previous day disagreed to the amendment submitted by Mr. Boyd, and on his motion demanded the previous question, which was ordered.

Then the vote whereby Mr. Boyd's amendment was disagreed to was reconsidered, and the question recurred on agreeing to the amendment of Mr. Boyd.

Mr. Robert Toombs, of Georgia, submitted an amendment to the amendment of Mr. Boyd, pending which Mr. John Wentworth, of Illinois, moved that the bill and pending amendments be committed with instructions.

This was disagreed to. Then Mr. David T. Disney, of Ohio, moved that the vote by which the main question had been ordered to be put be reconsidered.

The Speaker<sup>1</sup> stated that, in conformity with a decision of the House against a decision of his own (made a short time since), he should rule the motion not in order, on the ground that the previous question had been partly executed.

From this decision of the Chair Mr. Disney appealed, and the appeal being laid on the table, the Chair was sustained.

**5655. The vote whereby the previous question is ordered may be reconsidered once only.**—On January 22, 1855,<sup>2</sup> during the consideration of the bill to provide for railroad and telegraph communication between the Atlantic States and Pacific Ocean, a question arose as to reconsideration of the previous question, and the Speaker<sup>3</sup> said:

The Chair has already stated this morning that a vote of the House ordering the main question to be put can not be reconsidered more than once. The main question was ordered upon the passage of the bill on Saturday, reconsidered again, and ordered to-day by the House. The Chair thinks that, under the rules, it can not be reconsidered a second time.

**5666. A motion to reconsider may be made after a motion for the previous question has been made.**

**A motion to reconsider the vote on the third reading of a bill may be made and acted on after a motion for the previous question on the passage has been made, but the motion to reconsider may not be debated.**

On May 20, 1856,<sup>4</sup> the House had ordered to be engrossed and read a third time the bill (H. R. 326) granting public lands to the State of Wisconsin, and the question recurred on its passage.

Mr. Henry Bennet, of New York, moved the previous question.

Pending this motion Mr. John Letcher, of Virginia, moved a reconsideration of the vote by which the bill was ordered to be engrossed and read a third time, and was proceeding to debate his motion, when Mr. Israel Washburn, jr., of Maine,

<sup>1</sup> Howell Cobb, of Georgia, Speaker.

<sup>2</sup> Second session Thirty-third Congress, Globe, p. 355.

<sup>3</sup> Linn Boyd, of Kentucky, Speaker.

<sup>4</sup> First session Thirty-fourth Congress, Journal (of first and second session), p. 1009; Globe, pp. 1259, 1260.

made the point of order that debate was not in order after the demand of the previous question.

Mr. Letcher declared that if that were so one Member by moving the previous question could thereby cut off debate on the motion to reconsider. Mr. Howell Cobb, of Georgia, also took this view.

The Speaker<sup>1</sup> said that the motion to reconsider was in order and preceded the motion for the previous question. It was a privileged question; but under the rules of the House it must be decided without debate. The call for the previous question cut off all debate; but the privileged question would be received and passed upon by the House. The Chair was of the opinion that it was the logical conclusion from the rules of the House that this question should be decided without debate. The difficulty suggested by the gentleman from Virginia was the same on one side as the other. If a Member moved to reconsider, the previous question having been called, then, if he be allowed to debate it, one Member would cut off from the House the right to close debate. If, as the gentleman from Georgia said, a Member had the right, but could not debate it, it put it in the power of the Member calling the previous question to cut off debate. But that was under the rules of the House. The difficulty was the same in the one case as in the other.

Mr. Letcher having appealed, the decision of the Chair was sustained by a vote of 92 yeas to 38 nays.<sup>2</sup>

**5657. The motion to reconsider and the motion to lay that motion on the table are admitted while the previous question is operating.**—On January 31, 1889,<sup>3</sup> the House was considering the bill (H. R. 10614) to organize the Territory of Oklahoma under a special order which provided that the previous question at a certain time—

shall then be considered as ordered upon all such amendments and upon ordering said bill to be read a third time and upon the passage of the same, and the votes thereon shall then be taken in the House.

Under the operation of the previous question as provided in the order a portion of the amendment had been agreed to, when Mr. S. S. Yoder, of Ohio, moved to reconsider the vote whereby one of these amendments had been agreed to.

Mr. Charles E. Hooker, of Mississippi, made the point of order that under the previous question which had been ordered the motion to reconsider was not in order.

The Speaker<sup>4</sup> said:

Under the rules of the House the motion to reconsider is one of very high privilege, and it is a motion which relates directly to the proposition pending and on which a vote of the House has been taken. In other words, the vote of the House upon a proposition is not final and conclusive upon the House itself until there has been an opportunity to reconsider it, and therefore the motion to reconsider and lay on the table is, in fact, a vote upon the amendment itself. The Chair thinks the point of order is not well taken.

<sup>1</sup>Nathaniel P. Banks, of Massachusetts, Speaker.

<sup>2</sup>On June 5, 1840, the House reversed—yeas 78, nays 85—a decision of Mr. Speaker Hunter that a motion to reconsider might be interjected between the demand for the previous question and the putting of the previous question. (First session Twenty-sixth Congress, Journal, p. 1081; Globe, p. 447.)

<sup>3</sup>Second session Fiftieth Congress, Journal, p. 381; Record, p. 1380.

<sup>4</sup>John G. Carlisle, of Kentucky, Speaker.



Mr. Lewis E. Payson, of Illinois, moved to lay the motion to reconsider on the table, and that motion also was put and voted on without any point of order being raised.

**5658.** On March 12, 1900,<sup>1</sup> the House was considering the contested election case of *Wise v. Young*, and the previous question was ordered on the resolutions of the majority and the substitute proposed by the minority. The substitute was disagreed to, yeas 128, nays 132. The vote having been announced, Mr. James D. Richardson, of Tennessee, moved to reconsider.

Mr. Edgar Weeks, of Michigan, moved to lay the motion to reconsider on the table, and the motion was agreed to, yeas 132, nays 129.

The question then recurred on the resolutions of the majority.

**5659.** On March 1, 1877,<sup>2</sup> the House was considering the following resolution submitted by Mr. Fernando Wood, of New York, on the preceding day:

*Resolved*, That the vote of Henry N. Solace, claiming to be an elector from the State of Vermont, be not counted.

Mr. James H. Hopkins, of Pennsylvania, having submitted an amendment in the nature of a substitute, the previous question was ordered, on motion of Mr. Wood.

The vote being taken on Mr. Hopkins's amendment, it was rejected, yeas 115, nays 147.

Mr. Lafayette Lane, of Oregon, moved to reconsider the vote last taken.

Mr. Fernando Wood made the point of order that, the previous question being in operation, the motion to reconsider was not in order.

Mr. Nathaniel P. Banks, of Massachusetts, made the further point of order that the previous question must be exhausted before the motion to reconsider could be entertained; and, further, that it was not in order to move the reconsideration of a vote on ordering the main question when it was partly executed.

The Speaker<sup>3</sup> overruled the point of order and held the motion to be in order on the ground that in the event of an affirmative vote on a question of reconsideration, it was immediately divested of the previous question, and therefore by analogy admitted the motion to reconsider.

**5660.** On July 20, 1876,<sup>4</sup> the Speaker pro tempore announced as the regular order of business the consideration of the joint resolution of the House (H. J. Res. 96) to provide for the protection of the Texas frontier on the lower Rio Grande, the pending question being the amendment reported by the Committee of the Whole House on the state of the Union as a substitute for the second section of the said joint resolution; on which amendment the yeas and nays had been ordered at the time of the adjournment on the preceding day.

It appears from the context of the Journal that the previous question was on the preceding day ordered on all the amendments, and on the joint resolution to its engrossment.

The question being taken on the pending amendment, there were 89 yeas and 96 nays, the yeas and nays having been ordered.

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<sup>1</sup> First session Fifty-sixth Congress, Record, p. 2795.

<sup>2</sup> Second session Forty-fourth Congress, Journal, pp. 587, 592-594; Record, p. 2049.

<sup>3</sup> Samuel J. Randall, of Pennsylvania, Speaker.

<sup>4</sup> First session Forty-fourth Congress, Journal, pp. 1299-1301; Record, pp. 4753, 4754.

Mr. John Randolph Tucker moved to reconsider the vote by which the yeas and nays were ordered on agreeing to the aforesaid amendment.

Mr. George G. Hoskins, of New York, made the point of order that, the previous question being partly executed, it was not now in order to move a reconsideration of the main question.

The Speaker pro tempore <sup>1</sup> sustained the point of order.

**5661.** On July 8, 1850,<sup>2</sup> the House was considering the resolutions of the committee appointed to investigate the connection of the Hon. George W. Crawford with the Galphin claim. Mr. Robert C. Schenck, of Ohio, had offered an amendment in the nature of a substitute, and Mr. Jacob Thompson, of Mississippi, had offered an amendment to Mr. Schenck's substitute.

On July 6 the previous question had been ordered on the resolution and amendments, and on July 8, under the operation thereof, the amendment of Mr. Thompson was agreed to, and then the substitute as amended was disagreed to.

Mr. Graham N. Fitch, of Indiana, moved to reconsider this vote whereby the substitute as amended had been disagreed to.

Mr. Nathan Evans, of Ohio, moved that the motion to reconsider be laid on the table.

Mr. John R. Thurman, of New York, made the point of order that it was not in order to move a reconsideration pending the operation of the previous question.

The Speaker,<sup>3</sup> "under the uniform practice of the House," overruled the point of order.

Mr. Thurman having appealed, the appeal was laid on the table, and the decision was thereby sustained.

**5662.** On February 16, 1855,<sup>4</sup> the House was considering a resolution to close debate in the Committee of the Whole House on the state of the Union on the bill (H. R. 595) making an appropriation for mail steamers. An amendment had been offered to the resolution, the previous question ordered on the resolution and amendment, and under the operation thereof the amendment agreed to.

Thereupon Mr. James L. Orr, of South Carolina, moved to reconsider the vote whereby the amendment was agreed to.

Mr. George W. Jones, of Tennessee, made the point of order that, as the previous question had been ordered on the resolution, the motion to reconsider was not in order.

The Speaker <sup>5</sup> said:

The Chair overrules the question of order and decides that the motion to reconsider the vote by which the amendment was adopted is in order. Such has been the practice of the House every week, nay, almost every day, since the occupant of the Chair has had a seat in this body, and the Chair is not disposed to change the practice.

Thereupon the motion to reconsider was admitted, and then a motion to lay the motion to reconsider on the table was made and carried on a vote by yeas and nays.

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<sup>1</sup> Milton Sayler, of Ohio, Speaker pro tempore.

<sup>2</sup> First session Thirty-first Congress, Journal, pp. 1087, 1101; Globe, p. 1353.

<sup>3</sup> Howell Cobb, of Georgia, Speaker.

<sup>4</sup> Second session Thirty-third Congress, Globe, p. 774.

<sup>5</sup> Linn Boyd, of Kentucky, Speaker.

Then the question recurred on the passage of the resolution.

**5663. A motion to reconsider the vote on the engrossment of a bill may be admitted after the previous question has been moved on a motion to postpone.**—On July 27, 1842,<sup>1</sup> the House had under consideration a bill (H. R. 548) to reduce the compensation of the Members of the Senate, Members of the House of Representatives, and the Delegates of the Territories, and repealing all other laws on the subject.

The bill having been ordered to be engrossed, the question recurred on the passage.

Mr. Almon H. Read, of Pennsylvania, moved to postpone the consideration of the bill until the next day, and that it be printed.

Mr. Edward Stanly, of North Carolina, moved the previous question, and thereupon Mr. Benjamin G. Shields, of Alabama, moved to reconsider the vote ordering the bill to be engrossed.

Thereupon Mr. Millard Fillmore, of New York, submitted the following question of order:

The previous question having been moved upon the motion made by Mr. Read to postpone<sup>2</sup> the consideration of the said bill, it is not in order at this time to move a reconsideration of the vote ordering the bill to be engrossed.

The Speaker<sup>3</sup> decided that, as the question on seconding<sup>4</sup> the previous question had not been taken, the motion to reconsider was in order.

The decision was sustained, 143 yeas to 34 nays, Mr. Fillmore having appealed.

**5664. After a conference has been agreed to and the managers for the House appointed it is too late to move to reconsider the vote whereby the House acted on the amendments in disagreement.**—On June 9, 1896,<sup>5</sup> the House had insisted on its disagreement to certain Senate amendments to the sundry civil appropriation bill, had agreed to a conference, and the Speaker had appointed the conferees, when Mr. Charles S. Hartman, of Montana, moved to reconsider the vote whereby the House refused to agree to certain of the Senate amendments.

The Speaker<sup>6</sup> said:

The Chair thinks, the conferees having been appointed, it is now too late to make that motion.

**5665. The motion to reconsider the vote whereby an order of the House had been agreed to was admitted, although the execution of that order had begun.**—On February 8, 1894,<sup>7</sup> Mr. Thomas B. Reed, of Maine, moved to reconsider the vote by which, on the preceding day, the House had passed an order for taking absent Members into custody.

Mr. Richard P. Bland, of Missouri, made the point that the order being in process of execution and partly executed it was not in order to move to reconsider the vote by which it was passed.

<sup>1</sup> Second session Twenty-seventh Congress, Journal, p. 1175; Globe, p. 799.

<sup>2</sup> For relations of motion to postpone to the previous question, see sections 5443, 5444 of this volume.

<sup>3</sup> John White, of Kentucky, Speaker.

<sup>4</sup> The demand for the previous question no longer requires to be seconded. (See sections 5443–5445 of this volume.)

<sup>5</sup> First session Fifty-fourth Congress, Record, p. 6360.

<sup>6</sup> Thomas B. Reed, of Maine, Speaker.

<sup>7</sup> Second session Fifty-third Congress, Journal, p. 149; Record, p. 2035.

The Speaker<sup>1</sup> entertained the motion to reconsider.

**5666.** A motion to reconsider may be entertained, although the bill or resolution to which it applies may have gone to the other House or the President.—On May 27, 1840,<sup>2</sup> a motion was made by Mr. Julius C. Alford, of Georgia, that the House reconsider the vote of the previous day on the passage of the bill from the Senate (No. 12) entitled “An act supplemental to the act entitled ‘An act to grant preemption rights to settlers on the public lands,’ approved June 22, 1838.”

Mr. John Jameson, of Missouri, stated that he understood that the bill had been taken by the Clerk to the Senate, in which House it originated, and was consequently now beyond the control of the House, and therefore the motion to reconsider could not be entertained.

The Speaker<sup>3</sup> decided that the motion to reconsider was in order under the fiftieth rule,<sup>4</sup> which provided that “when a motion had been once made and carried in the affirmative or negative, it shall be in order for any Member of the majority to move for the reconsideration thereof on the same or the succeeding day.”

From this decision Mr. David Petrikin, of Pennsylvania, took an appeal to the House. The decision of the Chair was sustained.<sup>5</sup>

**5667.** On June 14, 1844,<sup>6</sup> a motion was made by Mr. Perley B. Johnson, of Ohio, to reconsider the vote by which the House passed the bill from the Senate (No. 20) entitled “An act to provide for the adjustment of land claims within the States of Mississippi and Alabama, south of the thirty-first degree of north latitude, and between the Mississippi and Perdido rivers.”

Mr. Benjamin White, of Maine, inquired of the Speaker whether the bill had been returned to the Senate. The Speaker replied that it had.

Mr. White then raised the question of order, whether it was in order to entertain a motion to reconsider, after the papers upon which the vote of reconsideration was founded had gone out of the possession of the House.

Pending a decision, the House adjourned. On the next day, June 15, the Speaker<sup>7</sup> decided against the point of order made by Mr. White.

From this decision Mr. White appealed, and the decision of the Chair was sustained. So it was decided by the House that it is in order to entertain a motion to reconsider a vote, after the papers upon which it is founded have gone out of the possession of the House.

**5668.** On April 10, 1846,<sup>8</sup> a motion was made by Mr. James Dixon, of Connecticut, to reconsider the vote by which the House on the preceding day agreed to the resolutions offered by Mr. Charles J. Ingersoll, of Pennsylvania, calling upon

<sup>1</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>2</sup> First session Twenty-sixth Congress, Journal, p. 1033; Globe, p. 124.

<sup>3</sup> Robert M. T. Hunter, of Virginia, Speaker.

<sup>4</sup> Now section 1 of Rule XVIII.

<sup>5</sup> Where a bill thus reconsidered has been sent to the Senate or to the President it is customary to send a request for its return. In 1820, in a famous case, Mr. Speaker Clay had declined to entertain the motion to reconsider after the papers had gone to the Senate. (See section 5605 of this volume.)

<sup>6</sup> First session Twenty-eighth Congress, Journal, pp. 1125, 1131; Globe, p. 686.

<sup>7</sup> John W. Jones, of Virginia, Speaker.

<sup>8</sup> First session Twenty-ninth Congress, Journal, p. 657.

the President of the United States for an account of all payments made on President's certificates from the fund appropriated by law, through the agency of the State Department, for the contingent expenses of foreign intercourse, etc.

Mr. Robert McClelland, of Michigan, submitted as a question of order that the resolution having been delivered to the President of the United States, a motion to reconsider was not now in order.

The Speaker<sup>1</sup> stated that it being expressly provided by the fifty-fifth rule<sup>2</sup> of the House, that "When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any Member of the majority to move for a reconsideration thereof on the same or the succeeding day;" this motion was in order and he so decided.<sup>3</sup>

Upon appeal, this decision of the Chair was sustained.

**5669. A motion being made to reconsider the vote on a bill which has gone to the Senate, a motion to ask the recall of the bill is privileged.**— On June 14, 1844,<sup>4</sup> a motion had been made to reconsider the vote whereby the House had passed the bill of the Senate (No. 20) to provide for the adjustment of land claims within certain States, when Mr. George C. Dromgoole, of Virginia, moved the following order:

*Ordered,* That a message be forthwith sent to the Senate, informing that body of the pendency of a motion in this House to reconsider the vote by which Senate bill No. 20, etc., was passed, and respectfully requesting that the said bill may be returned.

Mr. John White, of Kentucky, raised the question of order that the motion of Mr. Dromgoole was not in order.

The Speaker<sup>5</sup> decided that the order was one relating to the proceedings now before the House, and appurtenant thereto, and therefore in order.

Mr. White having appealed, the decision of the Chair was sustained.

Thereupon the motion of Mr. Dromgoole was agreed to.

**5670.** On April 1, 1864,<sup>6</sup> the House had disagreed to the Senate amendments to the bill (H. R. 15) to provide a temporary government for the Territory of Montana, and had asked a conference of the Senate, transmitting the papers to that House.

Mr. George H. Pendleton, of Ohio, moved to reconsider the above votes. And pending that motion, he moved that the Clerk request the return of the said bill from the Senate.

The Speaker<sup>7</sup> said:

The pendency of a motion to reconsider compels the House to send to the Senate for the return of the bill, unless a motion be made to lay on the table the motion to reconsider.

<sup>1</sup> John W. Davis, of Indiana, Speaker.

<sup>2</sup> See section 5605 of this volume.

<sup>3</sup> The record of the debate shows (*Globe*, p. 649) that the Speaker declared that in the present case a copy of the resolution, and not the original resolution, had gone to the President, so that it was still within the reach of the House. The Speaker also had read the precedent of May 27, 1840, on the public-lands bill, on which the motion to reconsider had been pending after the bill was engrossed.

<sup>4</sup> First session Twenty-eighth Congress, *Journal* p. 1131; *Globe*, p. 742.

<sup>5</sup> John W. Jones, of Virginia, Speaker.

<sup>6</sup> First session Thirty-eighth Congress, *Journal*, pp. 455–457; *Globe*, p. 1389.

<sup>7</sup> Schuyler Colfax, of Indiana, Speaker.

Such motion not being made, the motion to send for the bill was agreed to, and soon after the bill was returned from the Senate. The motion to reconsider was called up the succeeding day.

**5671.** On January 16, 1877,<sup>1</sup> the Senate, while revising its rules, agreed to a rule providing that when a motion to reconsider a bill that had been sent to the House should be made, it should be accompanied by a motion requesting the House to return the bill to the Senate. This was intended to obviate the difficulty experienced by the fact that the Senate usage did not permit a motion to reconsider after the bill had passed from out the possession of the body.

**5672. The fact that the House had informed the Senate that it had agreed to a Senate amendment to a House bill was held not to prevent a motion to reconsider the vote on agreeing.**—On February 7, 1854,<sup>2</sup> Mr. Thomas B. Florence, of Pennsylvania, moved that the vote by which the House, on the preceding day, agreed to the amendment of the Senate to the bill of the House (H. R. 50) entitled “An act making appropriations for the payment of invalid and other pensions of the United States, for the year ending June 30, 1855,” be reconsidered.

Mr. James L. Orr, of South Carolina, made the point of order that the vote could not be reconsidered, the Senate having been notified of the agreement by the House to their amendment, and the bill having thereby passed beyond the control of the House.<sup>3</sup>

The Speaker pro tempore<sup>4</sup> overruled the point of order, on the ground that the fifty-sixth rule of the House conferred upon any Member of the majority the right to move a reconsideration on the same day or the day succeeding that upon which the vote was given.

From this decision of the Chair Mr. Orr appealed, and on July 25, 1854, when the motion to reconsider was again called up, the decision of the Chair was sustained.

**5673. While the motion to reconsider may be entered at any time during the two days prescribed by the rule, even after the previous question is ordered or when a question of the highest privilege is pending, it may not be considered while another question is before the House.**—On July 1, 1856,<sup>5</sup> there was before the House a motion to reconsider the vote by which the bill of the House (No. 181) providing for the admission of the State of Kansas into the Union had been lost on the preceding day. There had been considerable debate, when Mr. William A. Howard, of Michigan, rising to what he claimed was a question of higher privilege, proposed to submit a report of the special Kansas investigating committee, which involved the right of a Delegate to his seat.

Mr. George S. Houston, of Alabama, made the point that the motion to reconsider could not thus be displaced, quoting the fifty-sixth rule.

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<sup>1</sup> Second session Forty-fourth Congress, Record, p. 660.

<sup>2</sup> First session Thirty-third Congress, Journal, pp. 336, 1199; Globe, pp. 375, 1913.

<sup>3</sup> The Globe for February 7 (p. 375) shows that the bill was in possession of the House awaiting enrollment at the time the motion to reconsider was made.

<sup>4</sup> George W. Jones, of Tennessee, Speaker pro tempore.

<sup>5</sup> First session Thirty-fourth Congress, Globe, p. 1525.

The Speaker<sup>1</sup> said:

The Chair is of the opinion that the report is a privileged one, and that it may be received at this stage of the proceedings. The motion to reconsider is a privileged motion, and takes precedence of every other motion relating to the ordinary business of the House, except a motion to adjourn; but that class of business which belongs to the right of a Member to a seat in this House is of higher privilege. Therefore the report from the special committee takes precedence of the motion to reconsider.

Mr. James L. Orr, of South Carolina, having appealed, Mr. Alexander H. Stephens, of Georgia, called attention to the fact that a report relating to the right of a Member to his seat raised a question of privilege, and according to the parliamentary law a question of privilege had precedence of a privileged question. The question of reconsideration was a privileged question, while the other was a question of privilege.

Mr. Orr held, first, that the report did not relate to the seat of a Member in such a way as to make it a matter of privilege, and, secondly, that the rule in regard to reconsideration was so explicit that no authority could override it.

Mr. Thomas S. Bocock, of Virginia, contended that the distinction between privileged questions and questions of privilege was made by Jefferson's Manual and not by the rules, and that the manual applied only where the rules were silent. The rule giving priority to questions of personal privilege was from the manual, but the rules of the House had come in and altered that so far as the motion to reconsider was concerned. In 1820, during the pendency of the subject of the admission of Missouri, Mr. Randolph, who opposed the Missouri Compromise, determined the next day after the passage of the measure to move to reconsider. He submitted the motion and was informed by the Speaker of the House, Mr. Clay, of Kentucky, that there was a question before the House which stood in the way of submitting a motion to reconsider. When that matter was disposed of, the bill had gone out of the possession of the House and he was informed that his motion was too late. Then came the rule to secure to every Member the right to move to reconsider before the bill is carried out of the House.

The Speaker said that the point made by Mr. Bocock presented no difficulties, since if another subject was before the House the motion to reconsider must be received and entered on the Journal, but could not be considered until the business before the House had been disposed of. That was the constant practice and rule of the House. \* \* \* The high privilege given the motion to reconsider by the rule gave the motion precedence over any motion relative to the subject to which the motion to reconsider refers—except a motion to adjourn; but when received, it must relate to some business legitimately before the House, or its consideration be postponed until it can be taken up in order. When it was in order, it would supersede every motion except the motion to adjourn.

Mr. Orr withdrew his appeal.

**5674.** On April 12, 1894,<sup>2</sup> during proceedings under a call of the House, a motion that Mr. John A. T. Hull, of Iowa, be excused was decided in the negative.

Upon the announcement of the result of the vote, Mr. Thomas C. Catchings, of Mississippi, moved the adoption of the resolution which he then sent to the Clerk's desk.

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<sup>1</sup>Nathaniel P. Banks, of Massachusetts, Speaker.

<sup>2</sup>Second session Fifty-third Congress, Journal, pp. 327, 328; Record, pp. 3704–3708.

Before the resolution submitted by Mr. Catchings was read Mr. John F. Lacey, of Iowa, moved to reconsider the vote just taken.

Mr. Thomas B. Reed, of Maine, made the point that the question must be first taken on the motion to reconsider.

The resolution submitted by Mr. Catchings was then read as follows:

*Resolved*, That all leaves of absence, except for sickness, be, and the same are hereby, revoked, and the Sergeant-at-Arms is directed to notify all Members absent, except on account of sickness, that their attendance upon the sessions of the House is required; and that further proceedings under this call be dispensed with.

Mr. Reed made the further point that the resolution proposed by Mr. Catchings was not in order in the absence of a quorum.

After debate,

The Speaker pro tempore<sup>1</sup> overruled both points of order submitted by Mr. Reed, holding as follows:

The Chair confesses that he has experienced some difficulty in arriving at a conclusion in this case. The motion to reconsider is a privileged motion, and the motion of the gentleman from Mississippi, if held to be in order, would also be privileged. The question for the Chair is, Which of these motions should be first submitted to the House? If the motion of the gentleman from Mississippi is in order and should prevail, it disposes of the motion to reconsider the vote on excusing the gentleman from Iowa [Mr. Hull], and it would also obviate any necessity for making a motion to excuse other gentlemen who failed to answer on a call of the House.

The language of the rule which has been cited is that—

“When a motion has been made and carried or lost, it shall be in order for any Member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report, a motion to fix the day to which the House shall adjourn, to adjourn, or to take a recess,” etc.

The motion to reconsider, as will be seen, takes precedence over all other questions except those mentioned in the rule, and it may be made at any time during the day on which the vote sought to be reconsidered is taken or on the succeeding day. As the rule provides, a roll call may be interrupted in order that this motion to reconsider may be entered. But it does not follow that it is then to be disposed of. The Chair finds a decision—which must be the law—made in 1856, when the then Speaker decided (a question similar to this being pending) that under the rule it was in order at any time upon the same or the subsequent day to submit and have entered a motion to reconsider, but that it could not be considered while another question was before the House.

Without attempting to shut off the gentleman from Iowa, who made this motion to reconsider, the Chair recognized the gentleman from Mississippi, who was first on his feet and who first addressed the Chair; and he submitted a motion which he sent up. Now, when that motion is submitted, if it be in order, it is entitled, under this decision, to consideration; and the motion to reconsider, which may then be entered and which the House permits to interrupt the matter pending in order that it may be entered, is not to be considered, under the language of this decision of 1856, while the other question is before the House.

Now, this other question being before the House, the Chair thinks it must be first considered; and if the motion made by the gentleman from Mississippi be carried, it dispenses with the motion to excuse the gentleman from Iowa, because all gentlemen are excused under this motion, so that there would really be no necessity for voting upon a motion to reconsider, because the necessity for the original motion would be dispensed with by agreeing to the motion of the gentleman from Mississippi.

Mr. Lacy appealed from the decision just rendered, and the appeal was laid on the table on motion of Mr. Catchings.

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<sup>1</sup> James D. Richardson, of Tennessee, Speaker pro tempore.



**5675.** On August 15, 1856,<sup>1</sup> the bill (H. R. 316) making appropriations for the transportation of the United States mails by ocean steamers and otherwise, was reported from the Committee of the Whole House on the state of the Union with an amendment.

On motion of Mr. Lewis D. Campbell, of Ohio, the previous question was ordered, and the Speaker announced that the question was on agreeing to the amendment.

Thereupon Mr. James Thorington, of Iowa, moved that the votes whereby certain bills had on the preceding day been committed to the Committee of the Whole, and the vote whereby the bill of the House (H. R. 317) granting land to the State of Iowa and the Territory of Minnesota, in alternate sections, to aid in the construction of railroads therein named, was laid on the table, be severally reconsidered.

Mr. George W. Jones, of Tennessee, made the point of order, that inasmuch as the main question had been ordered upon a different subject it was not now in order to submit the motion to reconsider.

The Speaker<sup>2</sup> pro tempore decided that, under the rule, it was in order at any time upon the same or subsequent day to submit and have entered the motion to reconsider, but that it could not be considered while another question was before the House.

From this decision of the Chair Mr. George W. Jones appealed. On the succeeding day the appeal was laid on the table, the decision of the Chair being thereby sustained.

**5676.** On July 29, 1852,<sup>3</sup> the House laid on the table the bill (H. R. 290) granting a right of way and land to the State of Michigan for the construction of the Oakland and Ottawa Railroad.

Mr. Charles E. Stuart, of Michigan, moved that the vote last taken be reconsidered.

Pending this motion, the morning hour having expired,<sup>4</sup> Mr. Stuart moved that the House resolve itself into the Committee of the Whole House on the state of the Union.

This motion having been decided in the negative, the House resumed consideration of the bill (H. R. 299) to provide for executing the public printing, etc. The further consideration of this bill was postponed until the next day.

Mr. Stuart then moved that the House resolve itself into the Committee of the Whole House on the state of the Union.

Mr. Isham G. Harris, of Tennessee, called up the motion submitted by Mr. Stuart to reconsider the vote whereby the bill (H. R. 290) was laid on the table.

The Speaker<sup>5</sup> decided that it was not now in order to call up the said motion, especially as the privileged motion to go into Committee of the Whole had been

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<sup>1</sup>First session Thirty-fourth Congress, Journal, pp. 1476, 1477; Globe, p. 2166.

<sup>2</sup>John S. Phelps, of Missouri, Speaker pro tempore.

<sup>3</sup>First session Thirty-second Congress, Journal, pp. 968, 969; Globe, p. 1985.

<sup>4</sup>The rule for the morning hour has varied at different times. (See section 3118 of Vol. IV, of this work.)

<sup>5</sup>Linn Boyd, of Kentucky, Speaker.

first submitted. He asked gentlemen under what rule the bill could be considered at this time, even if the motion to reconsider should be carried in the affirmative.

Mr. Harris having appealed, the appeal was laid on the table by a vote of yeas 112, nays, 39.

**5677. When a motion to reconsider relates to a bill belonging to a particular class of business, the consideration of the motion is in order only when that class of business is in order.**—On December 7, 1892,<sup>1</sup> the Speaker<sup>2</sup> proceeded to call the committees pursuant to clause 4 of Rule XXIV. The Committee on Naval Affairs being called, Mr. Hilary A. Herbert, of Alabama, in behalf of that committee, presented for consideration the bill (S. 139) terminating the number in the reduction of the Engineer Corps of the Navy. On motion of Mr. Herbert, the previous question was ordered; and being put, "Shall the bill pass?" it was decided in the affirmative.

Mr. William S. Holman, of Indiana, moved to reconsider the vote by which the bill was passed.

Mr. Herbert moved to lay the motion to reconsider on the table.

The hour for consideration of bills having expired,<sup>3</sup> the Speaker<sup>2</sup> announced that the consideration of the motion of Mr. Herbert would go over and be in order when the committees should be again called for the consideration of bills.

**5678.** On Friday, May 15, 1896,<sup>4</sup> Mr. Joseph A. Scranton, of Pennsylvania, rising to a parliamentary inquiry, said that on the previous day he gave notice that on this day he would call up the motion to reconsider the vote by which the bill (H. R. 3826) to provide for the election of a Delegate from Alaska was defeated on its third reading. It had since been suggested to him that, this being private-bill day, the consideration of such a motion would not be in order. He therefore asked the opinion of the Chair on that point.

The Speaker<sup>5</sup> said:

The Chair thinks it would not be in order to-day, as it is not private business.

**5679.** On February 11, 1834,<sup>6</sup> a motion was made by Mr. John Quincy Adams, of Massachusetts, that the House reconsider the vote of yesterday (Monday, February 10) referring to the Committee on Ways and Means the memorial of merchants of the city of New York in favor of the warehousing system, etc.<sup>7</sup>

The Speaker<sup>8</sup> decided that this motion would not come up for consideration until Monday next, the day fixed by the rule for the presentation of memorials and petitions.<sup>9</sup>

<sup>1</sup> Second session Fifty-second Congress, Journal, pp. 13 and 14; Record, p. 34.

<sup>2</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>3</sup> The morning hour in the Fifty-second Congress was an hour of sixty minutes only. (See section 3118 of Vol. IV of this work.)

<sup>4</sup> First session Fifty-fourth Congress, Record, p. 5298.

<sup>5</sup> Thomas B. Reed, of Maine, Speaker.

<sup>6</sup> First session Twenty-third Congress, Journal, pp. 316, 317.

<sup>7</sup> A motion for this purpose is no longer in order.

<sup>8</sup> Andrew Stevenson, of Virginia, Speaker.

<sup>9</sup> Rule 16 at this time provided that after the first thirty days of the session the presentation of petitions should be in order only on the first day of each week. (Journal, p. 1115.)

**5680.** On Friday, July 28, 1876,<sup>1</sup> Mr. Ezekiel S. Sampson, of Iowa, called up the motion to reconsider the vote by which the bill of the House (H. R. 3370) to amend the statutes in relation to damages for infringement of patents, and for other purposes, was ordered to be engrossed.

Mr. William M. Springer, of Illinois, made the point of order that this being private-bill day it was not in order to call up a motion to reconsider a vote upon a public bill.

The Speaker pro tempore<sup>2</sup> sustained the point of order.

**5681.** On Friday, June 9, 1876,<sup>3</sup> Mr. Eppa Hunton, of Virginia, called up the motion to reconsider the vote by which the House had agreed to a resolution relating to public business submitted by him on a previous day.

Mr. John A. Kasson, of Iowa, made the point of order that it was not in order to call up and consider a motion to reconsider a vote upon general business upon a private-bill day.

The Speaker<sup>4</sup> pro tempore overruled the point of order.

**5682. The motion to reconsider may be called up at any time when the class of business to which it relates is in order; but until it is called up the motion is not the regular order.**—On January 13, 1893,<sup>5</sup> the Committee of the Whole House having risen, Mr. Louis E. Atkinson, of Pennsylvania, submitted the question of order, whether the business next in order was not the consideration of the bill (H. R. 1466) for the relief of the personal representatives of Henry H. and Charles H. Sibley, heretofore reported from the Committee of the Whole House.

The Speaker<sup>6</sup> stated that the bill having been acted on by the House, a motion to reconsider that action was made and was still pending, and that it was in order to call up the motion to reconsider at any time.<sup>7</sup> but until so called up its consideration would not be the regular order.

**5683. The House having, by unanimous consent, entertained a matter during time set apart for other business it was held that the question of reconsideration might also be admitted.**—On Friday, March 6, 1840,<sup>8</sup> in the time allotted by the rules for the consideration of private business, Mr. Millard Fillmore, of New York, moved to reconsider a vote whereby a certain paper relating to the New Jersey contested election cases had been referred.

Mr. David Petrikin, of Pennsylvania, thereupon submitted the following question of order:

That a motion to reconsider can not be debated and considered after the Speaker has announced the orders of the day, on any day allotted for the consideration of private bills, except such motion of reconsideration pertains to a question within the rules setting aside Friday and Saturday for private bills.

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<sup>1</sup> First session Forty-fourth Congress, Journal, p. 1347; Record, p. 4941.

<sup>2</sup> Milton Saylor, of Ohio, Speaker pro tempore.

<sup>3</sup> First session Forty-fourth Congress, Journal, p. 1077; Record, p. 3728.

<sup>4</sup> Samuel S. Cox, of New York, Speaker pro tempore.

<sup>5</sup> Second session Fifty-second Congress, Journal., pp. 41–43; Record, p. 549.

<sup>6</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>7</sup> As to modifications of this principle caused by the rules giving certain times to certain classes of business, see sections 5673–5681.

<sup>8</sup> First session Twenty-sixth Congress, Journal, pp. 528, 531; Globe, p. 246.

The Speaker<sup>1</sup> decided that the House, by general consent having received and referred the papers, the motion to reconsider that reference was in order, and superseded the orders of the day, until it should be disposed of.<sup>2</sup>

Mr. Petrikin having appealed, two questions of order were raised and entertained as to the right of moving to lay this appeal on the table, and after these questions had been decided on appeal, the original appeal was put, and the decision of the Chair was, on the succeeding day, affirmed by the House, yeas 88, nays 86.

**5684. A motion to reconsider, when once entered, may remain pending indefinitely, even until a succeeding session of the same Congress.**—On January 27, 1875,<sup>3</sup> a proposition was made to call up for consideration a motion made on January 7, 1874, at the preceding session of the same Congress, to reconsider the vote whereby the House had recommitted the bill (H. R. 796) “to protect all persons in their civil and political rights.”

The Speaker<sup>4</sup> held that it was in order to call the motion up for consideration.

**5685. The motion to reconsider the vote on a proposition having been once agreed to, and the said vote having again been taken, a second motion to reconsider may not be made<sup>5</sup> unless the nature of the proposition has been changed by amendments.**—On June 25, 1842,<sup>6</sup> the House reconsidered the vote whereby it had passed a bill for the relief of Hugh Stewart.

Then the question recurring on the passage of the bill, it was passed under operation of the previous question.

A motion was thereupon made by Mr. John C. Clark, of New York, that the House do reconsider the vote on the question, “Shall the bill pass?”

The Speaker<sup>7</sup> decided that it was not in order to move a second time that the House do reconsider the vote on the question that the bill do pass, that motion having been already made upon the bill, and decided.

**5686.** On March 20, 1844,<sup>8</sup> the House proceeded to reconsider the vote upon the passage of the bill from the Senate (No. 37) entitled “An act to repeal the act entitled ‘An act to amend the act of March 10, 1838, entitled, “An act to change the time of holding the circuit and district courts in the district of Ohio.” ’ ”

The votes on the passage and third reading were reconsidered, the bill was amended, and then again read a third time and passed.

After intervening business, a motion was made by Mr. Samuel Simons, of Connecticut, to again reconsider the vote upon the passage of the bill.

The Speaker<sup>9</sup> decided that the motion to reconsider was not in order, the motion having been once made and acted upon.

<sup>1</sup> Robert M. T. Hunter, of Virginia, Speaker.

<sup>2</sup> A rule now provides that the vote referring a bill to a committee may not be reconsidered. (See sec. 5647 of this chapter.)

<sup>3</sup> Second session Forty-third Congress, Record, p. 785.

<sup>4</sup> James G. Blaine, of Maine, Speaker.

<sup>5</sup> See also section 6037 of this volume.

<sup>6</sup> Second session Twenty-seventh Congress, Journal, p. 1022; Globe, p. 688.

<sup>7</sup> John White, of Kentucky, Speaker.

<sup>8</sup> First session Twenty-eighth Congress, Journal, p. 618; Globe, p. 414.

<sup>9</sup> John W. Jones, of Virginia, Speaker.

From this decision Mr. Alexander Duncan, of Ohio, appealed, and the Chair was sustained by a vote of 74 to 73, the Speaker breaking the tie by voting in the affirmative.<sup>1</sup>

**5687.** (*Speaker overruled.*) On September 6, 1850,<sup>2</sup> the House was considering, under a special order, the bill of the Senate (No. 307) entitled "An act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States."

On September 4 the House had refused to order the bill to a third reading, but had reconsidered this vote, and on September 5 had adopted an amendment in the nature of a substitute, proposed by Mr. Linn Boyd, of Kentucky, and providing for the organization of a territorial government of New Mexico for the exclusion of the Wilmot proviso, and for allowing the people to decide the question of sanctioning or prohibiting slavery.

The question being on the third reading of the bill as thus amended, the House decided the question in the negative.

Mr. Volney E. Howard, of Texas, moved that this vote be reconsidered. This motion being ruled out of order, Mr. Howard appealed. The House then adjourned.

On September 6 the House resumed consideration of the bill. The Speaker<sup>3</sup> said:

Since the adjournment the Speaker has examined the precedents relating to the subject, so far as he could find them. This question has never been decided, so far as the Chair is informed, directly as it is presented in the present case. A motion to reconsider the vote on a bill after it has been once reconsidered has been held for several years past, as the Chair knows, to be out of order. The only difference between these cases and the bill now before the House is found in the fact that since the bill was first rejected it has been amended. The question then is, whether this is or is not the same bill upon which the vote has once been reconsidered.

The Chair decided yesterday that it was the same bill, and, therefore, that the motion to reconsider was not in order. In the Twenty-second Congress<sup>4</sup> a decision was made to the effect that this rule would admit a motion to reconsider the same proposition, without reference to any amendment that might be made. A motion was made by Mr. Churchill C. Cambreleng, of New York, that the House do again reconsider the vote, on the motion made by Mr. Mark Alexander, of Virginia, to strike out the tenth section of the bill. This motion was objected to as not being in order, the forty-first rule of the House declaring that "when a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof on the same or succeeding day," etc. The Speaker decided that the motion was clearly in order. From this decision Mr. John Quincy Adams, of Massachusetts, took an appeal. The House sustained the decision of the Speaker, thus authorizing the reconsideration of the same proposition without reference to any amendment whatsoever.

In the Twenty-seventh Congress the question was made, whether a bill which had been passed, reconsidered, and passed again, could again be reconsidered. Mr. J. C. Clark, of New York, moved that the House reconsider the vote on the passage of the bill. The Speaker decided that it was not in order to move a second time that the House do reconsider the vote on the question that the bill do pass, that motion having been already made upon this bill and decided. From this decision there was no appeal, the House having acquiesced in it. And at the second session of the same Congress a decision was made to the same effect. There may be other decisions, but the Chair has not been able to find them.

<sup>1</sup>This vote by the Speaker was not necessary, as the decision stands unless a positive vote be given against it. (See sec. 5239 of this volume; also see sec. 185 of Reed's Parliamentary Rules.)

<sup>2</sup>First session Thirty-first Congress, Journal, pp. 1402, 1404-1407; Globe, p. 1762.

<sup>3</sup>Howell Cobb, of Georgia, Speaker.

<sup>4</sup>On June 27, 1822. (First session Twenty-second Congress, Journal, p. 992 Debates, p. 3803.)

The decisions to which the Chair has referred are conflicting upon the point whether a motion to reconsider can be entertained where there is no amendment. The last precedents quoted—denying the right to reconsider—are in conformity with the practice of the House of late years, as before stated by the Chair.

The question whether the motion can be entertained where the bill has been amended subsequent to the first reconsideration has not been decided by the House, so far as the Chair is informed, but he holds that this difference in the case does not place it beyond the general rule, which precludes a second reconsideration. The Speaker therefore adheres to his decision of yesterday, and rules, inasmuch as there is no precedent to the contrary applicable to the case, that the motion to reconsider the vote by which the House had refused to order the bill to a third reading is not in order.

Mr. Volney E. Howard, of Texas, who took the appeal, maintained that the rule applied to things of substance, and not of name; that, therefore, the bill as rejected yesterday not being identical with the bill which was rejected on Wednesday, and which subsequently was reconsidered, was not involved within the rule which precluded the reconsideration a second time of the same proposition.

On a yea-and-nay vote the decision of the Chair was reversed by a vote of 124 to 82.

**5688.** On March 24, 1892,<sup>1</sup> the House, pursuant to the special order, resumed consideration of the bill (H. R. 4426) for the free coinage of silver, for the issue of coin notes, and for other purposes.

The motion of Mr. Julius C. Burrows, of Michigan, to lay the bill on the table being negatived, Mr. Tom L. Johnson, of Ohio, moved to reconsider the vote by which the House refused to lay the bill on the table.

This latter motion to reconsider was agreed to, and the question recurred on the motion of Mr. Burrows to lay the bill on the table.

On this motion being put, the House refused to lay the bill on the table.

Mr. Johnson, of Ohio, moved to reconsider the vote by which the House refused to lay the bill on the table.

Mr. James B. Reilly, of Pennsylvania, made the point of order that the motion was not in order.

The Speaker<sup>2</sup> sustained the point of order on the ground that the House had already reconsidered a vote refusing to lay the bill on the table, and having again refused to lay the bill on the table it was not in order to repeat the motion to reconsider, thus indefinitely piling up motions to reconsider.

**5689. The vote whereby the yeas and nays are ordered may be reconsidered by a majority; but if the House votes to reconsider, the yeas and nays may again be ordered by one-fifth.**

**When the yeas and nays are not recorded on the Journal, any Member may make the motion to reconsider, without regard to his vote.<sup>3</sup>**

**It was once held that the yeas and nays might be demanded on a motion to reconsider the vote whereby the yeas and nays were ordered.**

On December 1, 1877,<sup>4</sup> the House was considering the motion of Mr. Roger Mills, of Texas, to suspend the rules and adopt the following resolution:

*Resolved,* That the Committee on Ways and Means be instructed to so revise the tariff as to make it purely and solely a tariff for revenue and not for protecting one class of citizens by plundering another.

<sup>1</sup> First session Fifty-second Congress, Journal, pp. 113–115; Record, p. 2550.

<sup>2</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>3</sup> See also sections 5611–5613 of this chapter.

<sup>4</sup> First session Forty-fifth Congress, Record, pp. 811, 812; Journal, p. 290.

On the demand for the ayes and noes there were 25 in the affirmative and 56 in the negative, and the yeas and nays were ordered.

Mr. Hiester Clymer, of Pennsylvania, moved to reconsider the vote ordering the yeas and nays.

Mr. John H. Reagan, of Texas, made the point of order that, as Mr. Clymer had voted in the negative, he had no right to make the motion to reconsider.

The Speaker<sup>1</sup> said:

Where there is no record of a vote, it is usual to recognize any gentleman as entitled to make the motion to reconsider.

Points of order having been made by Messrs. John R. Eden, of Illinois, and J. C. S. Blackburn, of Kentucky, as to the right to reconsider the order of the yeas and nays, the Speaker said:

The Chair thinks a majority will have to reconsider. The remedy is a plain one, for if the reconsideration is carried, the gentlemen from Texas or any other Member can again demand the yeas and nays, and one-fifth of those present is sufficient to order the yeas and nays. It would not be in order to again reconsider, as in that event motions to reconsider could be made interminably. \* \* \* The right of one-fifth of those present to call for the yeas and nays is a constitutional right. The motion to reconsider is under the rules, and, as has been read at the desk, the question would immediately recur upon the call for the yeas and nays again, and one-fifth would be sufficient to call for them. The motion to reconsider under the rules gives the House opportunity to change its mind in reference to ordering the yeas and nays if that be the wish of the House. That is the reason for the rule. If a motion to reconsider were carried, the question would again recur on ordering the yeas and nays, and, if one-fifth of those present voted in the affirmative, under the Constitution they would have the right to order the yeas and nays. The Chair would rule in such a case that a second motion to reconsider would not be in order.

On the motion to reconsider, the yeas and nays were demanded, and the point was made that such demand was not in order, it not being in order to have the yeas and nays on the motion to reconsider the vote by which the yeas and nays were ordered.

The Speaker overruled the point, and had the following from the Constitution read:

Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and the nays of the Members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal.

The Speaker then said:

It is for the House to determine the question. Under the rules the motion to reconsider is in order, and the reason for the rule is, if there should be a mistake it could be corrected, or if the House should change its mind it has the right to do so. The rules of the House can only produce a temporary delay. (This in response to a query from Mr. Morrison as to whether the rules could undo the Constitution temporarily.) The right to demand the yeas and nays is unimpaired, for if one-fifth of the Members present still desire the yeas and nays on the proposition, the yeas and nays will have to be taken. Reconsideration only affords opportunity to the House under the rules to take more deliberate action.

The yeas and nays were then ordered and the question taken on reconsideration.

**5690.** On April 20, 1826,<sup>2</sup> the House ordered that the motion to lay on the table the resolution declaring the expediency of sending ministers to the Congress at Panama be taken by yeas and nays.

<sup>1</sup> Samuel J. Randall, of Pennsylvania, Speaker.

<sup>2</sup> First session Nineteenth Congress, Journal, p. 796: Debates, pp. 2458, 2490.

On April 21, Mr. Joseph Vance, of Ohio, moved to reconsider that order.

Mr. John Forsyth, of Georgia, objected to the power of the House to reconsider its decision in the case.

The Speaker<sup>1</sup> decided that it was competent for a majority to reconsider the order, but that the question would immediately recur, "Shall the motion to lay on the table be taken by yeas and nays?" That it must be so taken, if desired by one-fifth of the Members present.

**5691.** On February 14, 1848,<sup>2</sup> Mr. Orlando Kellogg, of New York, offered the following resolution:

*Resolved*, That the Committee on Ways and Means be instructed to inquire into the expediency of increasing the duty on bar, bloom, pig, and manufactured iron imported from foreign countries into this; and that they report by bill or otherwise.

The resolution was read, when Mr. Kellogg moved the previous question.

Mr. Kingsley S. Bingham, of Michigan, moved that the resolution be laid on the table, and called for the yeas and nays, which were ordered by the House.

Mr. Kellogg moved that the order by the House of the yeas and nays be reconsidered.

Mr. James Pollock, of Pennsylvania, raised the question of order that it required four-fifths to reconsider an order for the yeas and nays.

The Speaker<sup>3</sup> decided that, according to the precedents, a majority might reconsider the order; but that the question would immediately recur on ordering the yeas and nays, when one-fifth would be sufficient for that purpose.

The motion to reconsider prevailed, but the ayes and noes were again ordered.

**5692. The vote whereby the yeas and nays are refused may be reconsidered.**—On April 26, 1900,<sup>4</sup> the Committee of the Whole House on the state of the Union had risen and reported the Post-Office appropriation bill, with amendments.

A separate vote having been demanded upon the amendment relating to the hours of labor of letter carriers, Mr. Amos J. Cummings, of New York, asked for the yeas and nays, which were refused.

On a vote by division on the amendment there were ayes 74, noes 53.

Mr. Cummings then demanded tellers, which were refused.

Mr. John F. Fitzgerald, of Massachusetts, rising to a parliamentary inquiry, asked if it would be in order to move to reconsider the vote whereby the yeas and nays were refused.

The Speaker<sup>5</sup> said:

The Chair is decidedly of opinion that the motion to reconsider is in order, and therefore the Chair will put the question to the House. The question is on reconsidering the vote by which the yeas and nays were refused.

**5693. A quorum is not necessary on a motion to reconsider the vote whereby the yeas and nays were ordered.**—On August 14, 1888,<sup>6</sup> the yeas and

<sup>1</sup>John W. Taylor, of New York, Speaker.

<sup>2</sup>First session Thirtieth Congress, Journal, p. 405; Globe, p. 344.

<sup>3</sup>Robert C. Winthrop, of Massachusetts, Speaker.

<sup>4</sup>First session Fifty-sixth Congress, Record, p. 4730.

<sup>5</sup>David B. Henderson, of Iowa, Speaker.

<sup>6</sup>First session Fiftieth Congress, Record, p. 7546; Journal, p. 2595.



nays were ordered on the motion that the Committee of the Whole House on the state of the Union be directed to pass over the fortifications appropriation bill.<sup>1</sup>

Mr. Knute Nelson, of Minnesota, moved to reconsider the vote whereby the yeas and nays were ordered.

There appeared on division, yeas 5, noes 47.

Mr. Richard W. Townshend, of Illinois, made the point of no quorum.

The Speaker<sup>2</sup> said:

Upon a motion to reconsider the vote by which the yeas and nays were ordered a quorum is not necessary. No quorum is required to order the yeas and nays. The Constitution provides simply that the yeas and nays shall be taken upon the demand of one-fifth of those present. On this question the noes have it; and the House refuses to reconsider the vote by which the yeas and nays were ordered.

**5694. A motion to reconsider is not debatable if the motion proposed to be reconsidered was not debatable.**—On February 8, 1842,<sup>3</sup> a motion was made by Mr. Caleb Cushing, of Massachusetts, that the House do reconsider the vote of the previous day, refusing to receive the petition of forty-six inhabitants of Haverhill, in the State of Massachusetts, praying the adoption, immediately, of measures peaceably to dissolve the union of these States.

Mr. Cushing being about to debate the subject-matter of the petition, on his motion to reconsider the vote refusing to receive it, the Speaker<sup>4</sup> decided that, as the House had refused to receive the petition, it was not in order to debate the prayer or subject-matter thereof at this time; that the motion of reconsideration, being a privileged motion, took precedence of any business now before the House, and the question thereon would be put at this time, if pressed, but without debate. If, however, it was intended to debate the subject, it must lie over and be taken up in the class of petitions (to which class it appertained) under the fifty-fifth rule.<sup>5</sup>

From the decision of the Chair Mr. Cushing appealed, and on the appeal the Chair was sustained.

As Mr. Cushing persisted in his intention to debate the subject, the Speaker decided that the motion to reconsider must go over, and be taken up in the order established for debating petitions by the fifty-fifth rule.

**5695.** On January 29, 1838,<sup>6</sup> the House was considering a motion to reconsider the vote whereby the memorial of the delegation from the Cherokee Nation had been laid on the table.

The question having been stated by the Speaker, Mr. Horace Everett, of Vermont, rising to a parliamentary inquiry, asked whether the motion to reconsider was subject to debate.

<sup>1</sup>The rule no longer provides for this proceeding.

<sup>2</sup>John G. Carlisle, of Kentucky, Speaker.

<sup>3</sup>Second session Twenty-seventh Congress, Journal, p. 331; Globe, p. 218.

<sup>4</sup>John White, of Kentucky, Speaker.

<sup>5</sup>The fifty-fifth rule provided that petitions, memorials, etc., should "be presented by the Speaker, or by a Member in his place," with a brief verbal statement of the contents by the introducer; that they should not be debated on the day of their being presented, etc., but should lie on the table, to be taken up in the order in which they were presented. This rule is obsolete, all petitions now being presented through the petition box, the Member indorsing on the petition the name of the committee having jurisdiction of the subject.

<sup>6</sup>Second session Twenty-fifth Congress, Journal, p. 324; Globe, p. 145.

The Speaker<sup>1</sup> decided that, inasmuch as by the rules of the House “the motion to lie on the table shall be decided without debate,” the motion to reconsider a vote of the House on a motion to “lie on the table” must be decided without debate.

From this decision Mr. Everett took an appeal, but subsequently withdrew the same.

**5696.** On Monday, June 1, 1840,<sup>2</sup> a day set apart under the then existing rules for the presentation of resolutions by Members, a resolution was presented by Mr. F. O. J. Smith, of Maine, relating to the mode of proceeding to business in Committee of the Whole, and was agreed to by the House.

On the same day, and while the presentation of resolutions was still in order, Mr. George H. Proffit, of Indiana, moved to reconsider the vote whereby the resolution had been agreed to, and on that motion proceeded to debate.

Mr. John Bell, of Tennessee, raised the question of order that the question of reconsideration could not now be debated, but must lie over under the rule which directed that all resolutions introduced on the day set apart for resolutions which should give rise to debate should lie over for discussion under the rules.

The Speaker<sup>3</sup> decided that it was now in order to debate the motion to reconsider, under the rule which provided that a motion to reconsider should take precedence of all other questions except the motion to adjourn.

**5697.** On December 21, 1848,<sup>4</sup> Mr. Daniel Gott, of New York, offered this resolution:

Whereas the traffic now prosecuted in the metropolis of the Republic in human beings as chattels is contrary to natural justice and to the fundamental principles of our political system, and is notoriously a reproach to our country throughout Christendom and a serious hindrance to the progress of republican liberty among the nations of the earth: Therefore,

*Resolved,* That the Committee for the District of Columbia be instructed to report a bill as soon as practicable prohibiting the slave trade in said District.

This resolution was agreed to by a vote of 98 yeas to 87 nays.

Then Mr. Charles E. Stuart, of Michigan, moved that the vote by which the resolution was passed be reconsidered.

Mr. Stuart proceeded to debate the question, when Mr. Jacob Collamer, of Vermont, raised the question of order that, inasmuch as resolutions giving rise to debate must, under the rule, lie over one day before being debated, the question of reconsideration must lie over also.

The Speaker<sup>5</sup> sustained the point of order, and decided that a debate on the motion to reconsider could not be allowed to interrupt the call of States for resolutions prescribed by the rules, but must be postponed until tomorrow, in the same manner as an original debate on the resolution would have been. The Speaker said that he believed it had been uniformly decided that motions to reconsider always followed in some degree the character of the business to which they belonged. For example: By the rules of the House Fridays and Saturdays were set apart for the consideration of private bills. If a motion to reconsider a private bill were made on

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<sup>1</sup>James K. Polk, of Tennessee, Speaker.

<sup>2</sup>First session Twenty-sixth Congress, Journal, p. 1072; Globe, p. 433.

<sup>3</sup>Robert M. T. Hunter, of Virginia, Speaker.

<sup>4</sup>Second session Thirtieth Congress, Globe, p. 84; Journal, p. 135.

<sup>5</sup>Robert C. Winthrop, of Massachusetts, Speaker.

a public bill day, the Chair had decided that it would go over until private bill day. Precisely in the same way with public business; if a motion had been made to reconsider a public bill on private bill day, the Chair had decided that the rule which gave preference to private business overruled the motion to reconsider, and that the House must proceed with private business.

There was an express rule of the House which provided that the Chair should call for petitions, reports, and then resolutions, by States, and that no resolution should be debated on the day on which it was offered.<sup>1</sup> If, therefore, a motion to reconsider a vote by which the House had passed a resolution should be decided to be debatable on the day on which it was offered, the effect would obviously be to interrupt every call of the States for resolutions, and to evade the rule which declared that they should not be debated. In this view of the matter, the Chair decided that the motion to reconsider was not debatable to-day; but that it must lie over, subject to debate, until to-morrow, as the original resolutions would have done if the previous question had not been called for.

Mr. Charles J. Ingersoll having appealed, the decision of the Chair was sustained.

**5698.** On December 23, 1851,<sup>2</sup> Mr. Amos Tuck, of New Hampshire, moved to reconsider the vote adopting the resolution limiting debate in Committee of the Whole House on the state of the Union on the bill relating to the assignment of bounty-land warrants.

Mr. George W. Jones, of Tennessee, made the point of order that the motion to reconsider might not be debated, because the original proposition was not debatable.<sup>3</sup> It was like the case of a motion to reconsider a motion to lay on the table. The motion to lay on the table not being debatable, the motion to reconsider was not.

The Speaker<sup>4</sup> sustained the point of order.

**5699.** On March 5, 1878,<sup>5</sup> a motion was made to consider the bill providing for a permanent form of government for the District of Columbia, and there were ayes 104, noes 90, on a vote by tellers.

Mr. Omar D. Conger, of Michigan, moved to reconsider<sup>6</sup> this vote, and was proceeding to debate his motion, when Mr. Ezekiel S. Sampson, of Iowa, raised the question of order that, as the original motion was not debatable, the motion to reconsider was not.

The Speaker<sup>7</sup> said:

A question of priority of business is not debatable; and if the original proposition is not debatable, certainly the motion to reconsider is not. The point made by the gentleman from Iowa is well taken; and the gentleman from Michigan is not entitled to debate his motion.

<sup>1</sup>This rule no longer exists. Bills and resolutions are referred under a rule now.

<sup>2</sup>First session Thirty-second Congress, *Globe*, p. 146.

<sup>3</sup>The original proposition was in the form of a motion relating to the order of business, and was not debatable.

<sup>4</sup>Linn Boyd, of Kentucky, Speaker.

<sup>5</sup>Second session Forty-fifth Congress, *Record*, pp. 1486, 1487; *Journal*, p. 592.

<sup>6</sup>Under the later rulings the vote on the question of consideration may not be reconsidered. See section 5626 of this chapter.

<sup>7</sup>Samuel J. Randall, of Pennsylvania, Speaker.

**5700. As to whether or not it is the order to debate the motion to reconsider a vote taken under the operation of the previous question.**<sup>1</sup>—On December 21, 1853,<sup>2</sup> the House, under the operation of the previous question, agreed to a resolution instructing the Committee on Commerce in regard to the subject of rivers and harbors.

Mr. Cyrus L. Dunham, of Indiana, moved to reconsider the vote by which the resolution was agreed to, and was proceeding to debate the same.

Mr. Thomas L. Clingman, of North Carolina, rose to a question of order, as to the right of a Member to debate the motion to reconsider, the vote upon the resolution having been taken under the operation of the previous question.

The Speaker<sup>3</sup> decided that the previous question had exhausted itself by the vote upon the resolution, and that consequently the motion to reconsider was debatable.<sup>4</sup>

**5701.** On February 15, 1901,<sup>5</sup> a motion to reconsider the vote whereby the House had passed the bill (S. 2245) “directing the issue of a duplicate lost check drawn by William H. Comegys,” etc., was called up.

Mr. William H. Moody, of Massachusetts, was proceeding to debate the motion to reconsider, when the Speaker<sup>6</sup> said:

The Chair will state that upon an examination of the Record he finds that the previous question was ordered upon this bill, so that it is not debatable. There is nothing in the entry on the docket to show it, but an examination of the Record shows that to be the situation. The question, therefore, is on the motion to reconsider.

**5702. Pending a motion to reconsider the vote on agreeing to a resolution, the resolution was amended by unanimous consent, after which the motion to reconsider was tabled.**—On August 2, 1848,<sup>7</sup> the House considered and passed the resolution of the Senate (No. 39) authorizing the proper accounting officers of the Treasury to make a just and fair settlement of the claims of the Cherokee Nation of Indians, etc.

The resolution being passed, Mr. Jacob Thompson, of Mississippi, moved that the vote on the passage of the resolution be reconsidered.

After debate, the said resolution, on motion of Mr. Thomas L. Clingman, of North Carolina, was amended by the unanimous consent of the House, by striking out the word “settlement,” in the fourth line of the engrossed resolution, and inserting “statement” in lieu thereof.

The question then recurring on the motion to reconsider, the motion was laid on the table.

<sup>1</sup> See, however, section 5494 of this volume.

<sup>2</sup> First session Thirty-third Congress, Journal, p. 127; Globe, pp. 76–78.

<sup>3</sup> Linn Boyd, of Kentucky, Speaker.

<sup>4</sup> The Speaker, after debate had proceeded some time, stated that after more reflection upon the question of debating the present motion, he was of the opinion that, under the rule which prohibits debate upon resolutions “on the very day of their being presented,” he should not have permitted the debate to progress. Hereafter, in similar cases, he should so hold; but otherwise (as in his decision when the question of order was raised) in the case of motions to reconsider generally.

<sup>5</sup> Second session Fifty-sixth Congress, Record, p. 2480.

<sup>6</sup> David B. Henderson, of Iowa, Speaker.

<sup>7</sup> First session Thirtieth Congress, Journal, p. 1149.

**§ 5703. When a motion to reconsider is decided in the affirmative the question immediately recurs on the question reconsidered.**—On April 26, 1850,<sup>1</sup> Mr. Frederick P. Stanton, of Tennessee, moved to reconsider the vote by which the House, on the preceding day, refused to lay upon the table the joint resolution of the House (No. 16) authorizing the President of the United States to accept and attach to the Navy two vessels offered by Henry Grinnell, esq., of New York, to be sent to the Arctic seas in search of Sir John Franklin and his companions.

After intervening motions had been put and decided, the motion to reconsider was decided in the affirmative, 86 yeas to 62 nays.

So the vote by which the House refused to lay the joint resolution (No. 16) upon the table was reconsidered.

The Speaker then stated the question to be upon the motion to lay the joint resolution upon the table.

Mr. George W. Jones, of Tennessee, raised the question of order that the House having on the preceding day refused to lay the joint resolution upon the table, and subsequently, on that day, the question being upon its engrossment, and his colleague, Mr. Savage, being entitled to the floor, the House having gone into the Committee of the Whole House on the state of the Union, the joint resolution thereby passed from before the House and took its place upon the Speaker's table, to be taken up in its order when the House should proceed to the business on the Speaker's table, and consequently that the vote just taken to reconsider the vote by which the House refused to lay it upon the table did not bring it from its place on the Speaker's table before the House.<sup>2</sup>

The Speaker<sup>3</sup> stated that, so far as he had had an opportunity of examining the precedents, it appeared that in every instance where a motion to reconsider had been passed in the affirmative the question immediately recurred upon the question reconsidered. He therefore decided that the affirmative vote just taken on the motion to reconsider the vote by which the House refused to lay the joint resolution upon the table brought the resolution before the House, and that the question now recurred upon the original motion to lay it upon the table.

Mr. Jones having appealed, the decision of the Chair was sustained.

**5704. When the vote whereby an amendment has been agreed to is reconsidered the amendment becomes simply a pending amendment.**

**A bill is not considered, in the practice of the House, passed or an amendment agreed to if a motion to reconsider is pending, the effect of the motion to reconsider being to suspend the original proposition.**

**As to the result when the Congress expires leaving unacted on a motion to reconsider the vote whereby a resolution of the House is passed. (Footnote.)**

<sup>1</sup>First session Thirty-first Congress, Journal, p. 847; Globe, p. 832.

<sup>2</sup>The Speaker's table should not be confounded with "the table" of the motion to lay on the table. The Speaker's table receives bills from the Senate, messages, etc., and from it they are distributed to the proper committees or are brought before the House. At different times the business going to the Speaker's table has increased or decreased, according to the changes in the rules relating to the order of business. At one time it was so considerable as to have a calendar of its own.

<sup>3</sup>Howell Cobb, of Georgia, Speaker.

**If a bill, before the disposal of a motion to reconsider the vote on its passage, should be enrolled, signed, and approved by the President, its validity as a law probably could not be questioned. (Footnote.)**

On February 19, 1898,<sup>1</sup> the House was considering the bankruptcy bill (S. 1035) under a special order which provided that during that day the bill should be considered in the House under the five-minute rule, and that at 4 p. m. a vote should be taken.

The House Committee on the Judiciary had reported the Senate bill with all after the enacting clause stricken out and a substitute inserted. On February 18 Mr. Oscar W. Underwood, of Alabama, presented an amendment to the substitute, and by unanimous consent obtained an order that the first thing at 4 o'clock on the next day there should be a vote on his amendment to the substitute.

As the hour of 4 o'clock approached, amendments being offered under the five-minute rule, Mr. Rowland B. Mahany, of New York, offered this amendment:

This act shall expire by limitation at the expiration of two years from and after the date of its becoming a law, except as to such cases as may be then pending, which shall proceed in the same manner as if this act were still in force.

On a vote by tellers the amendment was agreed to, ayes 132, noes 129.

Mr. David B. Henderson, of Iowa, moved to reconsider the vote whereby the amendment was agreed to, and Mr. Mahany moved to lay Mr. Henderson's motion on the table.

On a ye-a-and-nay vote the motion to lay on the table the motion to reconsider was negatived, yeas 145, nays 156.

The question then recurring on the motion to reconsider, it was agreed to.

Thereupon Mr. John Dalzell, of Pennsylvania, suggested the point of order that the hour of 4 o'clock had arrived, and the vote on the passage of the bill was in order.

The Speaker<sup>2</sup> said:

The Chair has examined that matter somewhat, and finds that the understanding, as presented by the Chair to the House, was that at 4 o'clock a vote should be taken upon the amendment of the gentleman from Alabama. The Chair thinks, in accordance with the custom of the House in similar cases, that would cut off any pending amendment, and therefore, the point of order being made, it seems to the Chair that proposition should come up. \* \* \* Prior to the hour of 4 o'clock the motion of the gentleman from New York [Mr. Mahany] was submitted to the House, was voted upon by the House, and was carried; but there was then a motion to reconsider, and under our parliamentary system neither a bill nor an amendment is passed or adopted until the motion to reconsider is disposed of. The Speaker is not allowed to sign a bill during the pendency of a motion to reconsider. Consequently it still remains an inchoate affair. So that if the motion to reconsider had not been disposed of at all the amendment would probably still not be adopted.

But it is not necessary to decide that to dispose of this matter, because there was a motion to reconsider and a motion that that motion to reconsider be laid upon the table, which latter motion was defeated. Thereupon the Speaker put to the House the question of reconsideration, and it was carried, and the amendment became simply a pending amendment. The Chair was proceeding to put it to the House when the gentleman from Pennsylvania made the point of order, and on that point of order the Chair decided that the amendment, being a pending amendment, must be like those amendments which fail to be offered even, in accordance with the custom of the House in similar cases, where the

<sup>1</sup> Second session Fifty-fifth Congress, Record, pp. 1777, 1918, 1942-1945.

<sup>2</sup> Thomas B. Reed, of Maine, Speaker.

House has made a direct provision for a vote at a definite time. That vote was not taken at 4 o'clock simply because a roll call was pending.

Now, when a roll call is pending, according to the custom of the House, it projects itself even beyond the time of a recess, so that on Friday afternoon, when a roll call is pending at 5 o'clock, it goes on and is finished, notwithstanding the fact that the rules of the House require a recess of the House at 5 o'clock. It seems to me that covers the whole matter.<sup>1</sup>

**5705. The Speaker declines to sign an enrolled bill until a pending motion to reconsider has been disposed of.**—On May 27, 1840,<sup>2</sup> Mr. Julius C. Alford, of Georgia, moved that the House reconsider the vote whereby it had, on the preceding day, passed the bill (S. 12) supplemental to the act entitled “An act to grant preemption rights of settlers on the public lands,” approved June 22 1838.

The motion to reconsider was held to be in order, although the bill had been sent to the Senate, and the motion was under consideration when Mr. Edmund Burke, of New Hampshire, from the Committee on Enrolled Bills, reported the bill to be truly enrolled.

The Speaker<sup>3</sup> said that he should decline to sign the said bill until the motion to reconsider was settled.

After further debate, the motion to reconsider was decided in the negative, and thereupon the Speaker signed the said bill, and it was sent to the Senate for the signature of the President of that House.

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<sup>1</sup>The Digest and Manual for many years contained the following note, originally placed there on the authority of Mr. Barclay, for many years Journal clerk:

“Where a Congress expires without acting on the motion to reconsider, for the want of time or inclination, the motion of course fails and leaves the original proposition operative.” (Opinion of Mr. Speaker Orr and of Mr. Speaker Banks in the case of resolutions directing the payment of money out of the contingent fund of the House, where Congress adjourned sine die pending motions to reconsider the vote by which they were adopted. These opinions were evidently given after the final adjournment of the House, and are not official.)

The courts have also commented upon the subject:

“The effect of the pendency of a motion to reconsider, according to the universal usage, is to suspend the original proposition. When, however, a bill has, pending the motion to reconsider and before that motion is acted on, been presented to the President and receives his approval, the validity of the act, it would seem, could not be questioned on account of the pendency of such motion, the signing of the enrolled bill by the Speaker and Vice-President being complete and unimpeachable evidence of its passage.” (See *Field v. Clark*, 143 U.S. Sup. Ct. Repts., p. 650, Feb. 29, 1892.)

<sup>2</sup>First session Twenty-sixth Congress, Journal, pp. 1033–1036.

<sup>3</sup>Robert M. T. Hunter, of Virginia, Speaker.