

Chapter CXI.

THE QUESTION OF CONSIDERATION.

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4936. The question of consideration has been established by long practice as a means by which the House may protect itself against business which it does not wish to consider.

The rule provides that the question of consideration shall not be put unless demanded by a Member.

Present form and history of section 3 of Rule XVI.

Section 3 of Rule XVI provides:

When any motion or proposition is made, the question, “Will the House now consider it?” shall not be put unless demanded by a Member.

It appears that in the very early years of the House a practice grew up, without any rule, of putting the question of consideration in regard to any matter of business without a motion by a Member and apparently at the suggestion of the Speaker. On March 31, 1808,³ during proceedings in secret session of the House on each of two resolutions offered by Mr. John Randolph, of Virginia, the question of consideration was put and the House declined to consider them. The Journal does not indicate that the question of consideration was demanded by any Member. On the next day, April 1, Mr. Randolph spoke of what had been done and said it was in accordance with a practice very lately introduced into the House. It was

¹ In relation to the motion to reconsider. (Sec. 5626 of this volume.)

² See section 4598 of Vol. IV.

³ First session Tenth Congress, Journal (supplemental), pp. 252 324, 325; Annals, pp. 1887, 1889.

in his opinion an engine of oppression in the hands of the majority, and he proposed, but without result, a rule that the question of considering should not intervene to prevent debate. On April 1¹ Mr. Speaker Varnum held that the question of consideration was not debatable, saying that was the ruling also of his predecessor, Mr. Speaker Macon. From the debate at this time it seems evident that the ruling as to the question of consideration was to prevent delay of public business. On December 23, 1811,² Mr. Richard Stanford, of North Carolina, proposed a rule, "but no question of consideration shall be required upon an original motion." This was negatived, yeas 30, nays 68. On May 29, 1812,³ Mr. John Randolph, of Virginia, assailed bitterly the practice of having first a vote on considering a matter as restrictive of the rights of the Member. It was replied that the House could not be subjected to the caprice of the individual, and Mr. Speaker Clay said that while at first he had had doubts about the propriety of the practice, he had become convinced that it was wise. So much controversy arose that the Speaker defended his ruling in a letter⁴ to the press, in which he said:

In England a motion to proceed to the orders of the day puts by whatever subject is under consideration and the rule is not used there to consider. In the House of Representatives we practice the rule to consider, and do not the motion to proceed to the orders of the day. * * * This rule to consider was a novel one to me when I came into the House of Representatives. I found most of the old Members clinging to it with great tenacity, and subsequent observation satisfied me of its wisdom and removed whatever doubts I entertained originally of its propriety. * * * The right of one or two Members to compel a body to consider a proposition which on account of the time, its manner, or its matter, they do not think proper to deliberate upon can only be maintained by a reversal of the rule that the plurality of the Members is to govern, and would, as to that particular subject, make the mover and his second superior to the whole body.

Mr. Randolph, replying to the Speaker, called attention to the fact that the question to consider was not mentioned in the rules and orders of the House. On January 27, 1814,⁵ Mr. Cyrus King, of Massachusetts, made the charge that the question of consideration as applied was subversive of the rights of Members, unconstitutional, and not warranted by any rule of the House. He therefore offered a resolution preventing its use as an original motion or resolution. The House voted not to consider it, yeas 21, nays 102. The exact usage as to the motion seems to have been a matter of doubt. Mr. Speaker Barbour, at a later date,⁶ said that he had admitted this motion as conformable to English practice, but ruled that it was not allowable under the rule specifying the motions allowable when a question was under debate.

Finally this rule was adopted on December 12, 1817,⁷ on motion of Mr. Burwell Bassett, of Virginia:

When any motion or proposition is made, the question, "Will the House now consider it?" shall not be put unless it is demanded by some Member, or is deemed necessary by the Speaker.

¹ First session Tenth Congress, Annals, p. 1891.

² First session Twelfth Congress, Journal, p. 91; Annals, p. 581.

³ First session Twelfth Congress, Annals, pp. 1467, 1468.

⁴ Annals, pp. 1472 (footnote), 1478.

⁵ Second session Thirteenth Congress, Journal, pp. 259–261; Annals, pp. 1154–1157.

⁶ On March 11, 1822. First session Seventeenth Congress, Annals, p. 1250.

⁷ First session Fifteenth Congress, Journal, pp. 40, 46; Annals, p. 445.

In connection with the adoption of this rule, the Annals of Congress for that date says:

The question of consideration, which has heretofore been a matter of much contention in the House in the days of party conflict, is thus expunged from the rules of the House.

On February 14, 1831,¹ Mr. Speaker Stevenson, in the course of a decision, said that during the whole time while he had presided in the chair he had never exercised the privilege of requiring the question of consideration.

The present form of the rule dates from the revision of 1880.²

4937. The question of consideration may not be demanded as to a proposition after debate has begun.

A Member must submit his proposition and it must be stated by the Chair before it is in order for debate to proceed.

On February 28, 1822,³ Mr. Ezekiel Whitman, of Maine, rose and intimated his intention of submitting certain resolutions, proposing a disposition of the documents accompanying the President's message of the 28th January, and proceeded to urge the propriety of adopting the course suggested, when, being called to order by a Member, the Speaker declared Mr. Whitman out of order in his remarks until his proposition was stated from the chair, or, being in writing, "was handed to the Chair and read aloud by the Clerk."

Mr. Whitman then submitted certain resolutions relating to referring parts of the message of the President of January 28, relating to the actions of Andrew Jackson in Florida, to the Committees on Foreign Relations, Judiciary, and Military Affairs.

These having been read, Mr. Whitman proceeded in his argument, until Mr. John Rhea, of Tennessee, demanded that the question be put: "Will the House, now consider it?"

This demand the Speaker⁴ declared out of order because it had not been deemed necessary by the Speaker nor demanded by any Member until the mover had proceeded to discuss his resolutions and was actually discussing them.

Mr. Hugh Nelson, of Virginia, having appealed, the decision of the Chair was sustained.

4938. On March 5, 1828,⁵ Mr. William Haile, of Mississippi, having proposed a resolution, was recognized, and had proceeded with his remarks for a short time, when Mr. Lewis Condict, of New Jersey, moved the question of consideration.

The Speaker⁶ decided that the motion was not in order, being too long delayed.

4939. On April 27, 1858⁷ while the House was considering a resolution offered by Mr. James Hughes, of Indiana, to censure Mr. Francis E. Spinner, of New York, and after debate had begun on the resolution, Mr. Joshua R. Giddings, of Ohio, proposed to raise the question of consideration.

¹ Second session Twenty-first Congress, Debates, p. 683.

² Second session Forty-sixth Congress, Record, p. 206.

³ First session Seventeenth Congress, Journal, pp. 296, 297; Annals, pp. 1156-1158.

⁴ Philip P. Barbour, of Virginia, Speaker.

⁵ First session Twentieth Congress, Debates, p. 1755.

⁶ Andrew Stevenson, of Virginia, Speaker.

⁷ First session Thirty-fifth Congress, Globe, p. 1830.

The Speaker¹ said:

The Chair thinks that the application of the gentleman from Ohio comes too late when the House has permitted debate on the pending proposition.

4940. The refusal of the House to consider a bill does not amount to its rejection and does not prevent its being brought before the House again.—On February 7, 1885,² Mr. William A. Russell, of Massachusetts, moved that the House proceed to the consideration of a bill relating to certain drawbacks on duties, the bill being on the Calendar of the Committee of the Whole House on the state of the Union.

Mr. Roger Q. Mills, of Texas, made the point of order that this motion was not in order, for the reason that the bill named had been heretofore indicated under the special rule and rejected.

The Speaker pro tempore³ overruled the point of order, on the ground that the bill had not been rejected, but that the motion to consider the same had not been brought before the House by reason of the objection of ten Members thereto.

More than ten Members objecting thereto, the motion was not considered.⁴

4941. The question of consideration may be demanded against a question of the highest privilege, such as the right of a Member to his seat.—On June 11, 1858,⁵ Mr. Thomas L. Harris, of Illinois, having proposed to call up the report of the Committee of Elections in the case of W. Pinkney Whyte, contesting the right of J. Morrison Harris to a seat in the House from the State of Maryland, Mr. Israel Washburn, jr., of Maine, demanded that the question be put, "Will the House now consider it?"

Mr. Thomas L. Harris made the point of order that the report being a question of privilege it was not competent for a Member to raise the question of consideration.

The Speaker¹ overruled the point of order, and decided that, under the fifth⁶ rule of the House, it was competent for a majority, upon the demand of a Member, to determine whether they would now consider the report.

From this decision of the Chair Mr. George S. Houston, of Alabama, appealed. The appeal was laid on the table.

The record of debate⁷ shows that in the course of the debate on the point of order Mr. George W. Jones, of Tennessee, quoted the paragraph from Jefferson's Manual:

A matter of privilege arising out of any question, or from a quarrel between two Members, or any other cause, supersedes the consideration of the original question, and must be fast disposed of.

From this Mr. Jones argued that other business must be suspended until the question of privilege could be disposed of.

¹James L. Orr, of South Carolina, Speaker.

²Second session Forty-eighth Congress, Journal, p. 491; Record, p. 1388.

³Joseph C. S. Blackburn, of Kentucky, Speaker pro tempore.

⁴This precedent did not arise under the rule relating to consideration (see sec. 4936 of this work); but under a special and temporary rule, which provided for a morning hour, during which a bill on any of the calendars or on the Speaker's table might be called up, subject to the objection of ten Members. (See p. 1290 of Record.)

⁵First session Thirty-fifth Congress, Journal, pp. 1083, 1085.

⁶See section 4936.

⁷First session Thirty-fifth Congress, Globe, pp. 2959, 2960.

The Speaker said:

The gentleman will perceive that if the House had taken up the subject without objection it would have been perfectly competent for the House to have postponed its consideration; and if it be competent for the House to relieve itself from the immediate consideration of a question of privilege by postponement to a day certain, or till next session, or by an indefinite postponement, why may not the House, under his rule, have the privilege of saying that they will not consider the subject?

4942. Although the House may vote not to consider a matter of privilege, it may be called up again on the same legislative day, and the question of consideration may be demanded again.—On June 8, 1896,¹ Mr. Charles Daniels, of New York, called up the contested election case of Aldrich *v.* Underwood, from Alabama.

Mr. Benton McMillin, of Tennessee, raised the question of consideration, and on a division there were 55 yeas and 64 noes; so the House determined not to consider the case.

After intervening business Mr. Daniels again called up the case.

Mr. McMillin made the point of order that, as the House had already decided the question of consideration adversely, the case could not be called up again on the same legislative day.

The Speaker pro tempore² said:

The Chair will have to overrule the point of order of the gentleman from Tennessee. It is entirely competent to call up a contested election case, which is a matter of the highest privilege, at this time and the Clerk will report the resolutions submitted by the Committee on Elections.

Mr. McMillin having again raised the question of consideration, the House by a vote of 131 yeas to 68 nays decided to consider the case.

4943. The question of consideration may be raised after a motion to lay on the table has been made.—On March 4, 1828,³ Mr. Thomas Whipple, jr., of New Hampshire, presented resolutions relating to the execution of certain soldiers of General Jackson's command at Mobile in 1814.

The resolutions having been read, Mr. Whipple moved that they lie on the table.

Mr. Richard H. Wilde, of Georgia, raised the question of consideration.

Mr. Whipple asked whether, after the motion to lay on the table had been entertained, the question of consideration could be raised.

The Speaker⁴ decided that it was perfectly in order. The particular moment at which the question of consideration might be demanded, might sometimes be a subject of difficulty, but in the present case he felt none, and decided the motion to be in order.⁵

4944. A Member may demand the question of consideration although the Member in charge of the bill may claim the floor for debate, but the

¹ First session Fifty-fourth Congress, Record, pp. 6283, 6299.

² John Dalzell, of Pennsylvania, Speaker pro tempore.

³ First session Twentieth Congress, Journal, p. 375; Debates, p. 726.

⁴ Andrew Stevenson, of Virginia, Speaker.

⁵ The debates show that the yeas and nays were also ordered on the motion to lay on the table, and that the Speaker took account of this fact in his decision. But the Journal does not show such ordering of the yeas and nays.

previous question may not be demanded in a similar way.—On June 10, 1898,¹ Mr. James Hay, of Virginia, from the Committee on Military Affairs, called up a privileged resolution of inquiry relating to positions in the Volunteer Army.

Mr. Charles H. Grosvenor, of Ohio, asked for the previous question on the adoption of the resolution.

Mr. Hay claimed the floor for debate.

The Speaker² decided that Mr. Hay was entitled to the floor.

Mr. Grosvenor then raised the question of consideration.

Mr. John S. Williams, of Mississippi, made the point of order that the gentleman from Virginia had the floor and the gentleman from Ohio could not be recognized.

The Speaker decided:

Any Member has a right to raise the question of consideration, and in order to raise it he has to be given the floor.

4945. On June 18, 1884,³ the contested-election case from the Second Mississippi district had been called up by Mr. Samuel H. Miller, of Pennsylvania. Mr. Philip B. Thompson, jr., of Kentucky, raised the question of consideration. Mr. Miller said that he had not yielded the floor for any such purpose.

The Speaker⁴ ruled:

The gentleman can not deprive the House of the opportunity to determine whether it will consider the matter now or not. It was formerly the rule and practice of the House for the Chair to submit the question of consideration to the House in all cases, but under the existing rules it is provided that the Chair shall not submit that question unless some gentleman demands it. Every gentleman has the right to demand that the question of consideration shall be put, and there must of course be a time, after a proposition is submitted and before its consideration has actually commenced, when the demand can be in order.

4946. The intervention of an adjournment does not destroy an existing right to raise the question of consideration.—On January 18, 1877,⁵ the regular order being demanded, the Speaker announced the regular order of business to be the motion of Mr. J. Proctor Knott, of Kentucky, to reconsider the vote by which certain resolutions relating to the counting of the electoral votes were recommitted to the Select Committee on the Privileges, Powers, and Duties of the House of Representatives in counting the vote for President and Vice-President of the United States.

Mr. James Wilson, of Iowa, raised the question of consideration.

The Speaker⁶ stated that the motion to reconsider was called up on the preceding day by Mr. Knott, who then yielded for a motion to adjourn, and being pending at the time of adjournment became the unfinished business of the previous session, and was thereby the regular order of business after the reading of the Journal. The gentleman from Iowa [Mr. James Wilson] having stated his purpose to raise the question of consideration, which he was precluded from doing by the motion to adjourn, the Chair would now entertain the question of consideration.

¹ Congressional Record, second session Fifty-fifth Congress, June 10, 1898.

² Thomas B. Reed, of Maine, Speaker.

³ First session Forty-eighth Congress, Record, p. 5299.

⁴ John G. Carlisle, of Kentucky, Speaker.

⁵ Second session Forty-fourth Congress, Journal, p. 252; Record, p. 725.

⁶ Samuel J. Randall, of Pennsylvania, Speaker.

The record of the debate shows that the Speaker said:

This question, therefore, turns upon the matter of fact whether the gentleman from Iowa is in time in raising the question of consideration this morning, the resolutions having been called up yesterday. But the Chair recognizes also the fact that when the resolutions then came before the House a higher question was immediately raised, which was not by the rules debatable—that is, a motion to adjourn. If the gentleman from Iowa now states that yesterday he wished to raise the question of consideration, the Chair will entertain it.

The gentleman from Iowa having so stated, the question was entertained.

4947. When the question of consideration is undisposed of at an adjournment, it does not recur as unfinished business on a succeeding day.—On January 5, 1894,¹ during the call of committees for reports,² Mr. Charles A. Boutelle, of Maine, submitted the question of order whether the resolution introduced by him, upon which the question of consideration was pending when the House adjourned on the preceding day, did not recur to-day and take precedence before the call of committees.

The Speaker³ ruled that the resolution did not recur until its consideration should be demanded, and that the question pending on the previous day terminated with the adjournment of the House.

4948. On January 6, 1894,⁴ after Mr. T. C. Catchings, of Mississippi, had been recognized to call up a privileged report from the Committee on Rules, Mr. Charles A. Boutelle, of Maine, made the point that the resolution called up by him on Wednesday, the 3d instant, involved a question of privilege under Rule IX,⁵ and that its consideration took precedence over the resolution reported from the Committee on Rules. He therefore demanded that said resolution, presented by himself, be first considered.

The Speaker³ declined to entertain the demand of Mr. Boutelle for the consideration of his said resolution, and held as follows:

The rules provide that when any matter is called up the question of consideration shall not be put to the House unless some Member demands it. The resolution of the gentleman from Maine has never been before the House in the sense of being before it for consideration, because when it was called up by the gentleman from Maine the gentleman from Tennessee (Mr. McMillin) raised the question of consideration, whereupon it became a question for the House to determine, Will the House proceed to consider the resolution?

Upon the question, "Will the House proceed to consider the resolution?" no quorum voted, and with the business in that position the House adjourned. That question of consideration might be raised each day. For instance, the House might refuse one day to consider the resolution, and yet the next day the gentleman might call it up again. The business of the House might be in such a condition on one day that the House would not consider the resolution, and on the next day business might be in such a condition that the House would consider the resolution.

Now, then, the question of consideration having been raised, no quorum having voted, and adjournment having taken place, the Chair held that on the next legislative day the resolution was not before the House, but that the gentleman might call it up again; that the practical effect of the failure to obtain a quorum was when the adjournment took place the same as though the House had refused to consider the resolution, because the proceedings of that day were ended; and the only

¹ Second session Fifty-third Congress, Journal, p. 57; Record, p. 501.

² Reports of committees are now filed with the Clerk.

³ Charles F. Crisp, of Georgia, Speaker.

⁴ Second session Fifty-third Congress, Journal, pp. 66, 67; Record, pp. 508, 509.

⁵ See section 2521 of Vol. III of this work.

purpose of the question raised by the gentleman from Tennessee was that the House should determine whether that day it would consider that resolution.

Therefore the Chair held and holds that the resolution was not before the House, but that the resolution was just exactly where it was before the gentleman from Maine made his motion; that is to say, it had been reported back by the Committee on Foreign Affairs with the recommendation that it be laid on the table. It was laid on the table, not being thus finally disposed of by a vote of the House, but laid on the table temporarily until called up and acted upon by the House.

Now, on yesterday the gentleman from Mississippi (Mr. Catchings) called up the report from the Committee on Rules which is pending. The question of consideration was raised against that report. The Chair held that the question of consideration could not be raised against the report of the committee, for it was a question which was res adjudicata in the House; that the Chair had previously so held, and on an appeal from that decision by the vote of a large majority of the House the appeal was laid on the table, which had the effect of sustaining the judgment of the Chair.

So the distinction between the case the gentleman from Maine presents and the present question—that is, the report of the Committee on Rules presented by the gentleman from Mississippi to the House on yesterday—is very clear; for in one case—the resolution presented by the gentleman from Maine—the House had not determined to consider the resolution which he called up, whereas on the other hand the House had entered upon the consideration of the report of the Committee on Rules. The gentleman from Mississippi had demanded the previous question on the report. The yeas and nays had been ordered on the demand for the previous question, so that the pending question before the House, the regular order of business, would be the consideration of the report from the Committee on Rules when called up by the gentleman having it in charge.

4949. A vote by yeas and nays having been without result because of the failure of a quorum, it was held that the question of consideration might not intervene on a succeeding day before the second call of the yeas and nays.—On August 11, 1890,¹ Mr. Louis E. Atkinson, of Pennsylvania, called up the bill of the House (H. R. 8243) supplementary to an act entitled “An act to authorize the construction of the Baltimore and Potomac Railroad in the District of Columbia,” coming over as unfinished business from July 14, on which day, the yeas and nays having been ordered and taken, no quorum had appeared.

Mr. Seth L. Milliken, of Maine, raised the question of consideration.

Mr. Atkinson, of Pennsylvania, made the point of order that the question could not be raised at this stage of the proceedings.

The Speaker² sustained the point of order on the ground that the yeas and nays having been ordered and taken on the motion on the 14th of July, when a quorum failed to vote and the House adjourned, the roll call to be now taken was merely a continuation of the call then ordered and had and was in the nature of a continuous proceeding, which could not be interrupted for any purpose except by unanimous consent.

4950. A point of order which, if sustained, might prevent the consideration of a bill, should be made and decided before the question of consideration is put.

A point of order relating merely to the manner of considering a bill should be passed on after the House has decided the question of consideration.

On June 30, 1898,³ Mr. Ebenezer J. Hill, of Connecticut, called up from the House Calendar, under the call of committees, the bill (H. R. 10807) “to carry into

¹ First session Fifty-first Congress, Journal, p. 941; Record, p. 8432.

² Thomas B. Reed, of Maine, Speaker.

³ Second session Fifty-fifth Congress, Record, p. 6553.

effect the recommendations of the International American Conference by the incorporation of the International American Bank.”

Mr. Joseph W. Bailey, of Texas, inquired of the Chair whether or not raising the question of consideration would waive the further point that the bill was not of the special class that could be called up in the morning hour under the call of committees.

The Speaker¹ expressed the opinion that it would waive the point.

Thereupon Mr. Bailey made the point that the bill was improperly on the House Calendar.

On March 11, 1890,² Mr. Charles S. Baker, of New York, from the Committee on the Territories, to which was recommitted the bill of the House (H. R. 982) to provide for the admission of the State of Wyoming into the Union, reported the same with amendments.

Mr. William M. Springer, of Illinois, raised the question of consideration against the bill, and also made the point of order that under clause 3 of Rule XXIII³ the bill must receive its first consideration in a Committee of the Whole.

The Speaker¹ held that the point of order could not be made or passed upon until the question of consideration had been determined by the House.

It having been decided to consider the bill, Mr. Springer renewed his point of order, which was sustained.

4951. On May 16, 1868,⁴ Mr. Speaker Colfax, in response to a parliamentary inquiry raised by Mr. James G. Blaine, of Maine, stated that the question as to whether a resolution involved a question of privilege, when raised, should be decided before the question of consideration could be put.

4952. The House having given unanimous consent for the consideration of a bill with a proposed committee amendment this action was held to be in effect an affirmative decision of the question of consideration, thus precluding a point of order against the amendment.—On April 24, 1900,⁵ Mr. Henry A. Cooper, of Wisconsin, from the Committee on Insular Affairs, reported a joint resolution (S. 116) “to provide for the administration of civil affairs in Porto Rico pending the appointment and qualification of civil officers provided for in the act approved April 12, 1900, entitled,” etc., with amendments in relation to the granting of franchises, proposed by the Committee on Insular Affairs.

Mr. Cooper asked unanimous consent for the consideration of the resolution.

The resolution and the amendments proposed by the Committee on Insular Affairs having been read, the Speaker asked if there was objection to present Consideration. There was no objection, and debate began as to an arrangement of the time for discussion.

Thereupon Mr. Ebenezer J. Hill, of Connecticut, said that he desired to reserve a point of order against the amendment.

During the debate on the point of order, Mr. William H. Moody, of Massachusetts, made the argument that the gentleman from Connecticut, Mr. Hill, had reserved his point of order too late.

¹ Thomas B. Reed, of Maine, Speaker.

² First session Fifty-first Congress, Journal, p. 331; Record, p. 2133.

³ See section 4792 of Vol. IV of this work.

⁴ Second session Fortieth Congress, Globe, p. 2498.

⁵ First session Fifty-sixth Congress, Record, pp. 4615, 4616; Journal, pp. 500, 501.

After debate the Speaker said:¹

The gentleman from Massachusetts [Mr. Moody], however, submits a point of order against the point of order, on the question of the time at which the point of order was made. The Chair has directed the Clerk to bring the record here. The Chair is very accurate in his recollection, and this morning before the matter came up gave some thought to the possible questions that might arise, and had reached the conclusion that if consent were given for consideration of the joint resolution, that it was past raising the point of order. When the Chair was listening to a gentleman on the right, who addressed the Chair, he was also addressed vigorously and promptly by the gentleman from Connecticut, but who did not state that he rose to a point of order, and as soon as the gentleman got the attention of the Chair he made the point of order. Now, the Chair is not certain whether the matter had reached the point of consideration after he had declared that there was no objection, and has sent for the Record to ascertain the facts, and will not be prepared finally to dispose of the question until the Record is before him. The Chair, as suggested by one gentleman, will not permit anyone to be deprived of his rights if he understands what they are.

I now have the Record, and it shows this, and the Chair asks the attention of the House:

“The SPEAKER. The gentleman from Wisconsin asks unanimous consent for the consideration of Senate joint resolution 116. Is there objection?”

“Mr. MCRAE. I ask that it be read, Mr. Speaker.

“The SPEAKER. Let the resolution be reported.

“The joint resolution was read, as follows.”

Then follows the joint resolution.

“Mr. MCRAE. I make no objection, Mr. Speaker.

“The SPEAKER. Is there objection? [After a pause.] The Chair hears none. Is there any arrangement as to time?”

“Mr. COOPER, of Wisconsin. I spoke to the gentleman from Virginia [Mr. Jones] last evening, and he said that an hour would be sufficient.

“Mr. HILL. Mr. Speaker, I wish to reserve the point of order against the two amendments.

“The SPEAKER. What was the statement of the gentleman from Wisconsin?”

“Mr. COOPER, of Wisconsin. I spoke to the gentleman from Virginia last night, who is the leading member of the committee on the other side, concerning the resolution, and he consented that an hour should be allowed.

“The SPEAKER. Then it is understood that there is to be an hour’s debate, thirty minutes to be controlled by the gentleman from Wisconsin and thirty minutes by the gentleman from Virginia [Mr. Jones]. Is there objection?”

“Mr. HILL. Mr. Speaker, it is understood that I reserved the point of order against the two amendments?”

“The SPEAKER. The gentleman’s statement was heard. The Chair will state to the gentleman from Connecticut that unanimous consent has been given for the consideration of the bill.”

It would seem, therefore, from the Record that the matter was submitted to the House. That is the recollection of the Chair, that unanimous consent was given and two or three interlocutory remarks were made. Then the gentleman from Connecticut for the first time made his point of order. Subsequent discussion went on, when he made it again, and the Chair called the gentleman’s attention to the fact that unanimous consent had been given.

While the Chair is clearly of the opinion that this point of order, if made in time, should have been sustained, the Chair is equally clear that his point of order came too late. If the gentleman had addressed the Chair in the first instance, when he was giving it attention, and said, “A point of order,” the Chair would have dropped every colloquy with other members and given his attention to the gentleman from Connecticut, but that point was not made until the point of consideration was passed.

The House very well knows—it has been held over and over again—that after the question of consideration has been raised and the House has voted to consider a matter a point of order can not be raised. The question of consideration was submitted as soon as the bill and the amendments proposed by the committee were read and the unanimous consent of the House was granted. This, the Chair

¹ David B. Henderson, of Iowa., Speaker.

considers, was equivalent to a vote that the House would consider the bill and amendments proposed by the committee. After that the Chair holds that the point of order came too late, and therefore overrules it.¹

The committee reports a bill with a proposed amendment. This amendment is a part of the matter reported—to such an extent a part that the proposition of the committee would be defective without it.

The matter reported by the committee is presented to the House. The committee amendment as well as the bill has been reported, and the committee amendment as well as the bill is presented to the House.

The presentation being by unanimous consent, the bill with committee amendment is subject to two conditions—a Member must be recognized by the Speaker in order to have the bill and committee amendment read for information, and then the House must decide unanimously to consider them, after having heard them read.

This reading of the bill, although for information, is in effect the second reading. It is the only second reading that ever occurs in such a case. If it is not a second reading, no bill passed by unanimous consent ever gets a second reading. If it is not a second reading, then a second reading may be demanded after consent for consideration is given. And if the second reading may be so demanded, the House is face to face with the theory that a bill presented by unanimous consent must be read in full twice before being debated, if demand is made. When the length of some bills is considered, the awkwardness of the theory is manifest.

The bill and committee amendment having been read the second time through the agency of the Speaker's recognition, the Speaker says:

“Is there objection to the present consideration of the bill? There being no objection the House has voted to consider the bill. The question of consideration has been decided. If it has not been, then a Member may raise it and force a vote. No one would say that such a thing could be done unless his motive were the consumption of time.

“Now when the House votes to consider a matter it votes to consider that which has been presented by the reading clerk—in this case the bill with the committee amendment.

“The time to raise a point of order, either against the bill or the committee amendment, is when they are presented through the reading clerk. It is in accordance with the regular practice of the House that the point of order should follow the reading.

“If a point of order is to be made against what is read, it should be made before the question of consideration is put, since the decision of the point may remove the matter and obviate the necessity of a vote on consideration. For the same reason, after the House has decided to consider a matter, it should not be deprived of that consideration by the removal of the matter through a point of order.”

4953. Although a bill may come up by reason of being individually specified in a special order, yet the question of consideration may be raised against it.—On July 22, 1886,² Mr. Hilary A. Herbert, of Alabama, as a privileged question, under the special order of the 20th instant, called up the bill of the House to increase the naval establishment, reported from the Committee on Naval Affairs on the 10th of March last.

Mr. John H. Reagan, of Texas, raised the question of consideration.

Mr. Herbert made the point of order that the question of consideration could not be raised against the bill, the same having been made a special order and a day having been assigned and set apart for its consideration, basing, his point on the decision of the Speaker in the first session of the Forty-seventh Congress,³ that the question of consideration could not be raised as against a day set apart for the busi

¹The status of a bill presented for unanimous consent, and the relations of the committee amendments to the bill are involved in this decision.

²First session Forty-ninth Congress, Journal, p. 2297; Record, p. 7335.

³See section 4959 of this chapter.

ness of a particular committee, and that in the present case there was but one bill assigned for consideration.

The Speaker¹ held that, while the decision referred to was correct, it could not be held that it was competent to raise the question of consideration seriatim against any particular bill presented by a committee under such an order, and thus refuse to consider any bill and all bills called up, and not permit the same question to be raised in the case of a single bill assigned for consideration on a particular day.

The question then recurred on the question of consideration raised by Mr. Reagan; and the House refused to consider the bill.

4954. On February 12, 1887,² Mr. William M. Springer, of Illinois, called for the special order of the day, which was as follows:

Resolved, That the Committee of the Whole House on the state of the Union be discharged from the further consideration of Senate bill 199, entitled "An act for the retirement and recoinage of the trade dollar," and that Saturday, February 12, immediately after the reading of the Journal, be set apart for the consideration of the same in the House, no other business to be transacted until the consideration of said bill is concluded.

Mr. John J. O'Neill, of Missouri, raised the question of consideration against the bill.

Mr. Springer made a point of order against the question of consideration.

The Speaker¹ said:

There have been quite a number of orders made containing substantially the same language, and it has been always held to be within the power of the House to consider the order or not. The House never deprives itself of the right to determine whether it will or will not consider a question.

4955. On March 30, 1888,³ a Friday, the House had before it the bills (H. R. 3191) granting a pension to Mary S. Logan and (S. 574) to increase the pension of Mrs. Apolline A. Blair, which had been made a special order for the day at an evening session on a previous Friday, the terms of the order being that after a certain time for debate the previous question should be considered as ordered.

Mr. Samuel W. T. Lanham, of Texas, having made a parliamentary inquiry, the Speaker¹ said:

This is a special order which has to be disposed of before the House goes into Committee of the Whole; but the gentleman can raise the question of consideration. It is always in the power of the House to decide, if it so chooses, that it will not proceed to take up the consideration of any particular matter. The gentleman from Texas can raise that question.

4956. On January 21, 1889,⁴ the House adopted a special order providing that January 24 be set apart for the consideration of the bill (H. R. 10614) "to organize the Territory of Oklahoma, and for other purposes," and that at 4 o'clock on that day the previous question should be considered as ordered upon the bill and amendments to the final passage, etc. It was also provided that if the bill should not be taken up on January 24 the order should continue until one day should have been occupied, as specified in the order.

¹ John G. Carlisle, of Kentucky, Speaker.

² Second session Forty-ninth Congress, Record, p. 1684; Journal, p. 581.

³ First session Fiftieth Congress, Record, p. 2514.

⁴ Second session Fiftieth Congress, Record, pp. 1062, 1400.

On February 1 the bill came over from the preceding day as unfinished business, with the previous question ordered according to the terms of the order.

Mr. Samuel W. T. Lanham, of Texas, having proposed to raise the question of consideration against the bill, Mr. William M. Springer, of Illinois, made the point that such question could not be raised.

The Speaker¹ said:

The Chair will state that the situation of the Oklahoma bill is this: The bill, if it comes up this morning, comes up not because of the special order assigning a day for its consideration, but simply because the previous question has been ordered upon its passage.

On the day set apart for the consideration of the bill under the special order made by the House, after the Committee of the Whole House on the state of the Union had reported the bill back to the House, the question of consideration could not have been made. But on another, subsequent day, the Chair will repeat, if the bill comes up at all it comes up not by reason of the fact of the special order, but solely by reason of the fact that the previous question was ordered upon it, and the question of consideration can be raised against it.²

The House voted to consider the bill, 135 ayes to 3 noes.

4957. On Friday, April 21, 1882,³ the Speaker had ruled that private business must yield to the consideration of the bill (H. R. 684), which had been made a special order "from day to day until disposed of."

Thereupon Mr. George C. Hazleton, of Wisconsin, raised the question of consideration against the bill.

The Speaker⁴ entertained the question, saying:

The House has always the right to refuse to consider any business that may otherwise be in order.

4958. The question of consideration may not be demanded against a class of business in order under a special order or a rule, but may be demanded against each bill individually as it is brought up.

It is not in order to postpone a special order providing for the consideration of a class of bills.

On June 26, 1882,⁵ the regular order was the consideration of business presented by the Committee for the District of Columbia, under a special order which provided that on the second and fourth Mondays of each calendar month during the Forty-seventh Congress the time, after the call of States and Territories for bills and joint resolutions, should be devoted to business presented by this committee.⁶

Mr. William D. Kelley, of Pennsylvania, proposed to raise the question of consideration against the special order.

The Speaker⁴ held that this day being set apart for the consideration of such business as might be presented by the Committee for the District of Columbia, the question of consideration could not be raised against such special order, but could only be raised as against a particular bill or measure. The Speaker further held

¹ John G. Carlisle, of Kentucky, Speaker.

² See also section 4965 of this chapter.

³ First session Forty-seventh Congress, Record, p. 3146.

⁴ J. Warren Keifer, of Ohio, Speaker.

⁵ First session Forty-seventh Congress, Record, p. 5349; Journal, p. 1540.

⁶ This committee now has these days regularly under section 3 of Rule XXVI. (See sec. 3304 of Vol. IV of this work.)

that a motion to postpone the special order was not in order, and that the Committee for the District of Columbia could not be dispossessed of their rights under the terms of the special order so long as the committee had any business to present and claimed their rights under the order.

In this decision of the Chair the House acquiesced.

4959. On January 14, 1889,¹ Mr. John J. Hemphill, of South Carolina, from the Committee for the District of Columbia, presented a bill (H. R. 11785) relative to the laying of certain railroad tracks in the District.

Mr. Newton C. Blanchard, of Louisiana, raised the question of consideration against the bill.

Mr. Hemphill having called attention to Rule XXVI² giving the second and fourth Mondays of each month to the Committee for the District of Columbia, made the point that it was not in order to demand the question of consideration.

The Speaker³ held:

It is not competent for the House, except by an order made by unanimous consent, or upon a suspension of the rules, or upon a report from the Committee on Rules, to vacate the order setting apart this day for the consideration of business reported from the Committee on the District of Columbia. But it is in order for any gentleman on the floor of the House to raise the question of consideration on any bill called up by the committee, just as may be done on Friday when, though private business may not be dispensed with, the question of consideration can be raised with reference to any private bill. The House might desire to go on with the consideration of business reported from the Committee on the District of Columbia, but may not want to consider this particular bill; and the Chair has always held that the question of consideration can be raised against each bill.

The Chair overrules the point of order.

4960. Where a special order provides that immediately upon its adoption a certain bill shall be considered, the question of consideration may not be raised against that bill.—On July 16, 1894,⁴ Mr. T. C. Catchings, of Mississippi, submitted from the Committee on Rules and the House agreed to this resolution:

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider House bill 4609, "a bill to establish a uniform system of bankruptcy," in the House as in Committee of the Whole on the state of the Union. That after an hour of general debate there shall be two hours' debate under the five-minute rule. The previous question shall be considered ordered on the amendments, if any, and, without intervening motion, the vote shall then be taken on the bill and amendments to its final passage.

That the remainder of this day and Tuesday, the 17th instant, after the morning hour, be assigned to the consideration of business reported from the Committee on the Judiciary.

The bill mentioned in the resolution (H. R. 4609), to establish a uniform system of bankruptcy, was accordingly read.

Mr. Thomas B. Reed, of Maine, demanded that the question of consideration be put.

The Speaker pro tempore⁵ held that the resolution just agreed to was a decision of the question of consideration and that the House was, by its terms, required to proceed immediately with the consideration of the bill.

¹ Second session Fiftieth Congress, Record, p. 762; Journal, p. 239.

² See section 3304 of Vol. IV of this work.

³ John G. Carlisle, of Kentucky, Speaker.

⁴ Second session Fifty-third Congress, Journal, pp. 484, 485; Record, p. 7548.

⁵ James D. Richardson, of Tennessee, Speaker pro tempore.

4961. In the later, but not in the earlier, practice, it has been held that the question of consideration may not be raised against a report from the Committee on Rules relating to the order for considering individual bills.—On March 7, 1892,¹ Mr. T. C. Catchings, of Mississippi, called up a resolution from the Committee on Rules providing for the consideration of a bill (H. R. 4426) for the free coinage of gold and silver, etc.

Mr. Charles Tracey, of New York, demanded that the question be put, "Will the House now consider said resolution?"

The Speaker² refused to entertain the demand, holding that a report from the Committee on Rules was not subject to the question of consideration.³

Mr. Tracey appealed from the decision of the Chair, refusing to entertain his demand for the question of consideration. The appeal was laid on the table by a vote of 178 yeas to 82 nays.

4962. On January 8, 1894,⁴ while the House was considering a resolution reported from the Committee on Rules, Mr. Thomas B. Reed, of Maine, asked a reconsideration by the Speaker of his former decision, to wit, that the question of consideration could not be demanded against the report from the Committee on Rules.

The Speaker² stated that the report involved the order of business of the House, and inasmuch as it had been held in former Congresses that the question of consideration could not be raised against the order of business, the Chair would adhere to the decision previously made.

Mr. Charles A. Boutelle, of Maine, stated that he appealed from the decision just made.

The Speaker declined to recognize the appeal, upon the ground that the consideration of the report from the Committee on Rules could not be interrupted.

4963. On February 20, 1891,⁵ Mr. Joseph G. Cannon, of Illinois, from the Committee on Rules, reported a resolution relating to the consideration of certain bills reported from the Committee on the Judiciary and relating to the courts of the United States.

Mr. W. C. P. Breckinridge, of Kentucky, raised the question of consideration against the said resolution.

The question being put by the Speaker,⁶ the House determined, by a vote of 115 yeas to 80 nays, to consider the resolution.

On February 24, 1891,⁷ Mr. William McKinley, jr., of Ohio, from the Committee on Rules, reported a resolution to provide a time for the consideration of the bill (S. 172) to refund the direct tax of 1861.

¹ First session Fifty-second Congress, Journal, p. 91.

² Charles F. Crisp, of Georgia, Speaker.

³ The Record (first session Fifty-second Congress, pp. 1826, 1827) shows that the Speaker based his ruling upon the provision, then recently adopted, of Rule XI, which provided that "it shall always be in order to call up for consideration a report from the Committee on Rules." (See sec. 4621 of Vol. IV of this work.)

⁴ Second session Fifty-third Congress, Journal, pp. 71-72; Record, p. 528.

⁵ Second session Fifty-first Congress, Journal p. 273.

⁶ Thomas B. Reed, of Maine, Speaker.

⁷ Second session Fifty-first Congress, Journal, p. 295.

Mr. Roger Q. Mills, of Texas, raised the question of consideration against the resolution, and the House, by a vote of 130 to 78, decided to consider it.

4964. The question of consideration may not be raised against a proposition before the House for reference merely.

Incidental discussion of the right of the House to decline to receive a petition.

On April 15, 1878,¹ Mr. Thomas Swann, of Maryland, presented a resolution of the general assembly of Maryland proposing to bring before the Supreme Court for revision the action of the Electoral Commission of 1876. Mr. Swann moved the reference of the resolution to the Committee on the Judiciary.

Mr. Nathaniel P. Banks, of Massachusetts, raised the question of consideration, under Rule 41.²

The Speaker³ held that the resolution was before the House under Rule 130,⁴ which prescribed the mode of procedure during the morning hour of Monday, and that Rule 41 referred and related only to the mode and time of considering a subject already before the House, and in effect related only to the order of business, and being long anterior in date to Rule 130, could not change the specific provisions of the latter rule.

This question of order was debated at some length. Mr. James A. Garfield, of Ohio, raised the point that if the question of consideration might not be raised on a matter presented for reference, the House would be compelled to consider by its committee that which it might not wish to consider. Mr. Alexander H. Stephens, of Georgia, on the other hand, contended that the rule relating to the question of consideration was for the purpose of deciding, "Will we act upon the measure now?" But the question before the House in this case was whether the proposition from the Maryland legislature should be received or rejected. He contended that the House had the right to say whether it would receive or reject petitions. This was an inherent right. "It should," he said, "be discreetly, prudently, wisely, and patriotically exercised. The grand mistake of those who contended against the policy of receiving petitions of a certain character was discovered when it was too late. The great right of the American people to petition and have their petitions received on all subjects is now settled, I think, as the best policy. The power to reject, however, still exists."

The Speaker said:

The Chair thinks that the inherent right alluded to by the gentleman from Georgia as existing in every legislative body is realized by the body in case they should refuse to refer. For a refusal to refer is in effect equivalent to an adverse expression.

4965. The question of consideration may not be raised against a bill on which the previous question has been ordered.—On June 24, 1884,⁵ the

¹ Second session Forty-fifth Congress, Journal, pp. 844, 845; Record, pp. 2523–2527.

² Now section 3 of Rule XV, I; see section 4936 of this volume.

³ Samuel J. Randall, of Pennsylvania, Speaker.

⁴ Rule 130 provided for a call of the States and Territories for the introduction of bills and resolutions. They are now referred through the box at the Clerk's desk. Rule 130 then provided specifically that joint resolutions of State and Territorial legislatures should be introduced under the call provided in this rule.

⁵ First session Forty-eighth Congress, Record, p. 5543.

House proceeded to the consideration of unfinished business, the Speaker making the statement that there were pending as unfinished business two bills on which the previous question had been ordered—a bill to repeal the preemption laws and the timber-culture laws—to which various amendments had been offered; and also an unfinished report from the select committee on the law respecting the election of President, etc. The bill from the Committee on Public Lands would come first, as it was unfinished business, having priority when the other bill was taken up.

Mr. Albert S. Willis, of Kentucky, then proposed to raise the question of consideration against the unfinished business, his purpose being to ask the House to take up the education bill.

Mr. J. Warren Keifer, of Ohio, made the point that the question of consideration might not be raised against a bill on which the previous question had been ordered.

The Speaker¹ said:

The Chair has some doubts. It has been the custom of the House to take up at once as unfinished business bills on which the previous question has been ordered. It happens that in this case there are two bills in precisely the same situation.

Then, at the suggestion of Mr. Keifer, the bills were taken up in the order of priority.²

4966. On January 6, 1893,³ the order of business was the consideration of bills heretofore reported from the Committee of the Whole House at the Friday evening session of July 2, 1892, and on the passage of which the previous question had been ordered.

Mr. F. E. Beltzhoover, of Pennsylvania, submitted the question of order whether it was in order to raise the question of consideration against the bills on the passage of which the previous question had been ordered.

The Speaker⁴ held that the effect of the previous question being to bring the House to an immediate vote on the question on which it was ordered, namely, the third reading and passage of the bills, the question of consideration could not be raised against them.

4967. The question of consideration has been admitted where other business has intervened between the ordering and execution of the previous question, but not after an adjournment merely.—On February 28, 1881,⁵ Mr. Hiram Price, of Iowa, demanded the consideration of the bill (H. R. 7026) making an apportionment of Representatives in Congress, etc., on which bill the previous question had been ordered on February 24.⁶

Mr. John G. Carlisle, of Kentucky, raised the question of consideration on the bill.

¹John G. Carlisle, of Kentucky, Speaker.

²See also section 4956 of this chapter, wherein the same Speaker inclined to the view that the question of consideration could be raised against a bill on which the previous question had been ordered on a preceding day.

³Second session Fifty-second Congress, Journal, p. 33; Record, p. 381.

⁴Charles F. Crisp, of Georgia, Speaker.

⁵Third session Forty-sixth Congress, Journal, pp. 537, 538; Record, pp. 2235–2298.

⁶Journal, p. 490.

Mr. J. Warren Keifer, of Ohio, made the point of order that the question of consideration could not be raised against a bill on which the previous question had been ordered.

After debate the Speaker¹ said:

The Chair recognizes the gentleman from Kentucky to raise the question of consideration. Many days have elapsed since the main question was ordered, and other subjects considered. * * * It is the inherent right of every legislative body that the majority shall regulate its course of proceeding in reference to the transaction of business. And every rule of every legislative body, so far as the Chair is advised, conforms to that feature as illustrative of the power of the majority to control its proceedings. Now, in reference to this case the Chair recognizes, and it is not disputed, that it has the semblance of unfinished business, and that the main question was ordered upon it. The binding feature of the previous question should have operated immediately upon reassembling after the adjournment. But at any time the motion is in order to test whether the House will proceed to consider the unfinished business; and the Chair recognizes that as the substance of the effort made by the gentleman from Kentucky. There can not be a doubt but that the House in its inherent right, and the right under the very rules that govern it, has the power to say whether it will consider unfinished business. And that right of consideration can not be interfered with or interrupted.

The Speaker referred in this connection to a decision in the Forty-fourth Congress.²

Mr. Keifer having appealed, the appeal was laid on the table, yeas 121, nays 93.

4968. On January 4, 1889,³ Mr. Thomas B. Reed, of Maine, as a privileged question, called up the following resolution reported from the Committee on Rules and under consideration at the adjournment on the preceding day, the pending question being upon the demand for the previous question, the yeas and nays having been ordered:

Resolved, That during the remainder of the present session of Congress there shall be no call of the States and Territories⁴ on the first and third Mondays of each month.

Mr. John A. Anderson, of Kansas, proposed to raise the question of consideration against the resolution.

Mr. Reed made the point of order that the question of consideration could not now be raised against the resolution:

After debate the Speaker⁵ said:

So far as the Chair is advised this is entirely a new question. The general rule of the House is that the question of consideration can be raised against any proposition when reached on the Calendar or called up, even though a privileged measure. In the present instance the question is this: This resolution was reported from the Committee on Rules yesterday as a matter of privilege and its consideration entered upon. The previous question was demanded by a Member and the yeas and nays ordered by the House, and the vote was actually being taken; in fact, according to the recollection of the Chair, two or three efforts were made to take a vote and secure a quorum, but they failed. Now, when the matter is called up again to-day, still being a matter of privilege under the rules of the House, the gentleman from Kansas, Mr. Anderson, raises the question of consideration against it; and the Chair rules, though he announces this decision with some hesitation and some doubt, that under the circumstances the question of consideration can not be made against it.

¹ Samuel J. Randall, of Pennsylvania, Speaker.

² See section 4946 of this chapter.

³ Second session Fiftieth Congress, Journal, p. 155; Record, p. 544.

⁴ This was the old method of introducing bills.

⁵ John G. Carlisle, of Kentucky, Speaker.

4969. The question of consideration may not be demanded against a bill returned with the objections of the President.—On April 4, 1894,¹ Mr. Richard P. Bland, of Missouri, demanded that the House proceed to the consideration of the bill H. R. 4956, entitled “An act directing the coinage of silver bullion in the Treasury, and for other purposes,” heretofore returned to the House by the President with his objections thereto.

Mr. Daniel E. Sickles, of New York, thereupon demanded that the question of consideration be put.

Mr. Joseph W. Bailey, of Texas, made the point that inasmuch as the Constitution required the House to reconsider the bill the question of consideration could not be demanded.

After debate the Speaker² sustained the point of order, holding as follows:

The Constitution of the United States declares that the message shall be sent to the House in which the bill originated, which House shall proceed to reconsider the bill. The present message was sent to the House a few days ago, at which time the House had under consideration a contested-election case, and was operating under a rule which might fairly be held to postpone the consideration of any other question until that question had been disposed of. Undoubtedly the House would have the right, as has been the precedent, to postpone the consideration of a veto message, although the question of consideration might not be raised. Postponement is itself consideration; and it may be fairly held that the order adopted by the House, under which they were considering the contested-election case, was a postponement of any question that might come in to interfere with the measure until the House had fully disposed of it. Treating it in that way, it is regarded as a postponement of this veto message until that order had exhausted itself. The order has now exhausted itself; the message is before the House. The Constitution says the House must proceed to consider it; the House the other day ordered a postponement until that order was exhausted, and that time has come. Therefore the Chair holds that the question of consideration can not now be raised.

4970. On March 2, 1895,³ Mr. Hugh A. Dinsmore, of Arkansas, moved that the Committee on Indian Affairs be discharged from the consideration of the bill (H. R. 8681) authorizing the Arkansas Northwestern Railway Company to construct and operate a railway through the Indian Territory, and for other purposes, heretofore returned to the House by the President with his objections thereto, and that the House proceed to its reconsideration.

Mr. Albert J. Hopkins, of Illinois, submitted the question of order, whether the question of consideration could not be demanded thereon.

The Speaker² expressed the opinion that, under the provisions of the Constitution and under the rulings heretofore made in such cases, the question of consideration could not be demanded, but that the subject having been presented, a motion to postpone its further consideration might be entertained.

4971. The question of consideration may not be raised on a motion relating to the order of business.

While the House was proceeding under general parliamentary law, before rules had been adopted, a Member offered from the floor a special order for the consideration of a bill.

¹ Second session Fifty-third Congress, Journal, p. 312; Record, pp. 3458, 3459.

² Charles F. Crisp, of Georgia, Speaker.

³ Third session Fifty-third Congress, Journal, p. 190.

On January 7, 1890,¹ Mr. Louis E. McComas, of Maryland, submitted the following resolution:

Resolved, That the House now resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill of the House (H. R. 3711), the District of Columbia appropriation bill, and that general debate thereon shall be limited to one hour, after which the bill shall be considered by clauses or paragraphs under the rules of the last House relating to the consideration of general appropriation bills in Committee of the Whole House on the state of the Union.²

Mr. W. C. P. Breckinridge, of Kentucky, raised the question of consideration.

The Speaker³ ruled that the question of consideration could not be raised on a motion relating to the order of business.

From this decision of the Chair Mr. Breckinridge, of Kentucky, took an appeal.

After debate on the appeal, the Speaker stated the situation to be as follows: On the motion of Mr. McComas, that the House resolve itself into the Committee of the Whole to consider a certain bill designated, the question of consideration was raised by Mr. Breckinridge, of Kentucky. He had thereupon held that the question of consideration could not be raised on the motion which itself proposed the consideration of a bill, on the ground that under common parliamentary law a doubling up of motions was to be avoided, and he thereupon stated the question to be:

“Shall the decision of the Chair stand as the judgment of the House?” And it was decided in the affirmative—yeas 134, nays 125.

4972. On August 19, 1890,⁴ Mr. Ormsby B. Thomas, of Wisconsin, as a privileged question, moved to lay on the table the motion to reconsider the vote by which the House passed the bill of the Senate (S. 846) for the relief of Nathaniel McKay and the executors of Donald McKay.

Mr. William M. Springer, of Illinois, proposed to raise the question of consideration.

The Speaker³ held the question to be not in order.

4973. On January 24, 1893,⁵ Mr. William S. Holman, of Indiana, moved that the House resolve itself into Committee of the Whole House on the state of the Union to consider general appropriation bills.

Mr. William C. Oates, of Alabama, demanded that the question of consideration be put on the motion of Mr. Holman.

The Speaker⁶ held that the question of consideration could not be demanded against the motion.

4974. On February 7, 1894,⁷ Mr. Richard P. Bland, of Missouri, presented as a matter of privilege the bill (H. R. 4956) directing the coinage of the silver bullion held in the Treasury, and for other purposes, heretofore reported from the Committee on Coinage, Weights, and Measures, and the same was referred to the Committee of the Whole House on the state of the Union.

¹ First session Fifty-first Congress, Journal, p. 103; Record, p. 433.

² This occurred before the adoption of rules and while the House was acting under general parliamentary law.

³ Thomas B. Reed, of Maine, Speaker.

⁴ First session Fifty-first Congress, Journal, p. 968; Record, p. 8814.

⁵ Second session Fifty-second Congress, Journal, p. 56; Record, p. 822.

⁶ Charles F. Crisp, of Georgia, Speaker.

⁷ Second session Fifty-third Congress, Journal, p. 145; Record, p. 2009.

Mr. Bland moved that the House resolve itself into Committee of the Whole House on the state of the Union to consider said bill.

Mr. Charles Tracey, of New York, demanded that the question of consideration be put.

The Speaker¹ held that it was not in order to demand the question of consideration against the motion of Mr. Bland, opposition to the consideration of the proposed measure being available by voting down the pending motion.

The Speaker said:

The Committee on Coinage, Weights, and Measures is accorded under the rules the right to report at any time.² That right carries with it the right of consideration at the time the report is made. The gentleman from Missouri has reported from the Committee on Coinage, Weights, and Measures a bill which, by reason of the nature of its provisions, must have its first consideration in the Committee of the Whole. There can not be raised any question as to the right of the gentleman to make this report. There can be raised a question as to the desire of the House to consider the report.

Now, in this particular case, inasmuch as the bill must be considered in the Committee of the Whole under the rules, the gentleman from Missouri must move, as he has done, that the House resolve itself into Committee of the Whole to consider the bill. It has been held that the question of consideration can not be raised against a motion, but that the way to accomplish the same purpose that would be accomplished by raising the question of consideration is to vote up or down the motion to go into Committee of the Whole.

Therefore the Chair thinks that in this case the object sought in raising the question of consideration against the bill of the gentleman from Missouri can only be attained, and is effectually attained, by voting up or down the motion made by him. If the House desires to proceed to consider the bill, it will vote in favor of the motion; but if it does not desire that the bill be now proceeded with, then it will vote down the motion, in which case the bill will not be considered.

4975. On February 23, 1901,³ Mr. William P. Hepburn, of Iowa, under the terms of a special order which made his motion the regular order, moved 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. 5499) to promote the efficiency of the Revenue-Cutter Service.

Mr. Oscar W. Underwood, of Alabama, rising to a parliamentary inquiry, asked if it would be in order to raise the question of consideration.

The Speaker⁴ said:

The Chair thinks not; but the question can be tested on the motion to go into Committee of the Whole. That presents the same situation as if the question of consideration were raised.

4976. On February 20, 1903,⁵ Mr. Charles N. Fowler, of New Jersey, moved 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. 16228) relating to the currency.

Mr. Charles L. Bartlett, of Georgia, proposed to raise the question of consideration.

¹ Charles F. Crisp, of Georgia, Speaker.

² That committee no longer has this privilege. See section 4621 of Vol. IV of this work.

³ Second session Fifty-sixth Congress, Record, p. 2917.

⁴ David B. Henderson, of Iowa, Speaker.

⁵ Second session Fifty-seventh Congress, Journal, p. 271; Record, pp. 2426, 2427.

The Speaker pro tempore¹ held that this question might not be raised, saying, after debate:

There is no difference between the gentleman from Georgia [Mr. Bartlett] and the Chair on this question, except a difference of form. The present occupant of the chair stated the other day on the floor of the House that the question of consideration could be raised on this bill. Now, there are two methods of raising the question of consideration. One of them applies to bills on the House Calendar and the other to bills on the Union Calendar. As to bills on the House Calendar, the question of consideration is raised directly by an appeal to the House, the bill being in the House. As to bills that are in the custody of the Committee of the Whole House on the state of the Union and on the Union Calendar, the question is raised by voting down the motion to go into Committee of the Whole, in which committee the bill is pending; so that it is perfectly apparent that between the attitude of the present occupant of the chair in his ruling now and his attitude while on the floor the other day there is no possible inconsistency.

4977. The question of consideration may not be demanded against a motion to discharge a committee.—On March 3, 1905,² Mr. Willard D. Vandiver, of Missouri, moved to discharge the Committee on the Judiciary from the consideration of a resolution of inquiry relating to the so-called “armor-plate trust.”

Mr. Sereno E. Payne, of New York, proposed to raise the question of consideration on the motion.

The Speaker³ said:

The Chair finds the following in the Digest: “The question of consideration may not be raised on a motion relating to the order of business.”

So the question of consideration was not entertained.

¹ John Dalzell, of Pennsylvania, Speaker pro tempore.

² Third session Fifty-eighth Congress, Record, p 4021.

³ Joseph G. Cannon, of Illinois, Speaker.