

Chapter CCX.¹

THE ORDER OF BUSINESS.

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708. The Speaker has requested that he be advised in advance of intention to submit unanimous consent requests for changes in order of business.

It is customary to notify the majority and minority leaders as well as the Speaker of proposed requests for deviations from the authorized order of business.

On June 11, 1919,² during consideration of a request for unanimous consent relating to a change of reference of certain bills, Mr. Frank W. Mondell, of Wyoming, the majority leader, said:

Mr. Speaker, in this connection may I again suggest to the gentlemen that when they have requests of this kind to make they refer the matter, before making the requests, to the gentleman from Missouri, Mr. Clark, who ought to be informed in regard to them before they are presented to the House. I was under the impression that the gentleman from Missouri had been informed with regard to this.

Mr. Champ Clark, of Missouri, minority leader, subjoined:

Mr. Speaker, if the House will bear with me a minute, I wish to say that I think the suggestion of the gentleman from Wyoming is correct. Somebody has to look after these matters, and unless the gentlemen who have bills inform those who are supposed to look after matters here it precipitates one of these talking feasts every morning. While I was Speaker I asked everybody who wanted to make a motion to recommit, except just a flat motion to recommit, to bring me the motions in advance—and I have no doubt the present Speaker will find that to be of advantage—so you can find out what is in them. Gentlemen get up here with bills that I do not know anything about or anybody else knows anything about. They may be very meritorious, but we do not feel like letting them go through.

¹Supplementary to Chapter LXXXVII.

²First session Sixty-sixth Congress, Record, p. 972.

The Speaker¹ said:

The Chair would like to suggest that the Chair would be obliged if gentlemen who wish to ask unanimous consent would consult him in advance; and would suggest that in the future the Chair will probably not recognize anyone to ask unanimous consent unless he knows in advance the subject for which unanimous consent is asked.

709. Requests for unanimous consent should not be coupled and one should not be made contingent on the granting of another.

On April 21, 1926,² following the approval of the Journal, Mr. Benjamin L. Fairchild, of New York, asked unanimous consent to address the House for five minutes for the purpose of denying charges made against a resident of the District of Columbia on the previous Monday by Mr. Thomas L. Blanton, of Texas.

Mr. Blanton reserved the right to object and preferred as a substitute a request that Mr. Fairchild be granted five minutes at the conclusion of which he should be given five minutes in which to reply.

The Speaker³ deprecated the request and said:

Let the Chair make this statement: The Chair is very much opposed to the practice of making the consent for one gentleman to address the House contingent on another consent. The Chair does not believe that to be a good practice.

The regular order is, Is there objection to the gentleman from New York proceeding for five minutes?

710. The Speaker has declined to entertain a request for unanimous consent contingent upon the granting of a similar request previously preferred.

On April 21, 1926,⁴ Mr. Thomas L. Blanton, of Texas, submitted a request for unanimous consent to address the House for five minutes.

Mr. Benjamin L. Fairchild, of New York, reserved the right to object and announced that he would object unless granted five minutes in which to reply.

The Speaker⁵ declined to entertain Mr. Fairchild's request and said:

The Chair announced this morning that he will not entertain a request contingent upon granting another request.

710a. A "gentlemen's agreement"—a term applied to unanimous consent orders of more than ordinary importance—is observed with scrupulous care and the Speaker has declined to recognize Members to submit requests which in his opinion infringed on its provisions.

A gentlemen's agreement once entered into is not subject to subsequent revision, even by unanimous consent.

On December 20, 1926,⁶ Mr. John Q. Tilson, of Connecticut, preferred the following request for unanimous consent:

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² First session Sixty-ninth Congress, Record, p. 7915.

³ Nicholas Longworth, of Ohio, Speaker.

⁴ First session Sixty-ninth Congress, Record, p. 7941.

⁵ Nicholas Longworth, of Ohio, Speaker.

⁶ Second session Sixty-ninth Congress, Record, p. 788.

Mr. Speaker, I should like to have an understanding, a gentlemen's agreement, that in case the Department of Agriculture appropriation bill should be finished to-morrow the session on Wednesday will be merely a formal one. I shall take it as an agreement if no one objects.

There was no objection, and Mr. Finis J. Garrett, of Tennessee, asked how the agreement would be interpreted if in the meantime the river and harbor bill should be messaged over from the Senate.

Mr. Tilson replied:

With the understanding that we have just had, if that bill should come to the House later than to-morrow, I should not feel inclined to ask that any action be taken upon it until after the holidays, unless the action were of a merely formal character.

Subsequently, on the same day, Mr. Tilson, again addressing the House by consent, explained:

Mr. Speaker, before we went into Committee of the Whole, in a colloquy between the gentleman from Tennessee and myself, reference was made to what action might be taken in case the river and harbor bill were passed and messaged over at a late hour. As I recall, what I said to the gentleman from Tennessee was to the effect that if that bill came over later than to-morrow, owing to the agreement we had to take up nothing but routine or formal business on Wednesday, I should not feel inclined to call up for action a bill of that importance. What I meant by that statement was that I should not feel warranted in calling up a contested matter. If that bill or any other bill came over on Wednesday and proved to be only of formal matter, I see no reason why it might not be properly disposed of.

There was no objection, but on Wednesday, December 22,¹ when Mr. S. Wallace Dempsey, of New York, asked unanimous consent that the river and harbor bill be taken from the Speaker's table for the consideration of Senate amendments thereto, the Speaker declined recognition for the purpose and said:

The Chair does not think he ought to recognize the gentleman for that purpose. The Chair thinks there was a very definite understanding based on the remarks of the gentleman from Connecticut that no action would be taken with regard to the river and harbor bill specifically or any other bill except of a purely formal character. The Chair thinks such action as this would be far from a mere formal procedure, and whether or not there may be some Member present who desires to object, there are a number of Members who have gone away with this understanding in mind, and the Chair feels he ought not recognize the gentleman for the purpose he indicates.

The Chair thinks, regardless of whether the gentleman is going to object or not, it is his duty to carry out what, in his opinion, is the express understanding of the House.

Mr. Tilson, on whose motion the gentlemen's agreement had been entered into, called attention to the fact that his second proposal relative to the framing of the agreement modified the original understanding. However, the Speaker held that such agreements, once entered into, were not subject to modification, and said:

The Chair thinks not. The Chair thinks that the remarks made by the gentleman from Connecticut and the gentleman from Tennessee later in the afternoon do not change the spirit of the understanding, and, by the way, that was at a time just before adjournment when there were hardly any Members in the Chamber at all, whereas the original agreement was had when there was at least a quorum present. The Chair thinks that many gentlemen may have gone away with the understanding that no such action, so important as agreeing to the Senate amendments to the river and harbor bill, would be taken up to-day, and the Chair feels he must protect them.

¹Record, p. 950.

The Chair will state that he will not recognize any Member to-day to ask unanimous consent to take up a matter that is at all controversial, a matter which is in any degree controversial. He will recognize a request to send a bill to conference, for he thinks that is purely a formal matter.

711. Proceeding to vacate action by the House is not provided for under the rules, and a suspension of the order of business for that purpose is by unanimous consent only.

On February 13, 1914,¹ Mr. John A. Key, of Ohio, asked unanimous consent to reconsider the vote by which the bill (H. R. 12914), an omnibus pension bill, was passed in order to permit an amendment thereto.

The Speaker² said:

It can not be reconsidered. The proper method is to vacate the proceedings by which the pension bill was engrossed, read a third time, and passed. The gentleman asks unanimous consent to vacate the proceedings on that bill back to the place where the vote was taken on the motion to engross and read a third time. Is there objection? [After a pause.] The Chair hears none. It is now in order for the gentleman from Kentucky to offer his bill as an amendment.

The proposed amendment was offered and agreed to, and the bill as amended was again engrossed, read a third time, and passed.

712. On January 23, 1918,³ Mr. Charles D. Carter, of Oklahoma, asked unanimous consent that the Clerk be authorized to correct certain totals which did not correspond to subtotals in the Indian appropriation bill, amended when the bill was passed on the preceding day.

Mr. Martin D. Foster, of Illinois, submitted that such correction could not be made after the passage of the bill even by unanimous consent.

Whereupon Mr. Carter asked unanimous consent that the proceedings by which the bill was engrossed, read a third time, and passed be vacated back to the stage of amendment. There was no objection.

On motion of Mr. Carter, by unanimous consent, the Clerk was authorized to make the desired corrections.

The bill was again ordered to be engrossed, read a third time, and passed.

713. On discovery of error in announcing the presence of a quorum on a call of the House, a motion to dispense with further proceedings under the call was vacated by unanimous consent and the call resumed.

On August 17, 1912,⁴ Mr. J. Thomas Heflin, of Alabama, asked to call up from the Speaker's table the bill (S. 7343) authorizing a dam across the Coosa River.

Mr. Martin D. Foster, of Illinois, made the point of no quorum and, a quorum not being present, on motion of Mr. Oscar W. Underwood, of Alabama, a call of the House was ordered.

At the conclusion of the roll call the Speaker announced that 202 Members had answered to their names, a quorum, and a motion by Mr. Underwood to dispense with further proceedings under the call was agreed to.

¹ Second session, Sixty-third Congress, Record, p. 3471.

² Champ Clark, of Missouri, Speaker.

³ Second session Sixty-fifth Congress, Record, p. 1172.

⁴ Second session Sixty-second Congress, Record, p. 11218.

Presently the Speaker¹ announced:

The tally clerk informs the Chair that he made a mistake in that count, and that instead of there being 202 Members present there are only 192.

Mr. Underwood asked unanimous consent to vacate the motion by which further proceedings under the call were dispensed with.

There was no objection, and the Speaker ordered that the doors be again closed and directed the Clerk to continue the call.

714. Suspension of the established order of business is by unanimous consent only, and a motion to that effect will not be entertained.

On October 2, 1917,² Mr. J. Thomas Heflin, of Alabama, submitted a request for unanimous consent to address the House for two hours immediately after the approval of the Journal on the succeeding day to discuss the conduct of Members he considered questionable.

Mr. John N. Garner, of Texas, objected.

Thereupon Mr. Heflin moved that he be permitted to address the House as indicated.

Mr. Garner made the point of order that the motion was not admissible.

The Speaker¹ sustained the point of order.

715. A gentlemen's agreement that there should be "no business whatever" at formal sessions of the House during a designated period was construed to exclude business of the highest privilege as well as business of a purely formal character, including the swearing in of Members and the extension of remarks in the Record.

Form of a standing order under which the House met on two days only of each week until a specified date unless sooner convened by the Speaker.

On June 19, 1929,³ the House agreed to the following resolution:

Resolved, That after September 23, 1929, the House shall meet only on Mondays and Thursdays of each week until October 14, 1929: *Provided*, That if in the discretion of the Speaker legislative expediency shall warrant it, he may designate a date prior to October 14, 1929, on which the business of the House shall be resumed, in which case he shall cause the Clerk of the House to issue notice to Members of the House not later than one week prior to the date set by him.

Pending passage of the resolution an agreement was reached on the floor which was voiced by Mr. John Q. Tilson, of Connecticut, the majority leader, as follows:

It is agreed that there shall be nothing transacted except to convene and adjourn; no business whatever.

It is not expected that there will be a quorum present at any time.

On September 23,⁴ while this agreement was still in force, Mr. Lindley H. Hadley, of Washington, rising to a parliamentary inquiry, asked:

Mr. Speaker, would it be a breach of the terms of the agreement to swear in Members whose credentials are found to be in due form and unquestioned?

¹ Champ Clark, of Missouri, Speaker.

² First session, Sixty-fifth Congress, Journal, p. 427; Record, p. 7646.

³ First session, Seventy-first Congress, Record, p. 3228.

⁴ Record, p. 3883.

The Speaker pro tempore ¹ replied:

The present occupant of the chair would prefer not to have that done at this time.

Again on September 30,² Mr. John J. McSwain, of South Carolina, preferred a request for unanimous consent to extend his remarks in the Record by printing therein the names of the soldiers from South Carolina who lie buried in the fields of France.

Mr. John N. Garner, of Texas, said:

Mr. Speaker, I hope the gentleman will not press his request. My impression is that if gentlemen will read the Record they will find it was understood when we adjourned that until the 14th of October there was to be absolutely nothing done in the House of Representatives, not even the granting of permission to extend remarks. I think gentlemen will find that in the Record, and I am just putting this in the Record for future consideration. My impression is that the exact statement was made that nothing would be done in the House of Representatives except a motion to adjourn. That meant that there would be no extensions of remarks and no swearing in of Members. We have a Member here now who is ready to be sworn in, and there is no reason why he should not be sworn in; but we have not asked that that be done because we want to keep the exact letter as well as the spirit of that understanding.

The Speaker pro tempore ³ approved:

The Chair will state that the gentleman from Texas has stated exactly the position of the present occupant of the chair, and the present occupant of the chair will so hold.

716. The motion to resolve into the Committee of the Whole is not debatable.

The motion to go into the Committee of the Whole to consider general appropriation bills is in order on a Monday set apart for the consideration of bills reported by the Committee on the District of Columbia.

On Monday, May 23, 1910,⁴ a day designated for the consideration of business reported by the Committee on the District of Columbia, Mr. James A. Tawney, of Minnesota, from the Committee on Appropriations, by direction of that committee, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the sundry civil appropriation bill.

Mr. Samuel W. Smith, of Michigan, made the point of order that the motion was not in order on a day set apart for the consideration of business relating to the District of Columbia.

The Speaker ⁵ said:

The Chair overrules the point of order. The Chair calls the attention of the gentleman from Michigan to the Manual, at page 393, where this motion is expressly authorized by the rules on any day except calendar Wednesday.

“At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House

¹ Robert G. Simmons, of Nebraska, Speaker pro tempore.

² Record, p. 4088.

³ Earl C. Michener, of Michigan, Speaker pro tempore.

⁴ Second session, Sixty-first Congress, Record, p. 6742.

⁵ Joseph G. Cannon, of Illinois, Speaker.

on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.”

The rule is express, and the decisions under it are uniform.

Mr. Smith asked to be heard on the motion, and Mr. Tawney having made a point of order that the motion was not debatable, the Speaker ruled:

The motion is not debatable. The question is on the motion of the gentleman from Minnesota that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the sundry civil appropriation bill. The question was taken; and on a division (demanded by Mr. Smith, of Michigan) there were—ayes 101, noes 16.

717. The motion to go into Committee of the Whole to consider general appropriation bills has precedence on Monday of a motion to go into Committee of the Whole to consider a bill reported by the Committee on the District of Columbia.

On June 12, 1916,¹ a District of Columbia day, Mr. Ben Johnson, of Kentucky, from the Committee on the District of Columbia, moved that the House resolve itself into the Committee of the Whole House on the state of the Union to consider the joint resolution (H. J. Res. 91) authorizing an inquiry into the cost of living in the District of Columbia.

Mr. Swagar Sherley, of Kentucky, from the Committee on Appropriations, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the fortifications appropriation bill.

The Speaker² recognized Mr. Sherley and submitted his motion as preferential.

718. The motion to go into the Committee of the Whole to consider revenue bills has precedence on Monday of a motion to go into the Committee of the Whole to consider a bill reported by the Committee on the District of Columbia.

On Monday, February 13, 1911³ a day devoted to business reported by the District of Columbia Committee, Mr. Samuel W. McCall, of Massachusetts, from the Committee on Ways and Means, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 32216) to promote reciprocal trade relations with Canada.

Mr. J. Van Vechten Olcott, of New York, from the Committee on the District of Columbia, made the point of order that it was Monday, a day set apart for the consideration of business relating to the District of Columbia, and he was entitled to recognition to move to resolve into the Committee of the Whole for the consideration of bills reported by that committee.

The Speaker⁴ ruled:

This is the day under the rules for the consideration of District business, but the gentleman from Massachusetts makes a motion that the House do resolve itself into Committee of the Whole House on the state of the Union for the consideration of a revenue bill. This is a matter of privilege, and the motion of the gentleman from New York for the preservation of the day set apart

¹First session, Sixty-fourth Congress, Record, p. 9451.

²Champ Clark, of Missouri, Speaker.

³Third session, Sixty-first Congress, Record, p. 2429.

⁴Joseph G. Cannon, of Illinois, Speaker.

for the transaction of District business is also a matter of privilege. A majority can determine which business the House will proceed to by voting down the motion of the gentleman from Massachusetts, if a majority sees proper so to do, in which event the Chair would recognize the gentleman from New York. According to the parliamentary theory, at least, a general appropriation bill or a revenue bill, one proposing to raise money in theory and the other to spend money in theory, takes precedence, under the uniform practice of the House, of District day. Under the uniform practice a revenue bill has taken precedence in priority of recognition, and the Chair follows at least the theory, if not the substance, of the parliamentary rule.

719. The motion to go into Committee of the Whole to consider general appropriation bills has precedence on Friday of a motion to go into Committee of the Whole to consider the Private Calendar.

On Friday, April 5, 1912,¹ Mr. John H. Stephens, of Texas, offered a motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Indian appropriation bill.

Mr. Edward Pou, of North Carolina, thereupon moved that the House resolve itself into the Committee of the Whole House to consider bills on the Private Calendar:

The Speaker² said:

The motion of the gentleman from Texas [Mr. Stephens] is a preferential motion. If the House desires to go into the consideration of the Indian appropriation bill, it will vote for the motion of the gentleman from Texas. If it prefers to consider private claim, it will vote down the motion of the gentleman from Texas.

720. On March 6, 1914,³ this being Friday, immediately after the approval of the Journal, Mr. Edward W. Pou, of North Carolina, and Mr. Asbury F. Lever, of South Carolina, rose and addressed the Chair simultaneously.

Mr. Pou moved that the House resolve itself into the Committee of the Whole House to consider bills on the Private Calendar, and Mr. Lever submitted a motion to resolve into the Committee of the Whole House on the state of the Union for the further consideration of the agricultural appropriation bill.

The Speaker² ruled:

There is not a more vigilant Member of the House than the gentleman from North Carolina. He attends to his business, and he is always on hand when the time is propitious, and sometimes when it is not propitious, to get up his bills. But this is the parliamentary situation: In the first place, some of these rules need recasting to make them harmonious with each other. For instance, one rule provides that a report from the Committee on Rules is always in order, while the rule which the gentleman from Illinois [Mr. Mann] quoted, section 9 of Rule XVI, provides that at any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue or general appropriation bills. At first blush it would seem that those rules were in direct conflict with each other, and in one sense they are.

Suppose the Chairman of the Committee on Rules were here demanding recognition to bring in a rule, and the gentleman from South Carolina were insisting on going into the Committee of the Whole House on the state of the Union to discuss the agricultural appropriation bill, what would happen? All of these rules must be considered together, to make, if possible, a consistent

¹ Second session, Sixty-second Congress, Record, p. 4338.

² Champ Clark, of Missouri, Speaker.

³ Second session, Sixty-third Congress, Record, p. 4430.

whole, and they must be considered in the light of common sense. In addition to that the Speaker is under moral obligation to construe them so as to expedite the business of the House. Three are fourteen general appropriation bills. The Government can not exist unless the Committees on Appropriations in Congress, under its leaders, perform their functions, and it is the business of the Speaker to expedite the passage of these bills where he can under the rules so that we may be able to get away from here before the frost comes.

Originally private claims did not have any more standing than any other bills, but had to come up under the usual procedure. Finally, the House determined to set aside certain Fridays in order that preference might be given to consideration of claims bills over the ordinary run of business; but that was not to give consideration of those matters preference over a motion of an Appropriation Committee that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering an appropriation bill, which is of the highest importance.

It has been ruled on—and the Chair wants to settle this thing for all time to come if he can—by three different Speakers; that is, by two Speakers and one Speaker pro tempore—Speaker Reed, Speaker Henderson, and the Hon. John Dalzell, Speaker pro tempore. Now, here is Mr. Speaker Reed's ruling:¹

“The motion to go into the Committee of the Whole to consider general appropriation bills has precedence on a Friday of a motion to go into the Committee of the Whole to consider the Private Calendar.”

Now, that is the crux of the whole thing. Continuing, Speaker Reed said:

“If the House did not desire to consider appropriation bills, it could vote down the motion, and then the motion to go into the Committee of the Whole to consider the Private Calendar would be next in order.”

The other two decisions are to the same effect.

The Chair recognizes the gentleman from South Carolina, to go into the Committee of the Whole House on the state of the Union to consider a general appropriation bill.

Now, the House has its remedy. It can do as it pleases.

721. The motion to go into the Committee of the Whole to consider general appropriation bills on Friday takes precedence of a motion to go into the Committee of the Whole to consider the Private Calendar only when authorized by the committee having jurisdiction.

On Friday, May 13, 1910,² Mr. George W. Prince, of Illinois, moved that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

Mr. Dorsey W. Shackelford, of Missouri, offered, as preferential under the rule, a motion to go into the Committee of the Whole House on the state of the Union to consider the sundry civil appropriation bill.

The Speaker pro tempore³ ruled:

The Chair calls attention to section 9 of Rule XVI:

“At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.”

Under that rule it must be by the direction of the committee to give the motion higher privilege. Therefore the Chair thinks that the motion of the gentleman from Illinois must first

¹ Vol. IV, sec. 3082, of this work.

² Second session Sixty-first Congress, Record, p. 6232.

³ Charles E. Fuller, of Illinois, Speaker pro tempore.

be disposed of. The rule provides that it must be by direction of the Appropriations Committee. The question is on the motion of the gentleman from Illinois to go into Committee of the Whole House for the consideration of bills in order under the rule.

722. Motions to go into Committee of the Whole to consider the various general appropriation bills are of equal privilege, and will be put in the order in which recognition is secured.

The date on which bills are referred to the calendar is immaterial in determining their relative privilege.

On February 27, 1912,¹ Mr. William Sulzer, of New York, from the Committee on Foreign Affairs, and Mr. Lamb, of Virginia, from the Committee on Agriculture, rising at the same time, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the diplomatic and consular appropriation bill and the agricultural appropriation bill, respectively.²

Mr. Lamb argued that the agricultural appropriation bill, having been reported and placed on the calendar prior to the bill reported by the Committee on Foreign Affairs, was entitled to preference in determining priority of consideration.

The Speaker³ held:

These two motions are of equal dignity, and the gentleman from New York had the floor first and is recognized. Now, if the House wants to take up the agricultural bill first, it can do it by voting down the motion of the gentleman from New York. The Chair has no jurisdiction about it, except to recognize the gentleman who first rises. The question is on the motion of the gentleman from New York that the House resolve itself into the Committee of the Whole House on the state of the Union to consider the bill H. R. 19212, the diplomatic appropriation bill.

723. The motion to go into the Committee of the Whole to consider a general appropriation bill may not be amended by a nonprivileged proposition.⁴

The legislative day and not the calendar day governs in determining the order of business.

On Friday, February 19, 1909⁵ (legislative day of Monday, February 15), Mr. Walter I. Smith, of Iowa, moved to resolve into the Committee of the Whole House on the state of the Union for the consideration of the fortifications appropriation bill.

Mr. Thetus W. Sims, of Tennessee, called attention to the fact that it was Friday, a day set apart under the rules for the consideration of bills reported by the Committee on War Claims, and offered an amendment providing that the House go into the Committee of the Whole for the consideration of bills on the Private Calendar.

Mr. James R. Mann, of Illinois, made the point of order that the amendment was not in order.

The Speaker⁶ held that while it was the calendar day of Friday it was the legislative day of Monday, and as bills on the Private Calendar are not privileged on

¹ Second session Sixty-second Congress, Record, p. 2522.

² Such conflicts are now obviated by the extension of jurisdiction of the Committee on Appropriations over all general appropriation bills.

³ Champ Clark, of Missouri, Speaker.

⁴ See Vol. IV, sec. 3077, of this work.

⁵ Second session, Sixtieth Congress, Record, p. 2705.

⁶ Joseph C. Cannon, of Illinois, Speaker.

Monday, and a privileged motion may not be amended by a nonprivileged proposition, the amendment was not in order.

724. The motion to resolve into the Committee of the Whole to consider a privileged bill is not subject to amendment.¹

On February 9, 1911,² Mr. Edgar D. Crumpacker, of Indiana, offered, as privileged, a motion that the House resolve itself into the Committee of the Whole House on the state of the Union to consider the bill (H. R. 30566) for the reapportionment of Representatives under the Thirteenth Decennial Census.

Mr. Charles F. Scott, of Kansas, as a parliamentary inquiry, asked if it would be in order to offer an amendment providing for the consideration of the agricultural appropriation bill in lieu of the bill specified.

The Speaker³ said:

Those motions under the rule in the practice of the House have not been considered as amendable, since no time would be saved and no purpose would be effected.

725. The motion to resolve into Committee of the Whole is not subject to amendment.

On May 13, 1910,⁴ Mr. George W. Prince, of Illinois, moved that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

Mr. Dorsey W. Shackelford, of Missouri, offered an amendment

The Speaker⁵ said:

The Chair understands that the motion to go into the Committee of the Whole House is not subject to amendment.

726. The motion to go into the Committee of the Whole may not be laid on the table or indefinitely postponed.

On February 19, 1921,⁶ the Committee of the Whole House rose and the Chairman reported that the committee having had under consideration the bill (S. 2867) to place Major General Crowder on the retired list as a lieutenant general had come to no resolution thereon.

Mr. Frank L. Greene, of Vermont, moved that the House again resolve into the Committee of the Whole for the consideration of this bill and, pending that motion, moved that general debate be closed.

The motion to close debate having been agreed to, Mr. Louis C. Cramton, of Michigan, moved that the motion to resolve into the Committee of the Whole be laid on the table.

The Speaker⁷ held the motion was not in order.

Mr. Alben W. Barkley, of Kentucky, moved that the question be indefinitely postponed.

¹ See Vol. IV, see. 3078, of this work.

² Third session Sixty-first Congress, Record, p. 2205.

³ Joseph G. Cannon, of Illinois, Speaker.

⁴ Second session Sixty-first Congress, Record, p. 6231.

⁵ Charles E. Fuller, of Illinois, Speaker pro tempore.

⁶ Third session Sixty-sixth Congress, Record, 3436.

⁷ Frederick H. Gillett, of Massachusetts, Speaker.

The Speaker said:

The motion of the gentleman from Kentucky is not in order. The Chair presumes the gentleman relies upon Rule XVI, clause 4. Reading:

“When a question is under debate no motion shall be received but to adjourn, to lay on the table, for the previous question.”

Now, the motion to go into the committee is not a question of debate.

727. Bills received from the Senate go to the Speaker’s table, from which they are referred to appropriate committees by the Speaker unless sooner called up for consideration under the rules.

While it is the practice to refer promptly bills messaged over from the Senate, it has been held that the rule requiring reference is merely directory and not mandatory and that the length of time such bills may remain on the Speaker’s table before being referred is within the Speaker’s discretion.

An exceptional instance wherein a bill messaged from the Senate was retained on the Speaker’s table for a period of 10 months.

A bill messaged from the Senate to the House having been retained on the Speaker’s table indefinitely without reference to a committee of the House, the Senate declined to act on a resolution proposing investigation of the delay.

A Senate bill received in the House after a House bill substantially the same has been reported and placed on the House Calendar is privileged and may be called up from the Speaker’s table for consideration by the committee having jurisdiction of the House bill.

In order to acquire privilege under the rule a Senate bill must have been messaged to the House after the House bill of similar tenor has been reported and it is not sufficient that the Senate bill was referred from the Speaker’s table after the House bill was reported.

On April 17, 1930,¹ the Speaker,² addressing the House by consent, said:

The Chair desires to make an announcement touching the reference of a joint resolution. The Chair has retained on the Speaker’s table for some time Senate Joint Resolution No. 3, providing for an amendment to the Constitution. The Chair did this in the hope and expectation that a rule now pending, and pending for some time, in the Committee on Rules, providing that all joint resolutions with reference to amendments to the Constitution should be referred to the Committee on the Judiciary, would be reported by that committee. However, in view of the fact that the Chair is convinced that that rule will not be adopted at this session of Congress, and in view of the further fact that an almost precisely similar joint resolution has been reported by the Committee on the Election of President, Vice President, and Representatives in Congress and is now on the calendar, the Chair thinks it proper to now refer Senate Joint Resolution No. 3 to the Committee on the Election of President, Vice President, and Representatives in Congress.

Mr. John N. Garner, of Texas, inquired if it would have been in order at any time since the filing of the report on the similar joint resolution (H. J. Res. 292) referred to by the Speaker to call up the Senate joint resolution of similar tenor.

¹Second session Seventy-first Congress, Record, p. 7236.

²Nicholas Longworth, of Ohio, Speaker.

The Speaker replied:

The Chair thinks that at any time after House Joint Resolution 292 had been reported and placed on the Calendar it would have been in order, provided such report antedated the messaging over of the Senate joint resolution. The rule on the subject—clause 2, Rule XXIV—is that where a Senate bill or resolution is messaged over to the House after a similar House bill or resolution has been reported from a committee and is on the House Calendar, then the Senate bill may be called up as privileged by the committee having jurisdiction of the House bill.

The Chair stated the general rule, as applied to these cases, but in this case the Senate resolution was messaged over before the House resolution was reported. The privilege therefore would not apply in this particular case, but if it would apply in this particular case, the only complaint the Chair has heard from any source is that it has been retained on the Speaker's table.

In order to give the matter privilege it would have been necessary that the House bill should have been on the calendar before the Senate bill was messaged over.

Mr. Garner further inquired:

Mr. Speaker, in order that the record may be clear, may I ask the Speaker a question? Is it not customary when bills are sent from the other House to this body for the Speaker to refer them to the respective committees unless some Member of the House asks him to hold them on his desk with a view to taking some action upon them? If it were necessary in each instance for some Member of the House to request the Speaker to send a bill to the respective committees, then every Member would have to take note of every bill sent over here and make a special request of the Speaker of the House of Representatives. The custom in this House, since I have been a Member of it, has been that when a bill is passed by the Senate and sent to the House of Representatives, it is sent to the proper committee unless there is some special reason why it should be held on the Speaker's desk. The rule requires this.

Mr. Charles R. Crisp, of Georgia, added:

Mr. Speaker, may I be permitted to say that for a number of years anyone desiring to introduce bills had to introduce them from the floor of the House and they had to be referred to the proper committee. Some years ago in the interest of conserving time and doing away with the necessity of bills having to be introduced from the floor and referred to committee, this rule was adopted which provides that the Speaker may refer bills originally introduced and Senate bills to the proper committees. I know the word "may" instead of "shall" is used in the rule, but the courts in considering the context of such matters have frequently construed "may" to mean "shall," and I think when we take into consideration the whole history of this rule, as well as the object and the purpose of the rule, it is fair to say that it is the duty of the Speaker, unless extraordinary reason exists in a particular case, to refer the bills.

The Speaker held:

The Chair will call attention to the fact that the rule requiring reference by the Speaker to a committee is not mandatory. The word "may" is used. The Chair has the rule before him. It is as follows (clause 2, Rule XXIV):

"Business on the Speaker's table shall be disposed of as follows:

"Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by Members; but House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee."

The Chair thinks it is in the discretion of the Chair, under the rule. The Chair will say it is very rare, indeed, that the Speaker does not make immediate reference, but there may be very good and valid reasons why a bill should lie on the Speaker's table for some time. This may very frequently speed the passage of legislation or it may be for such a reason as alleged by the Chair in this instance. This interpretation by the Chair is in complete accord with the decision laid down by Speaker Henderson in Volume IV, section 3111, of Hinds' Precedents.

On April 21,¹ on request of Mr. George W. Norris, of Nebraska, the Vice President laid before the Senate the following resolution (S. Res. 245):

Whereas on the 7th day of June, 1929, the Senate passed Senate Joint Resolution 3, a joint resolution proposing an amendment to the Constitution of the United States fixing the commencement of the terms of President, Vice President, and Members of Congress and fixing the time of the assembling of Congress; and

Whereas on the 8th day of June, 1929, by an official message from the Senate, the House of Representatives was duly notified thereof and said resolution so passed was properly certified and delivered to the House of Representatives by the duly authorized agent of the Senate; and

Whereas the Speaker of the House of Representatives has retained possession of said joint resolution, has not referred the same to any committee of the House of Representatives, and no action whatever has been taken thereon by the House of Representatives or by the Speaker, and the said resolution is still upon the Speaker's desk of the House of Representatives; and

Whereas the retention of said joint resolution by the Speaker for 10 months without referring the same to a committee of the House of Representatives and without taking any other action thereon is a discourtesy to the Senate and establishes a precedent which, if carried to its logical conclusion, will bring misunderstanding between the coordinate branches of the Congress and will result not only in a failure to act upon important matters of national legislation but will destroy the harmony, confidence, and respect which should exist between the two coordinate branches of our National Legislature: Therefore be it

Resolved, That the Vice President is hereby directed to appoint a committee of five Senators to look into the matter above referred to and to report to the Senate what action, if any, should be taken in the premises.

The resolution was not acted on by the Senate.

728. House bills with Senate amendments which do not require consideration in a Committee of the Whole are privileged and may be called up from the Speaker's table for immediate consideration.

On May 10, 1917,² Mr. Carter Glass, of Virginia, submitted a unanimous consent request to take from the Speaker's table the bill (H. R. 3673) amending the Federal reserve act, and that the House disagree to the Senate amendment thereto and agree to the conference asked by the Senate.

Mr. Willard J. Ragsdale, of South Carolina, objected.

Mr. James R. Mann, of Illinois, made the point of order that the Senate amendment did not require consideration in the Committee of the Whole, and unanimous consent was not necessary.

The Speaker³ sustained the point of order and recognized Mr. Glass to move to disagree to the Senate amendment and agree to conference.

729. On February 28, 1919,⁴ Mr. Joseph W. Byrns, of Tennessee, called up the fortifications appropriation bill from the Speaker's table and moved to agree to Senate amendments thereto.

¹ Record, p. 7310.

² First session Sixty-fifth Congress, Record, p. 2074.

³ Champ Clark, of Missouri, Speaker.

⁴ Third session Sixty-fifth Congress, Record, p. 4642.

Mr. William H. Stafford, of Wisconsin, made the point of order that unanimous consent was required.

The Speaker¹ held that as the amendments did not require consideration in the Committee of the Whole, the bill was privileged under the rule for immediate consideration, and put the question on agreeing to the amendments.

730. A House bill with Senate amendments requiring consideration in the Committee of the Whole, in the absence of disposition by the House on its receipt from the Senate, was referred by the Speaker under clause 2 of Rule XXIV to the appropriate committee.

On December 15, 1926,² Mr. Meyer Jacobstein, of New York, rising to a parliamentary inquiry, asked what disposition had been made of the bill (H. R. 6238) to amend the immigration act of 1924, recently returned by the Senate with amendments.

The Speaker³ replied:

On the request of the chairman and ranking minority member of the Committee on Immigration, the House not having taken any action or suggested any action, the Chair referred the bill to the Committee on Immigration.

731. A House bill returned with Senate amendment requiring consideration in the Committee of the Whole may not be called up for consideration but is referred directly from the Speaker's table to the standing committee having jurisdiction.

On June 3, 1913,⁴ Charles C. Carlin, of Virginia, moved to take from the Speaker's table the bill (H. R. 32) creating an additional judge, and consider Senate amendments thereto in the House as in Committee of the Whole.

Mr. Thomas W. Hardwick, of Georgia, made the point of order that the Senate amendments required consideration in Committee of the Whole, and the bill should be referred to the Committee on the Judiciary.

The Speaker pro tempore⁵ ruled that the amendment involved a charge upon the Treasury and required consideration in the Committee of the Whole, and, under the rule, the bill should be referred directly to the standing committee having jurisdiction.

732. While the rule requires the reference to the appropriate standing committee of House bills returned with Senate amendments requiring consideration in the Committee of the Whole, the usual practice is to take such bills from the Speaker's table and send them to conference by unanimous consent.

¹ Champ Clark, of Missouri, Speaker.

² Second session Sixty-ninth Congress, Record, p. 549.

³ Nicholas Longworth, of Ohio, Speaker.

⁴ First session Sixty-third Congress, Record, p. 1878.

⁵ James Hay, of Virginia, Speaker pro tempore.

Upon objection to a request for unanimous consent to take from the Speaker's table for consideration a bill with Senate amendments, the Speaker refers the bill to the standing committee having jurisdiction.

On December 20, 1913,¹ Mr. Carter Glass, of Virginia, asked unanimous consent that the currency bill be taken from the Speaker's table and that the House disagree to the amendment of the Senate and agree to the conference asked by the Senate.

Mr. Martin B. Madden, of Illinois, submitted a parliamentary inquiry as to the effect an objection to the request would have on the disposition of the bill.

The Speaker² replied that, under the rule, the regular order was to refer the bill to the appropriate committee, and in event unanimous consent was not given to take it from the Speaker's table for present consideration, it would be referred to the Committee on Banking and Currency.

Mr. James R. Mann, of Illinois, suggested that unless the Senate amendment required consideration in Committee of the Whole, the bill was privileged for immediate consideration.

The Speaker held it would require a Senate amendment involving a charge upon the people to require the reference of the bill under the rule.

733. A motion to suspend the rules and take from the Speaker's table for consideration a House bill with Senate amendments being rejected, the bill is referred directly from the Speaker's table to the standing committee having jurisdiction.

On February 27, 1915,³ Mr. Asbury F. Lever, of South Carolina, offered the following motion:

Mr. Lever moves to suspend the rules and take from the Speaker's table H. R. 20415, an act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1916, disagree to all Senate amendments thereto, and ask a free conference.

A second being demanded, the House divided, and a second was refused.

Mr. Lever inquired what disposition would now be made of the bill.

The Speaker⁴ replied that the bill would be referred, under the rule, to the Committee on Agriculture.

734. The three conditions needed in order that a Senate bill on the Speaker's table may be taken up for direct action by the House.

Interpretation of the words "substantially the same" as used in the rule providing for calling a Senate bill from the Speaker's table for immediate consideration.

In determining the degree of similarity of a Senate bill on the Speaker's table to a House bill already reported, the Chair considers the House bill as reported by the committee and not as originally introduced.

The fact that a House bill substantially the same as a Senate bill on the Speaker's table has passed the House and gone to the Senate does not detract from the privilege of the Senate bill under the rule.

¹ Second session Sixty-third Congress, Record, p. 1295.

² Champ Clark, of Missouri, Speaker.

³ Third session Sixty-third Congress, Record, p. 4868.

On February 11, 1913,¹ Mr. Henry D. Clayton, of Alabama, by direction of the Committee on the Judiciary, moved to take from the Speaker's table for present consideration the bill (S. 4043) divesting intoxicating liquors of interstate character, a House bill, (H. R. 17593) of similar tenor having been favorably reported by a committee of the House.

Mr. John J. Fitzgerald, of New York, made the point of order that the motion was not privileged, as the bills were not substantially the same, and demanded the regular order.

Mr. James R. Mann, of Illinois, supported Mr. Fitzgerald's contention and quoted a paragraph in the bill as originally introduced which had been stricken out before reported by the committee and which was not included in the Senate bill.

Mr. William A. Cullop, of Indiana, also supported the point of order, and argued that to come within the provisions of the rule the House bill of similar tenor must be pending in the House at the time, and as the House bill in question had been passed and messaged to the Senate, the Speaker had lost jurisdiction over it and could not take official notice of its provisions.

The Speaker² ruled:

This question divides itself into two parts. First, whether the status of this bill brings it within the rule. The rule, which has been read three or four times, provides:

"But House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine"—

Of course that is not this case—

"as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in the Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee."

The second division of this question is whether or not these two bills are substantially the same. The rules of the House are intended to expedite the transaction of business instead of being intended for the purpose of retarding the transaction of business. These two bills are not only substantially the same but they are almost identical.

The gentleman from Illinois, Mr. Mann, for whose mental acumen, industry, and intelligence the Chair has a great deal of respect, contends to-day that the Senate bill must be substantially identical with the bill as originally introduced.

The Chair will ask the gentleman from Illinois if this Senate bill is not verbatim, with the small difference in the title which the Chair pointed out, the very bill that was debated here on last Saturday for three mortal hours and no debate hinged on those amendments. Neither the gentleman from Illinois [Mr. Mann] nor the Chair has to quit exercising the faculty of memory to consider one of these points of order.

On the second division on this question let us see if this bill is in a status justified by this rule:

"As may also Senate bills substantially the same as House bills already reported by the committee of the House"—

Was that bill favorably reported by a committee of the House or not? Of course, everybody knows that it was—

"would not be required to be considered in the Committee of the Whole."

Of course, that does not apply.

Now, there are three things there. One is that the bills must be substantially alike. There must not be anything in them to refer to the Committee of the Whole; and there is not. It must

¹Third session Sixty-second Congress, Record, p. 3013.

²Champ Clark, of Missouri, Speaker.

be called up by the authority of the committee; and it is. Hence all the conditions precedent are complied with.

The contention of the gentleman from Indiana that the Chair has no way of finding out what was in the bill last Saturday is untenable. In the first place, the Chair can remember what was in the House bill. We have the Congressional Record to see what that bill was. In addition to that, if the Chair had any cause to believe that the Congressional Record had been tampered with, he could send out and get the original bill. That is still within the jurisdiction of the House and the Speaker.

The rule may now not be what the rule ought to be. If a majority of Members believe that the rule ought to read, "Bills already reported by a committee of the House and on the calendar," then I submit the Committee on Rules ought to put that amendment in when the rules are revised. It is the duty of the Chair to construe the rules as he finds them.

So the points of order are overruled. The gentleman from Alabama, Mr. Clayton, is recognized.

735. On February 15, 1928,¹ Mr. Edward E. Denison, of Illinois, under authorization from the Committee on Interstate and Foreign Commerce, proposed to call up from the Speaker's table the bill (S. 2348) granting consent of Congress to the construction and operation of bridges across certain rivers, a similar House bill having been reported favorably. In giving notice of his intention, Mr. Denison inquired if the privilege of the Senate bill would be affected by the fact that the House bill had not only been reported but had also passed the House.

The Speaker² held that the passage of the House bill did not affect the privilege of such Senate bills, and said:

The Chair has read the debate on that question, not being present yesterday. The Chair remembers that a short time ago the present occupant of the chair was about to make a ruling on the subject sustaining the right to call up a bill under these circumstances. However, at that time the gentleman calling up the bill changed his request to one of unanimous consent, so it was not necessary for the Chair to pass directly upon the question. The Chair, however, has before him a precisely similar situation which developed in the third session of the Sixty-second Congress, where a question arose as to whether a Senate bill could be called up as a matter of right when a similar House bill had been passed. Speaker Clark, in ruling on that question, decided, in substance, that the situation, in so far as the House bill was concerned, was the same whether it had been merely reported or had actually passed. Speaker Clark held that the same rule applied, and the present occupant of the chair, having been of that opinion hitherto and being reinforced by this ruling of Speaker Clark, has no hesitation in ruling that such a bill may be called up as a matter of right.

Following the passage of the Senate bill by the House the Speaker added:

The Chair thinks it would be proper, under the circumstances, to request the Senate to return the House bill. That was done in this previous case.

736. In determining whether a House bill is substantially the same as a Senate bill, on the Speaker's table, amendments recommended by the committee of the House are considered.

In order for a Senate bill to be brought up directly from the Speaker's table, the House bill to which it is similar must be on the House Calendar.

A bill providing pay for retired officers involves a charge upon the Treasury and is properly referred to the Union Calendar.

¹First session Seventieth Congress, Journal, p. 1014; Record, p. 3072.

²Nicholas Longworth, of Ohio, Speaker.

On August 9, 1912,¹ Mr. A. W. Gregg, of Texas, proposed to call up from the Speaker's table the bill (S. 6453), relating to the efficiency of personnel of the Navy, a similar bill (H. R. 24225) having been favorably reported by a committee of the House.

Mr. James R. Mann, of Illinois, made the point of order that the Senate bill was not privileged, first, because not substantially the same as the bill reported by the House committee, and second, because it had been improperly referred to the House Calendar and should be on the Union Calendar.

Mr. Mann said:

Mr. Speaker, this bill coming from the Senate is similar to a bill which was introduced in the House and which was reported to the House with a number of amendments. But this bill does not contain the amendments recommended by the Naval Committee on the House bill. I contend that, under the rule, if a bill is introduced in the House and the committee recommends a lot of amendments which change to a large extent the bill, and that then the Senate passes a bill like the original bill, without the amendment, it is not a bill similar to the bill on the House Calendar.

As to the question of reference, Mr. Mann further said:

I thought, possibly, that the gentleman might ask that it be put upon the proper calendar. It says this—

“That any officer retired under the provisions of this section shall be retired with the rank and three-fourths the pay of the grade from which he was retired.”

It certainly involves a charge upon the Treasury.

The Speaker² sustained both points of order, and said:

The Chair thinks that the point of order is well taken, that that amendment is the essential part of the bill. The rule has two conditions. In the first place, the bill must be substantially the same; and, in the second place, it must be a bill that does not necessarily go to the Committee of the Whole House on the state of the Union.

737. In ascertaining whether a Senate bill proposed to be taken from the Speaker's table was sufficiently similar to a House bill already on the calendar, a bill limiting certain banks to loans of \$15,000 was deemed not substantially the same as a bill limiting such banks to loans of \$25,000.

On February 27, 1929,³ Mr. Louis T. McFadden, of Pennsylvania, by direction of the Committee on Banking and Currency, proposed to take from the Speaker's table the bill (S. 5302) to amend the Federal farm loan act by increasing the loan limit of Federal farm loans in Alaska and Porto Rico from \$10,000 to \$25,000, a similar House bill providing for the increase of such loans from \$10,000 to \$15,000 having been favorably reported.

Mr. Eugene Black, of Texas, made the point of order that the Senate bill was not eligible to be called up under the rule, for the reason that it was substantially different from the House bill.

¹Second session Sixty-second Congress, Record, p. 10605.

²Champ Clark, of Missouri, Speaker.

³Second session Seventieth Congress, Journal, p. 404; Record, p. 4635.

After debate the Speaker¹ held:

The question is whether those bills are substantially the same. It occurs to the Chair, although he is not familiar with the circumstances, that the limit of the loan is quite fundamental, and as there is the difference between \$25,000 as the limit in one bill and \$15,000 in another, the Chair feels that the bills are not substantially the same. The Chair sustains the point of order.

738. A Senate bill in order to be brought up directly from the Speaker's table must have come to the House after and not before a House bill substantially the same has been placed on the House Calendar.

A bill is on the calendar as soon as referred, although it may not yet appear on the printed form.

Procedure in the consideration of Senate bills called up from the Speaker's table under the rule.

On July 22, 1919,² Mr. George S. Graham, of Pennsylvania, asked the Speaker to lay before the House the bill (S. 180) for Near East relief, a bill of similar tenor being on the House Calendar.

Mr. Louis C. Cramton, of Michigan, made the point of order that the House bill upon which it was relied to give the Senate bill privilege had not been placed on the calendar before the Senate bill was received in the House, and the motion was therefore out of order.

Mr. Cramton submitted the printed calendar showing that the House bill was referred on July 15, and called attention to the fact that the Senate bill was received on the same day.

The Speaker,³ after inquiry, said that he was informed that the House bill was actually referred to the calendar before the Senate bill came over, and hold that the bill was on the calendar as soon as referred although not yet appearing on the printed calendar, and overruled the point of order.

In response to an inquiry from Mr. Cramton as to procedure in the consideration of the bill, the Speaker said:

Section 2 of Rule XXIV gives the bill that privilege. It will be considered under the regular rules of the House. The gentleman from Pennsylvania, Mr. Graham, having charge of the bill, will have an hour, and unless he moves the previous question within the hour the bill would be before the House as any other bill.

739. In order to render them privileged, action in calling up Senate bills from the Speaker's table for direct action by the House must be authorized by the standing committee having jurisdiction.

On August 17, 1912⁴ Mr. J. Thomas Heflin, of Alabama, asked that the bill (S. 7343) authorizing a dam across the Coosa River be taken from the Speaker's table, a bill of similar tenor being on the House Calendar.

Mr. Martin D. Foster, of Illinois, made the point of order that the motion was not privileged for the reason that Mr. Heflin was not authorized by the committee to call up the bill.

¹Nicholas Longworth, of Ohio, Speaker.

²First session, Sixty-sixth Congress, Record, p. 3007.

³Frederick H. Gillett, of Massachusetts, Speaker.

⁴Second session Sixty-second Congress, Record, p. 11218.

The Speaker¹ sustained the point of order and held that while written authority from the committee was not necessary to empower a Member to call up such bills the minutes of the committee should show that authority was given.

740. The House having adjourned after yeas and nays were ordered and before the vote was taken, the pending question remain as unfinished business when the same class of business is again in order.

An order for the yeas and nays coming over as unfinished business from a previous day may be vacated by unanimous consent.

On February 21, 1919,² after the approval of the Journal, the Speaker announced that when adjournment was taken the previous day the yeas and nays had been ordered on the passage of the deficiency appropriation bill, and the order was pending as the unfinished business.

Mr. James R. Mann, of Illinois, asked if the order for yeas and nays could be vacated.

The Speaker¹ held that it could be vacated by unanimous consent.

Mr. Swagar Sherley, of Kentucky, objected, and the Speaker put the question on the passage of the bill and directed the Clerk to call the roll.

741. A bill called up out of order by unanimous consent and undispensed of at adjournment remain as unfinished business to be resumed when that class of business is again in order.³

On December 22, 1916,⁴ on motion of Mr. Henry D. Flood, of Virginia, by unanimous consent, the joint resolution (S. J. Res. 186), authorizing diversion of the waters of Niagara River, was taken from the Speaker's table and considered.

After extended debate, Mr. Flood asked unanimous consent to withdraw the resolution from consideration.

In response to a parliamentary inquiry by Mr. James R. Mann, of Illinois, the Speaker¹ held that unanimous consent having been given for its consideration, the bill was now before the House in regular order and if undisposed of at adjournment was the unfinished business whenever the class of business to which it belonged was again in order under the rules, until displaced by some parliamentary action; that if withdrawn before adjournment it resumed its former status and could not again be called up except by unanimous consent.

Thereupon Mr. Mann objected to the withdrawal of the bill, and consideration was resumed and continued until, on motion of Mr. Flood, postponed to January 4, 1917.

742. Bills reported from committees are distributed to three calendars, there to await action by the House.

Form and history of section 1 of Rule XIII.

¹ Champ Clark, of Missouri, Speaker.

² Third session Sixty-fifth Congress, Record, p. 3937.

³ Second session Sixty-fourth Congress, Record, p. 703.

⁴ See section 7946 of this work.

In the revision of 1911¹ a slight amendment was made in the first paragraph of section 1 of Rule XIII.² This amendment was confined to a change in phraseology and made no material alteration in the purport of the section. The sentence which originally provided, "There shall be three calendars of business reported from committees, viz;" was amended to read "There shall be three calendars to which all business reported from committees shall be referred, viz." Otherwise the rule retains the form in which it was adopted in 1880.³

743. The calendars are printed daily.

Form and history of section 5 of Rule XIII

Section 5 of Rule XIII provides:

Calendars shall be printed daily.

This section was adopted in the revision of 1911.⁴ Prior to that time no provision for the printing of the calendars had been carried in the rules.

Formerly the calendars were printed biweekly, being issued on each Monday and Friday.

Beginning with the Sixty-second Congress, calendars were printed daily, with complete indexes, but since the Sixty-second Congress the index has been included on Monday only.

744. Bills on the wrong calendar may be transferred to the proper calendar, as of date of original reference, by direction of the Speaker.

On January 26, 1910,⁵ following the reading and approval of the Journal, the Speaker⁶ announced:

The Chair will call the attention of the House to the fact that on the Private Calendar there appears Senate Joint Resolution No. 59, of date of January 25, providing for the filling of vacancies to occur in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress. This is a public bill, and undoubtedly should be upon the House Calendar. The Chair therefore directs the transfer to the House Calendar.

745. On February 12, 1914,⁷ Mr. Ben Johnson, of Kentucky, asked that the bill (S. 1294), relative to the employment of women in the District of Columbia, which he said was improperly upon the House Calendar, be transferred to the Union Calendar as of date when reported to the House.

The Speaker put the question:

The gentleman from Kentucky moves that the bill S. 1294 be transferred from the House Calendar to the Union Calendar.

Mr. James R. Mann, of Illinois, made the point of order that a motion was not required, and the transfer could be made by the Speaker as a matter of right.

The Speaker⁸ said:

The Speaker will transfer it, then. Mr. Speaker Carlisle decided that all required in such a case was the request that the bill be transferred to its proper place.

¹ First session Sixty-second Congress, Record, pp. 14, 80.

² Section 3115 of this work.

³ Second session Forty-sixth Congress, Record, p. 205.

⁴ First session Sixty-second Congress, Record, pp. 14, 58, 80.

⁵ Second session Sixty-second Congress, Record, p. 1029.

⁶ Joseph G. Cannon, of Illinois, Speaker.

⁷ Second session Sixty-third Congress, Record, p. 3937.

⁸ Champ Clark, of Missouri, Speaker.

Thereupon, on motion of Mr. Johnson, the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill as rereferred.

746. A bill erroneously referred to the House Calendar was transferred to the Union Calendar as of date of original reference by direction of the Speaker.

A bill releasing a lien of the Government while increasing the security of the Government's claim requires consideration in Committee of the Whole and is properly referred to the Union Calendar.

On January 23, 1918,¹ which was Calendar Wednesday, when the Committee on Irrigation of Arid Lands was reached in the call of committees, Mr. Edward T. Taylor, of Colorado, called up the bill (H. R. 4954) on the House Calendar.

Mr. William H. Stafford, of Wisconsin, made the point of order that the bill provided for the waiver of a lien of \$100,000,000 held by the Government on certain irrigated land, and should therefore be on the Union Calendar.

Mr. John E. Raker, of California, argued in opposition to the point of order, that while the bill proposed to release the particular lien referred to, it, by other provisions, increased the security of the Government's claim against the land, and was therefore properly on the House Calendar.

Mr. John N. Garner, of Texas, inquired:

I want to propound a parliamentary inquiry to the Speaker. If the Speaker should hold that this bill ought to be on the Union Calendar, can he order it placed on the Union Calendar as of to-day, and can the bill be called up immediately?

The Speaker² said:

The Chair decides that this particular bill ought to be on the Union Calendar; and he further decides that the House automatically resolves itself into the Committee of the Whole House on the state of the Union to consider the bill, with the gentleman from Indiana 'Mr. Cox' in the chair.

747. On June 23, 1919,³ Mr. William R. Wood, of Indiana, called up the joint resolution (H. J. Res. 104), providing for the appointment of secretaries by Members of the House of Representatives, which had been referred to the House Calendar.

Mr. Eugene Black, of Texas, made the point of order that the resolution should be on the Union Calendar, as it involved an additional payment of \$240 a year to clerks appointed by Members, and was to that extent an additional charge upon the Treasury.

The Speaker⁴ ruled:

If that is true, then it should be on the Union Calendar, and unless there is some evidence contradictory to that the Chair will order it upon the Union Calendar. The joint resolution is on the Union Calendar.

¹Second session Sixty-fifth Congress, Record, p. 1174.

²Champ Clark, of Missouri, Speaker.

³First session Sixty-sixth Congress, Record, p. 1606.

⁴Frederick H. Gillett, of Massachusetts, Speaker.

Whereupon, on motion of Mr. Clifford Ireland, of Illinois, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the joint resolution.

748. The Speaker may correct the reference of a bill to the calendars at any time before consideration begins and while the question of consideration is pending.

On Calendar Wednesday the House resolves into the Committee of the Whole automatically for the consideration of bills called up by committees, and the question of consideration is properly raised in the committee and not in the House.

On October 1, 1919,¹ it being Calendar Wednesday, when the Committee on Interstate and Foreign Commerce was reached, Mr. John J. Esch, of Wisconsin, in calling up the bill (H. R. 7015) governing Panama Canal tolls, on the House Calendar, suggested that it affected the revenue, and should be on the Union Calendar.

Mr. Willis C. Hawley, of Oregon, raised the question of consideration.

The Speaker² said:

The Chair will transfer it from the House Calendar to the Union Calendar, and then automatically the House resolves itself into Committee of the Whole House on the state of the Union. The gentleman from Oregon can raise the question of consideration in committee.

Mr. Joseph Walsh, of Massachusetts, submitted that it was in order to raise the question of consideration at any time before consideration began, and a Member, claiming the floor for that purpose, should be recognized before the House resolved into the committee.

The Speaker said:

The Chair would say at first blush that the gentleman's right to recognition was not of such privilege as to prevent the Chair from correcting an error of reference. The Chair is disposed to think that the first duty of the Chair before recognizing anybody, if there was a reference to the wrong calendar, was to change the reference, and of course that does not destroy anybody's rights. The question of consideration can be raised in committee as it has been raised here by the gentleman from Oregon. Of course the committee had its right to give hearings or not as it pleased, and the fact that the committee did or did not give hearings does not seem to the Chair to affect the validity of the committee's report. The ruling has been—and it was a very carefully considered ruling by the last Speaker of the House when this question came up—that the question of consideration should be raised in the committee and not in the House; and although to raise the question of consideration in the committee is an anomaly, the Chair would not feel disposed to overrule that without a very thorough study and consideration of the question. The Chair rules that the House now automatically resolves itself into the Committee of the Whole House on the state of the Union for the consideration of this bill.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, and Mr. Hawley, having raised the question of consideration, the committee determined to consider it, yeas 129, noes 15.

749. The right of the Speaker, to correct the erroneous reference of bills to the calendars does not apply to references made by the House.

¹First session Sixty-sixth Congress, Record, p. 6212.

²Frederick H. Gillett, of Massachusetts, Speaker.

On January 20, 1919,¹ during the call of the Calendar for Unanimous Consent, Mr. William H. Stafford, of Wisconsin, made the point of order that the bill (H. R. 11368) to issue a land patent to the National Lincoln-Douglas Sanatorium, was improperly on the Union Calendar and should be transferred to the Private Calendar.

Mr. James R. Mann, of Illinois, explained that the bill was originally referred to the Private Calendar but had been subsequently transferred to the Union Calendar by unanimous consent.

The Speaker² held that the reference to the calendar by order of the House removed the reference from the jurisdiction of the Speaker, and a further change in reference could be made only by order of the House.

750. Adverse reports do not go to the calendars except by direction of a committee or request of a Member.

Unless request for other disposition is made within three days a bill reported adversely is automatically tabled and may be taken from the table and recommitted or placed on the calendar by unanimous consent only.

On May 7, 1930,³ Mr. James G. Strong, of Kansas, asked unanimous consent that the proceedings by which the bill (H. R. 8461) had been laid on the table be vacated and the bill be recommitted to the Committee on War Claims.

In response to an inquiry by Mr. Fiorello H. LaGuardia, of New York, as to the nature of the proceedings, the Speaker⁴ explained:

A bill reported adversely under the rules shall lie on the table unless a request is made within three days that it be referred to the calendar. That request not having been made, the bill automatically went to the table. Is there objection to the request of the gentleman from Kansas?

751. On a call of committees under section 4 or section 7 of Rule XXIV, committees are called seriatim in the order in which they appear in Rule X and not alphabetically.

On August 9, 1911,⁵ calendar Wednesday, while the Clerk was calling the committees under the rule, Mr. John H. Stephens, of Texas, inquired in what order the committees were being called.

The Speaker⁶ replied that on a call of committees the committees were called in the order in which they appeared in the rules and not alphabetically.

752. Proceedings under the two rules providing for calling the committees are unrelated and unfinished business under one is not considered under the other.

On December 6, 1916,⁷ the Speaker announced:

This is Calendar Wednesday. The unfinished business is H. R. 563, the Rayburn bill.

¹Third session Sixty-fifth Congress, Record, p. 1769.

²Champ Clark, of Missouri, Speaker.

³Second session Seventy-first Congress, Record, p. 8859.

⁴Nicholas Longworth, of Ohio, Speaker.

⁵First session Sixty-second Congress, Record, p. 3770.

⁶Champ Clark, of Missouri, Speaker.

⁷Second session, Sixty-fourth Congress, Record, p. 52.

Mr. James R. Mann, of Illinois, made the point of order that the bill referred to had been called up on the preceding day, Tuesday, on the ordinary call of committees under section 4 of Rule XXIV, and could not be called up as unfinished business on the Calendar Wednesday call under section 7 of the rule.

The Speaker¹ sustained the point of order, holding that under the rules there were two distinct calls of committees, and that business undisposed of under one could not be called up as unfinished business under the other.²

753. A bill on the Union Calendar may not be brought up on call of committees.

On Tuesday, August 15, 1911,³ when the Committee on Indian Affairs was reached during a call of the committees under section 4 of Rule XXIV, Mr. John H. Stephens, of Texas, proposed to call up the bill (H. R. 13002) to authorize the withdrawal from the Treasury of funds belonging to certain Indian tribes.

The Speaker⁴ called attention to the fact that the bill was on the Union Calendar and therefore not within the rule, and could not be brought up under a call of committees.

754. When a committee is called during a call of committees, it is not in order to rise for any purpose other than to call up a bill for consideration.

On January 13, 1910,⁵ when the Committee on Expenditures in the Interior Department was reached, during a call of the committees under section 4 of Rule XXIV, Mr. Rufus Hardy, of Texas, of that committee, rose and proceeded to explain the failure of the committee to call up a bill.

The Speaker pro tempore⁶ interposed, holding that it was not in order to offer any explanation, and directed the Clerk to call the next committee.

755. Interpretation of the term "without prejudice" with reference to bills passed over on a call of the calendar.

A bill passed over "without prejudice" on call of committees retains its status on the calendar and is in order for consideration when the committee reporting it is again called.

On December 12, 1908,⁷ during a call of the committees under section 4 of Rule XXIV, the bill (H. R. 21898) providing for the establishment of judicial districts in the district of Indiana was called up by the Committee on the Judiciary.

After consideration, Mr. John C. Chaney, of Indiana, asked that the bill go over without prejudice.

¹ Champ Clark, of Missouri, Speaker.

² Formerly it was held (second session Sixty-first Congress, Record, p. 553; first session Sixty-second Congress, Record, p. 3819) that the call of committees rested where discontinued on the preceding call under either rule.

³ First session Sixty-second Congress, Journal, p. 419.

⁴ Champ Clark, of Missouri, Speaker.

⁵ Second session Sixty-first Congress, Record, p. 614.

⁶ George R. Malby, of New York, Speaker pro tempore.

⁷ Second session Sixtieth Congress, Record, p. 165.

Mr. James R. Mann, of Illinois, inquired:

May I ask what is “going over without prejudice?” What does “going over without prejudice” mean?

The Speaker¹ replied:

That it can be called up any time the Committee on the Judiciary has the call.

756. A bill with amendments of the other House is privileged after the stage of disagreement has been reached.

The stage of disagreement between the two Houses is reached when one informs the other of disagreement.

On March 13, 1922² Mr. Gilbert N. Haugen, of Iowa, asked unanimous consent to take from the Speaker’s table the bill (S. 2897) for the purchase of seed grain to be supplied to farmers, to insist on the amendments of the House, and to agree to a conference asked by the Senate.

Mr. James R. Mann, of Illinois, made the point of order that the stage of disagreement having been reached the bill had a privileged status, and unanimous consent was not required.

The Speaker pro tempore³ sustained the point of order and recognized Mr. Haugen to offer, as privileged, a motion for disposition of the bill.

757. On March 3, 1923,⁴ Mr. Marion E. Rhodes, of Missouri, moved to take from the Speaker’s table the joint resolution (S. J. Res. 287) creating the joint commission of gold and silver inquiry, and agree to the conference asked by the Senate.

Mr. Finis J. Garrett of Tennessee, made a point of order that the motion was not privileged and could be made only by unanimous consent.

The Speaker⁵ pro tempore said:

In this case the Senate passed a resolution. The House amended it and sent the resolution to the Senate with a House amendment. The Senate has disagreed to the amendment of the House and sends the resolution back to the House with its disagreement and asks for a conference. There is therefore a disagreement and it is well settled that when the stage of disagreement has been reached between the two Houses the matter becomes a matter of privilege. The Chair overrules the point of order. The question is on the motion of the gentleman from Missouri to insist upon the amendments of the House and agree to the conference asked for by the Senate.

¹ Joseph G. Cannon, of Illinois, Speaker.

² Second session Sixty-seventh Congress, Record, p. 3804.

³ Joseph Walsh, of Massachusetts, Speaker pro tempore.

⁴ Fourth session Sixty-seventh Congress, Journal, p. 344; Record, p. 5540.

⁵ Philip P. Campbell, of Kansas, Speaker pro tempore.