

Chapter CCL.¹

THE PREVIOUS QUESTION.

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2661. History of the process by which the House changed the previous question of Parliament into an instrument of closing debate and bringing a vote on the pending question.

On February 2, 1922,² Mr. Ladislas Lazaro, of Louisiana, inserted in the Record, by unanimous consent, excerpts from a report of a speech delivered in the House by Mr. William Gaston, of North Carolina, in 1813, including a detailed and exhaustive history of the early use and development of the previous question.

2662. The only motion used for closing debate in the House (as distinguished from the Committee of the Whole) is the motion for the previous question.

On February 10, 1910,³ the House was considering the resolution (H. Res. 371) authorizing members on the part of the House of the Joint Committee on Printing to appear in response to legal process served in a suit brought against the members of that committee.

Mr. Champ Clark, of Missouri, asked unanimous consent that debate on the pending resolution close at 9 o'clock.

Mr. Robert L. Henry, of Texas, having objected, Mr. Clark moved that debate close at 9 o'clock.

The Speaker⁴ said:

That motion would hardly be in order under the rule. The right way to close debate is by moving the previous question under the rule.

¹Supplementary to Chapter CXX.

²Second session Sixty-seventh Congress, Record, p. 2086.

³Second session Sixty-first Congress, Record, p. 1733.

⁴Joseph G. Cannon, of Illinois, Speaker.

2663. The motion for the previous question is not admitted in the Senate.¹

Instances wherein Senators signed a "round robin" announcing they would have voted to close debate had the rules of the Senate permitted.

On March 4, 1917,² in the Senate, Mr. Joseph T. Robinson, of Arkansas, submitted the following statement:

UNITED STATES SENATE,
Washington, D. C., March 3, 1917.

The undersigned United States Senators favor the passage of S. 8322, to authorize the President of the United States to arm American merchant vessels and to protect American citizens in their peaceful pursuits upon the sea. A similar bill has already passed the House of Representatives by a vote of 403 to 13. Under the rules of the Senate allowing debate without limit it now appears to be impossible to obtain a vote prior to noon, March 4, 1917, when the session of Congress expires. We desire this statement entered in the Record to establish the fact that the Senate favors the legislation and would pass it if a vote could be had.

F. M. Simmons, Joe T. Robinson, Henry Cabot Lodge, William E. Borah, G. M. Hitchcock, George Sutherland, Hoke Smith, George T. Oliver, John W. Kern, J. W. Wadsworth, jr., Thomas Sterling, James H. Brady, William P. Dillingham, LeBarron B. Colt, Frank B. Brandegee, Clarence D. Clark, P. J. McCumber, Morris Sheppard, Atlee Pomerene, Willard Saulsbury, Charles E. Townsend (with Cummins amendment), Bert M. Fernald, Albert B. Fall, Duncan U. Fletcher, Reed Smoot, Ollie M. James, Claude A. Swanson, Thomas S. Martin, N. P. Bryan, Thomas W. Hardwick, E. D. Smith, Charles Curtis, Knute Nelson, W. G. Haring, T. B. Catron, John Sharp Williams, Joseph E. Ransdell, Blair Lee, J. Hamilton Lewis, T. J. Walsh, J. C. W. Beckham, H. L. Myers, Paul O. Husting, Henry F. Hollis, James D. Phelan, Miles Poindexter, John K. Shields, George P. McLean, F. E. Warren, Carroll S. Page, W. L. Jones (with Stone, McCumber, or Cummins amendment), James E. Martine, Charles S. Thomas, George E. Chamberlain, Lawrence Y. Sherman, William Alden Smith, W. E. Chilton, J. H. Bankhead, Henry F. Ashurst, O. W. Underwood, John F. Shafroth, William Hughs, John W. Weeks, James A. Reed, John Walter Smith, Luke Lea, Key Pittman, Robert F. Broussard, James E. Watson, H. A. du Pont, Robert L. Owen, Francis G. Newlands, Lee S. Overman, Ed. S. Johnson, William H. Thompson.

Senator Lippitt is out of the city.

The following Senators are detained from the Senate on account of sickness:

Mr. Gallinger and Mr. Goff.

Mr. Gore, Mr. Stone, Mr. Tillman, Mr. Johnson of Maine, Mr. Smith of Arizona, and Mr. Culberson.

¹The rules of the senate as adopted at its organization in April, 1879, provided for the previous question, which, however, was resorted to but four times in the succeeding seventeen years and was ruled out of order on one of these occasions. In the revision of 1806 the previous question was dropped and debates could be limited only by unanimous consent. In 1841 Mr. Henry Clay, of Kentucky, proposed without success, a rule for the limitation of debate as it then existed in the House. In 1883 a general revision of the rules reported by Mr. William Pierce Frye, of Maine, included a provision to close debate which was stricken out by the Senate. On March 8, 1917, however, the Senate rules were amended to provide a modified form of cloture which may be invoked by two-thirds of those voting.

²Second session Sixty-fourth Congress, Record, p. 4988.

Mr. Gilbert M. Hitchcock, of Nebraska, said in explanation:

This is a statement which has been signed by nearly 80 Members of the Senate, and it embraces about all the names of Senators who can be reached this evening except 12. The statement is signed in this way by virtually all but 12 Members of the Senate here present, and it speaks for itself. It is desired to place it in the Record at this time, in order that the country may know and a record may be made of the fact that practically nine-tenths of the Senate of the United States are anxious to proceed to a vote on the pending bill and that nine-tenths of the Senate desire an opportunity to place the bill upon its passage.

2664. On October 24, 1921,¹ in the Senate, the bill (H. R. 8245) to amend the revenue act of 1918, having been under consideration intermittently since September 26, Mr. Boies Penrose, of Pennsylvania, announced:

Mr. President, I desire to announce to the Senate that I intend to move that the Senate take a recess until 11 o'clock to-morrow morning. Prior to making that motion I desire to state to the Senate, and I hope the country will take note of it, that I propose to move to hold an evening session to-morrow; and on Wednesday there will be submitted to the Senate a resolution which I hope by that time will be indorsed by a majority of the Senate in writing, and which has already been indorsed by all Senators available this afternoon, pledging themselves to remain in the Capitol and maintain a quorum night and day until the pending bill is disposed of. That will be submitted to the Senate on Wednesday.

The resolution referred to was as follows:

We, the undersigned Republican Senators, agree that beginning Wednesday, October 26, we shall remain continuously in the Capitol or within call for quorum calls, or a vote until the pending tax bill is finally disposed of.

On October 25, on motion of Mr. Penrose, by unanimous consent, the following was agreed to:

It is agreed by unanimous consent that at not later than 4 o'clock p.m. on the calendar day of Wednesday, October 26, the Senate will proceed to vote without further debate upon any amendment that may be pending or that may be offered to the committee amendment known as the excess-profits tax: *Provided*, that any Senator proposing an amendment after the said hour of 4 o'clock p.m., may explain the same for a period not exceeding five minutes.

2665. On February 1, 1933,² in the Senate, after extended debate on the bill (H. R. 13520), the Treasury and Post Office Departments appropriation bill, on motion of Mr. Frederick Hale, of Maine, by unanimous consent, it was—

Ordered, by unanimous consent, That after the hour of 5:30 o'clock p.m. to-day, no Senator shall speak more than once or longer than 15 minutes upon the pending bill (H.R. 13520), or any amendment or motion relating thereto.

2666. Instances wherein Members of the Senate have taken advantage of the privilege of unlimited debate.

On May 29, 1908,³ in the Senate, Mr. Robert M. La Follette, of Wisconsin, was recognized at 12.40 p.m. o'clock and continued in debate on the bill (H. R. 21871) to amend the national banking laws, until 7.05 a.m. May the 30.

¹ First session Sixty-seventh Congress, Record, p. 6685.

² Second session Seventy-second Congress, Record, p. 3006.

³ First session Sixtieth Congress, Record, p. 7161.

2667. On September 18, 1914,¹ the Senate was considering the bill H. R. 13811, the river and harbor appropriation bill.

Mr. Theodore E. Burton, of Ohio, being recognized at 5.55 o'clock p.m., held the floor in debate until 6.05 o'clock a.m. on the succeeding day.

2668. On January 29, 1915,² Mr. Reed Smoot, of Utah, in debating the bill (S. 6856) to authorize the United States, acting through a shipping board, to subscribe to the capital stock of a corporation to be organized under the laws of the United States, or of a State thereof or of the District of Columbia to purchase, construct, equip, maintain, and operate merchant vessels in the foreign trade of the United States took the floor at 9.50 o'clock p.m. and relinquished it at 9.25 o'clock the following morning.

2669. On February 8, 1915,³ in the Senate, Mr. Wesley L. Jones, of Washington, discussed the bill (S. 6856) to authorize the acquisition and operation of a merchant marine, from 6.45 o'clock p.m. until 8.40 o'clock p.m. on February 9.

2670. On February 20, 1923,⁴ during consideration in the Senate of the bill (H. R. 12817) to amend the merchant marine act of 1920, Mr. Morris Sheppard, of Texas, spoke for 11 hours, concluding his remarks on February 21.

2671. Discussion of the rule for limiting debate in the Senate.

On March 4, 1925,⁵ in the Senate, the Vice President,⁶ in the course of his inaugural address, said:

What would be the attitude of the American people and of the individual Senators themselves toward a proposed system of rules if this was the first session of the Senate of the United States instead of the first session of the Senate in the Sixty-ninth Congress? What individual Senator would then propose the adoption of the present Rule XXII without modification when it would be pointed out that during the last days of a session the right that is granted every Senator to be heard for one hour after two-thirds of the Senate had agreed to bring a measure to a vote, gave a minority of even one Senator, at times, power to defeat the measure and render impotent the Senate itself? That rule, which at times enables Senators to consume in oratory those last precious minutes of a session needed for momentous decisions, places in the hands of one or of a minority of Senators a greater power than the veto power exercised under the Constitution by the President of the United States, which is limited in its effectiveness by the necessity of an affirmative two-thirds vote. Who would contend that under the spirit of democratic government the power to kill legislation providing the revenues to pay the expenses of government should, during the last few days of a session, ever be in the hands of a minority or perhaps one Senator? Why should they ever be able to compel the President of the United States to call an extra session of Congress to keep in functioning activity the machinery of the Government itself? Who would oppose any changes in the rules necessary to insure that the business of the United States should always be conducted in the interests of the Nation and never be in danger of encountering a situation where one man or a minority of men might demand unreasonable concessions under threat of blocking the business of the Government? Who would maintain that in the last analysis the right of the Senate itself to act should ever be subordinated to the right of one Senator to make a speech?

¹ Second session Sixty-third Congress, Record, p. 15322.

² Third session Sixty-third Congress, Record, p. 2592.

³ Third session Sixty-third Congress, Record, p. 3243.

⁴ Fourth session Sixty-seventh Congress, Record, p. 4063.

⁵ First session Sixty-ninth Congress, Record, p. 3.

⁶ Charles G. Dawes, of Illinois, Vice President.

On March 4, 1927, the Vice President, in announcing the sine die adjournment of the Senate for the Sixty-ninth Congress, said:

It is customary for the Vice President, at the beginning and ending of a session of Congress, to address the Senate upon an appropriate subject. The comments the Chair has to make on this occasion will be very brief.

The Chair regards the results of the present legislative as primarily due to the defective rules of the Senate, under which a minority can be prevent a majority from exercising their constitutional right of bringing measures to a vote. This is only great parliamentary body in the world where such a situation exists.

On this the closing day of the second session of the Sixty-ninth Congress, the Chair commends to the Senate the remarks upon the Senate rules which he made on the first day of the first session of this Congress.

The hour of 12 o'clock having arrived, the Senate stands in adjournment sine die.

2672. The previous question applies to a question or privilege as to any other question.

On December 9, 1913,¹ Mr. Finis J. Garrett, of Tennessee, called up the report of the select committee to investigate lobby activities and charges against Members of the House.

Mr. Garrett then moved that the report of the committee and the two accompanying resolutions be referred to the Committee on the Judiciary, with directions to report to the House what action, if any, should be taken thereon, and demanded the previous question on the motion to refer.

Mr. M. Clyde Kelly, of Pennsylvania, made the point of order that the report and resolution involved a question of the privilege.

The Speaker² ruled:

The Chair will decide two or three things at once. Both of these resolutions are privileged. The motion of the gentlemen from Tennessee is proper and in order, and on that he moves the previous question.

Mr. Victor Murdock, of Kansas, raised the further question that it was not in order to demand the previous question on a matter of privilege.

The Speaker held:

Section 1256, in Hinds' Precedents, Volume II, provides that the previous question does apply to a question of privilege, and there can not be any reason given against the rule, The question is on the previous question on the motion to refer these resolution, testimony, documents, and so forth, to the Committee on the Judiciary.

2673. When the previous question is moved on a bill without designating the particular question on which demanded the Speaker construes it as a motion for the previous question on the bill to final passage.

On July 24, 1919,³ during consideration of the bill (S. 180) to incorporate Near East Relief, Mr. George S. Graham, of Pennsylvania, moved:

Mr. Speaker, I move the previous question.

¹ Second session Sixty-third Congress, Record, p. 585.

² Champ Clark, of Missouri, Speaker.

³ First session Sixty-sixth Congress, Record, p. 3113.

The House adjourned without final action on the bill, and when consideration was continued on the following day Mr. Louis C. Cramton, of Michigan, asked recognition for debate.

The Speaker declined recognition on the ground that the previous question had been ordered and precluded debate.

Mr. Cramton made the point of order that the language in which the previous question had been demanded did not specify any particular question and therefore applied to the pending question only, and did not include the vote on the final passage of the bill.

The Speaker¹ ruled:

The Chair thinks when the previous question is ordered on a bill without stating specifically what it is moved to, it is intended to be moved to, it is intended to be moved to the passage of the bill:

2674. A demand for the previous question made at conclusion of debate on a bill without specific designation of question on which moved was held to apply to final passage of the bill and all intervening questions.

A bill on which the previous question had been ordered at adjournment on Wednesday was taken up as the unfinished business on Thursday and took precedence of a motion to go into the Committee of the Whole for the consideration of a bill privileged by special order.

On Wednesday, May 4, 1921,² the Committee on the Judiciary, when reached in the Calendar Wednesday call of committees, called up the bill (H. R. 2376) providing that competency of witnesses to testify in the Federal courts should be determined by the laws of the State in which the court was held.

Debate on the bill having been concluded, Mr. Andre J. Volstead, of Minnesota, offered the following motion:

Mr. Speaker, I move the previous question.

The previous question having been ordered, a question of no quorum was raised and the House adjourned.

On the following day, after the reading and approval of the Journal, Mr. James W. Good, of Iowa, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 1084) to provide for a national budget system, privileged under a special order providing that "it shall be in order to move that the House resolve itself into the Committee" for that purpose.

The Speaker³ declined to entertain the motion and said:

The Chair thinks that the previous question having been ordered on H. R. 2376, that should be completed first. The question is on the passage of the bill.

Mr. Merrill Moores, of Indiana, proposing to debate the pending bill, Mr. Joseph Walsh, of Massachusetts, called attention to the language in which the previous question had been proposed on the preceding day, and raised the question as to whether the previous question so ordered was still in effect and applied to the final passage of the bill.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² First session Sixty-seventh Congress, Record, p. 1052.

³ Frederick H. Gillett, of Massachusetts, Speaker.

The Speaker replied:

The Chair thinks so. It is customary—perhaps it is an unfortunate habit—instead of moving the previous question on the bill and amendments to the final passage, simply to move the previous question, but the Chair thinks that is the intent.

Mr. Walsh made the further point of order that the two hours debate provided by the Calendar Wednesday rule had not been had on the bill.

The Speaker ruled:

It is a House Calendar bill, and the previous question can be ordered at any time.

2675. The previous question when ordered on a motion to send to conference applies to that motion alone and does not extend to a subsequent motion to instruct conferees.

A motion to instruct the managers of a conference is debatable.

On February 25, 1919,¹ the House was considering Senate amendments to the bill (H. R. 13274) to invalidate informal war contracts.

The previous question having been ordered on motion of Mr. S. Hubert Dent, jr., of Alabama, to send to conference, Mr. Martin D. Foster, of Illinois, proposed to move to instruct the conferees.

Mr. Dent, as a parliamentary inquiry, asked if the motion to instruct conferees was debatable.

The Speaker replied:

Yes; it is debatable unless the previous question is ordered.

Thereupon Mr. Joseph g. Cannon, of Illinois, inquired if the previous question ordered on the motion to send to conference would also apply to the proposed motion to instruct conferees.

The Speaker² ruled:

The previous question operates on the motion of the gentleman from Alabama and the proposed motion of the gentleman from Illinois, or whoever offers it, and is a separate proposition and is debatable, unless the previous question is ordered on it.

2678. In the consideration of Senate amendments a simple motion for the previous question applies to the immediate question only and does not include other pending questions.

On February 20, 1932,³ Mr. Daniel R. Anthony, jr. of Kansas, called up the conference report on the War Department appropriation bill, which was agreed to, and the House proceeded to the consideration of Senate amendments remaining in disagreement.

Mr. Anthony moved that the House further insist on its disagreement to Senate amendment No. 21.

Mr. John C. McKenzie, of Illinois, offered as preferential, a motion that the House recede from its disagreement to the amendment and concur therein.

Mr. Anthony demanded a division of the question on receding and concurring and moved:

I move the previous question.

¹Third session Sixty-fifth Congress, Record, p. 4259.

²Champ Clark, Missouri, Speaker.

³Fourth session Sixty-seventh Congress, Record, p. 4125.

The question being taken, the motion to recede from disagreement to the amendment was agreed to.

Mr. Anthony moved to concur with an amendment.

Mr. Richard Wayne Parker, of New Jersey, made the point of order that the motion to concur with an amendment was not in order after the previous question had been ordered.

The Speaker pro tempore¹ held:

The understanding of the Chair of the situation is this: The gentleman from Kansas moved to further insist; the gentleman from Illinois moved to recede and concur, on which a division was demanded, and a division was ordered. The motion pending was the motion of the gentleman from Illinois to recede, upon which after debate, the gentleman from Kansas moved the previous question, as was stated by the gentleman from Kansas. The Chair has been endeavoring to get the stenographic notes to confirm his recollection as to the form of that motion, but there has been a delay in securing them. The Journal clerk has it that the motion was merely for the previous question, which the Chair would hold had reference only to the question pending immediately at the time, a motion to recede, and the Chair overrules the point of order. The gentleman from Kansas has offered a motion to recede and concur with an amendment, which the Clerk has reported, and which is now pending.

2677. The previous question when ordered on a bill and amendments to final passage continues in force until final disposition of the bill and is not vitiated by recommitment with instructions to report amendments.

On March 29, 1910,² Mr. John A. Sterling, of Illinois, rising to a question of privilege, submitted a resolution (H. Res. 543) for the appointment of a select committee to investigate certain charges against Members of the House.

To this resolution Mr. Sterling offered an amendment providing that in event the charges under investigation were not substantiated the committee should also investigate whether the authors of such charges had sought to improperly influence Members and whether such action constituted a violation of the privileges of the House.

On motion of Mr. Sterling, the previous question was ordered on the resolution and amendment.

On motion of Mr. William Hughes, of New Jersey, the resolution was recommitment to the Committee of the Whole with instructions to report it back forthwith with an amendment adding to the powers of the select committee authority to also investigate as to the existence and conduct of any lobby.

Mr. Albert S. Burleson, of Texas, asked unanimous consent to offer a further amendment.

The Speaker³ said:

The Chair is reminded that under the precedents the amendment was reported back to the resolution as amended, which amendment was agreed to. Now, when it is reported back under the order of the House the vote would come on the amendment of the gentleman from New Jersey, which was inserted under the instructions of the House, and that would be first in order.

¹Louis C. Cramton, of Michigan, Speaker pro tempore.

²Second session Sixty-first Congress, Record, p. 3896.

³Joseph G. Cannon, of Illinois, Speaker.

The question being taken, the amendment proposed in the instructions from the House was agreed to.

Mr. Burleson again proposed to offer his amendment when objection was made that the operation of the previous question precluded it.

Mr. Joseph H. Gaines, of West Virginia, raised the question of order that since the previous question was ordered the resolution had been recommitted, again reported by the committee and the amendment reported back had been adopted, and the previous question was no longer in effect.

The Speaker ruled:

The previous question was ordered upon the resolution and amendment. The amendment was agreed to; then came the motion to recommit and it was recommitted, and technically the previous question is still operating. Actually in fact it has not been to the committee, but the instructions here were to report forthwith and the rule has been construed as the Chair recollects, and very properly so, that this is a method under the rule, by which the House, notwithstanding the operation of the previous question on a motion, which is an anomaly in parliamentary proceedings, may work its will, but the previous question is evidently operating because the action of the committee does not exist, in fact it is a method by which the House acts instanter upon the subject in hand. The question is on agreeing to the resolution.

2678. The previous question may be moved on a resolution while a motion to recommit it is pending.

On May 17, 1911,¹ the House had under consideration the resolution (H. Res. 172) naming a select committee to investigate the American Sugar Refining Co.

Mr. James R. Mann, of Illinois, moved to refer the resolution to a select committee of 15 members.

After debate, Mr. Oscar W. Underwood, of Alabama, moved the previous question on the resolution.

Mr. Mann made the point of order that the previous question could only be moved on the pending question, and as the motion to recommit was the pending question it was not in order to demand the previous question on the resolution.

The Speaker² referred to section 5466 of Hinds' Precedents holding that the previous question may be moved on both the motion to refer and on the pending resolution, and overruled the point or order.

The Speaker then put the question on the motion to recommit.

The motion to recommit being rejected, the question recurred on the adoption of the resolution.

2679. The previous question may be moved on a portion of the amendments to a bill reported from the Committee on the Whole, leaving the remaining amendments open to debate and amendment.

On February 29, 1924,³ the Committee of the Whole House on the state of the Union reported to the House the bill H. R. 6715, the revenue bill, with sundry amendments and with the recommendation that the amendments be agreed to and the bill as amended be passed.

¹First session Sixty-second Congress, Record, p. 1294.

²Champ Clark, of Missouri, Speaker.

³First session Sixty-eighth Congress, Record, p. 3345.

Mr. William R. Green, of Iowa, moved:

Mr. Speaker, I move the previous question on all amendments to the bill H. R. 6715, the revenue bill, up to and including line 17 on page 29.

Mr. Thomas L. Blanton, of Texas, made the point of order that the previous question must be moved on all such amendments if on any.

The Speaker¹ overruled the point of order.

2680. The previous question may be ordered on a bill on the House Calendar on Calendar Wednesday prior to the expiration of debate allotted under the rule.

The House may by a two-third vote extend consideration of a bill to the next Calendar Wednesday.

Affirmative action on a motion to consider a bill on the next Wednesday does not dispense with business in order on that day after the bill continued under consideration has been disposed of.

On April 21, 1920,² it being Calendar Wednesday, Mr. Edmund Platt, of New York, asked unanimous consent for further consideration of the bill (H. R. 13138) permitting private bankers to serve as directors in two banking associations, on which the previous question had been demanded at adjournment and against which motion a point of order was pending at adjournment on the preceding Calendar Wednesday.

Objection being made, Mr. Platt moved to take up and conclude consideration of the bill.

Mr. Otis Wingo, of Arkansas, raised a question of order against the privilege of the motion.

The Speaker³ ruled:

The Chair thinks the gentleman is entitled to make that motion, but it will require a two-thirds vote.

The Chair will state for the information of the House that the Chair does not consider that this motion would dispense with Calendar Wednesday. This would simply allow the Committee on Banking and Currency to conclude one bill, concerning which the motion is made.

The question being taken and two-thirds having voted in the affirmative, the motion was agreed to.

Mr. Otis Wingo renewed the point or order pending against the motion for the previous question when the bill was last under consideration, to the effect that the previous question might not be moved on a bill considered under the Calendar Wednesday rule.

The Speaker said:

The Chair thinks that is the first business. The determination of this point of order is not without difficulty. It is a puzzling question. What the Chair should determine is, of course, the intent of this new rule. It has never been interpreted. Under Speaker Clark the question was once raised, but the Speaker reserved time for deliberation, and then the question did not come up again, just as it would not have come up to-day except for the two-thirds vote of the House, and so it is a novel question.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² Second session Sixty-sixth Congress, Record, p. 5945.

³ Frederick H. Gillett, of Massachusetts, Speaker.

The purpose of the Chair will be to decide the question, both in accord with what he thinks was the purpose of those who framed the rule, and also in accord with what he thinks would be for the advantage of the House in carrying out that purpose.

The original intention of the Calendar Wednesday rule was to force the consideration upon one day of the week of a certain class of business. Experience showed, however, that the rule was not accomplishing what was hoped and planned, and accordingly the rule was changed and the clause inserted which gives rise to the question before us to-day.

The rule reads—

“Not more than two hours of general debate shall be permitted on any measure called up on Calendar Wednesday, and all debate must be confined to the subject matter of the bill, the time to be equally divided between those for and against the bill.”

The phrase—

“Not more than two hours of general debate shall be permitted”—

has some uncertainty, for although the phrase “general debate” is usually used as applying to debate in Committee of the Whole, where it is not confined to the subject of the bill, yet it is also used as to debate on a bill in the House, the initial debate covering the whole subject of the bill, and the Chair does not think that phrase alone determines the question, although it might be ruled that “general debate” applied simply to debate in Committee of the Whole. The Chair thinks it tends in that direction.

Then the phrase—

“All debate must be confined to the subject matter of the bill”—applies simply to debate in Committee of the Whole, because in the House without any such provision the debate must be confined to the subject matter of the bill. But although that phrase applies simply to the Committee of the Whole it does not necessarily follow that the whole sentence has the same application. Then comes the phrase—

“The time to be equally divided between those for and against the bill.”

That might apply as well to bills on the House Calendar as to bills on the Union Calendar. But the main purpose of this clause was to expedite the business of the House. The Calendar Wednesday rule had fallen short of accomplishing the end for which it was originally aimed, that of giving to relatively unimportant bills one day in the week when they would be considered and removed from the calendar. By tactics which might be called filibustering the purpose of that rule had been evaded, and this provision was inserted to prevent those delaying tactics. So the Chair thinks the main purpose of adopting this rule was speed and expedition in the transaction of the business of the House on Calendar Wednesday.

That being so, it seems to the Chair that the purpose will be best furthered by holding that this clause applies to bills on the Union Calendar only and that when bills of the House Calendar are brought up on the Calendar Wednesday the previous question can be ordered at any time. The only way in which that would at all controvert this rule would be that it might interfere with the phrase—“the time to be equally divided between those for and against the bill”—

because the man who had the bill in charge might use five minutes and then move the previous question. He might not give to those opposed to the bill any opportunity for debate. But the Chair does not think that argument has much practical force, for it is the custom for the man in charge of a bill to recognize the equal claim to debate of those opposed, and it is very rare that in debate the time is not fairly divided. On this very bill, for instance, the gentleman having it in charge, after having used 10 minutes himself, yielded 10 minutes to a gentleman opposed to the bill. The Chair might suggest that this very bill somewhat illustrates the fact that this ruling would not interfere with fair play, but would further the main purpose of the rule and prevent filibustering and hasten action, because the Chair has more than a suspicion that the time desired in opposition was not really because of antagonism to the bill, but was aimed at prolonging the consideration of this bill, so as to occupy the Calendar Wednesday and prevent the consideration of other bills which might follow it. So this very case is an illustration of the way in which the purpose of Calendar Wednesday is sometimes being obstructed and the rule availed of for filibustering purposes.

Therefore the Chair thinks that it would best be carrying out the intention of those who framed this provision and expediting the business of the House to rule that the previous question can be ordered. That leaves it all in the control of the House, because of the House desires debate the previous question can be voted down. Therefore the Chair rules that the previous question, which was moved by the gentleman from New York is in order.

The Chair holds that the gentleman can move the previous question after one minute's debate if he so desires; that he has the same power in this case as to moving the previous question that he would have at any time in the House.

On appeal by Mr. Wingo, the decision of the Speaker was sustained, yeas 274, nays, 15.

2681. The previous question may not be moved on a motion against which a point of order is pending.

On January 16, 1917,¹ the House had under consideration the Post Office appropriation bill.

Mr. Charles H. Randall, of California, moved to recommit the bill to the Committee on the Post Office and Post Roads with instructions to report the same back forthwith with an amendment imposing a penalty for sending through the mails and publication containing an advertisement of intoxicating liquor.

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment included in the proposed instructions was not germane.

Mr. Randall demanded the previous question on the motion to recommit.

Mr. James R. Mann, of Illinois, made the point of order that it was not in order to move the previous question on a motion against which a point of order was pending.

The Speaker² sustained the point of order.

2682. The Member in charge of the bill is entitled to prior recognition to move the previous question even after he has surrendered the floor for debate.

On May 8, 1912,³ during consideration of the bill (H. R. 17756) providing for civil government in the Philippines, Mr. William A. Jones, of Virginia, being recognized for debate, concluded his remarks and yielded the floor.

Subsequently Mr. Jones asked recognition to move the previous question upon the bill and pending amendments.

Mr. Swagar Sherley, of Kentucky, made the point of order that Mr. Jones having once spoken on the question was not gain entitled to recognition while other members who had not been heard desired the floor.

In speaking to the point of order, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, the gentleman from Virginia, this being a House Calendar bill, when the bill first came up took the floor and occupied an hour. Subsequent to that the gentleman from Pennsylvania was recognized to offer an amendment, and of course under the rules was entitled to an hour to discuss the amendment and to take the floor on the amendment, and by that the gentleman from Pennsylvania lost the floor. Now the gentleman from Virginia asks recognition for the purpose of moving the previous question, not for the purpose of debate. I do not think he would

¹ Second session Sixty-fourth Congress, Record, p. 1484.

² Champ Clark, of Missouri, Speaker.

³ Second session Sixty-second Congress, Record, p. 6075.

be entitled to recognition for the purpose of debate if anyone else was asking for recognition, but it seems to me that the gentleman in charge of a bill, with no one on the floor at the time when an amendment was in order, is entitled to recognition for the purpose of offering an amendment if he chooses to do so, or for the purpose of moving the previous question. Because without that there would be no way of closing debate for a month.

The Speaker ¹ ruled:

The parliamentary situation is this, and the Chair does not think there is much difficulty about it: The gentleman from Virginia is in charge of the bill. If the gentleman from Virginia had undertaken to make a speech, he would have to postpone that speech until every Member in the House who wanted to be heard had been heard, except that he would have the right to conclude. But the gentleman from Virginia, before anybody else gets recognition for a speech, has the right to make this motion for the previous question.

2683. A demand for the previous question having been withdrawn, any Member is entitled to recognition to renew the motion, although a member of the committee reporting the bill demands the floor.

On February 17, 1911,² the House was considering the conference report on the Indian appropriation bill.

Mr. Charles H. Burke, of South Dakota demanded the previous question on agreeing to the conference report, but, on request, withdrew it.

Whereupon Mr. Philip P. Campbell, of Kansas, claimed the floor as a member of the Committee on Indian Affairs, reporting the bill.

Simultaneously, Mr. Thetus W. Sims, of Tennessee, requested recognition to renew the demand for the previous question withdrawn by Mr. Burke.

Mr. James R. Mann, of Illinois, made the point of order that Mr. Sims might not demand the previous question without having the floor, and was not entitled to the floor against the demand of a member of the committee for recognition.

The Speaker pro tempore ³ ruled:

The gentleman from Tennessee moves the previous question. The gentleman from South Dakota made the motion for the previous question on the adoption of the conference report. Then he withdrew it, and the gentleman from Tennessee renewed the motion for the previous question. The motion for the previous question would be recognized in preference to the recognition of the gentleman from Kansas. Upon the withdrawal of the motion for the previous question by the gentleman from South Dakota, the gentleman from Tennessee renewed the motion. The Chair will put the motion for the previous question.

2684. A Member having the floor to offer a motion may move the previous question thereon although another claims recognition to offer a motion of higher privilege, but the motion of higher privilege must be put before the previous question.

The motion to amend the Journal may not be admitted after the previous question is demanded on the motion to approve.

On January 23, 1913,⁴ following the reading of the Journal, Mr. John J. Fitzgerald, of New York, moved that the Journal be approved, and on that motion demanded the previous question.

¹ Champ Clark, of Missouri, Speaker.

² Third session Sixty-first Congress, Record, p. 2791.

³ J. Van Vechten Olcott, of New York, Speaker pro tempore.

⁴ Third session, Sixty-second Congress, Record, p. 1922.

Mr. James R. Mann, of Illinois, asked recognition to offer, as preferential, a motion to amend the Journal, and being refused recognition, made the point of order that a motion to amend the Journal took precedence of a motion to approve it, citing section 2760 of Hinds' Precedents in support of that contention.

The Speaker¹ said:

In the ordinary procedure if the order of the three motions had come right the gentleman's point would be well taken. But the order of the procedure did not come so as to fit his case. The Chair recognized the gentleman from New York and the gentleman from New York made two motions before he sat down, one following the other, and the last one was to move the previous question on his first motion. The previous question is of the highest order, and the Chair has no doubt in his own mind but that to maintain the contention of the gentleman from Illinois would practically obliterate and annul the force of the motion for the previous question; and the Chair so rules.

Mr. Mann moved to lay on the table the motion to approve the Journal.

The Speaker entertained the motion and put the question first on the motion to lay on the table.

2685. A Member opposed to the pending bill is entitled to recognition to move the previous question on a motion to postpone consideration in preference to the Member in charge claiming the floor in debate.

On February 17, 1911,² the conference report on the Indian appropriation bill with Senate amendments, still in disagreement, was under consideration in the House.

Mr. Charles C. Carlin, of Virginia, moved that consideration of the conference report be postponed until the next legislative day.

After debate, Mr. Charles H. Burke, South Dakota, requested recognition for debate.

Mr. Carlin claimed the floor to move the previous question on his motion to postpone.

Mr. James R. Mann, of Illinois, submitted, as a point of order, that Mr. Burke, as the member in charge of the bill, was entitled to the floor notwithstanding the demand for recognition to offer a preferential motion.

The Speaker³ ruled:

The Chair desires to call attention to the general proposition—that a Member may not, by offering a motion of higher privilege than the pending motion, deprive a member of the committee in charge of the bill of the floor.

That arises from a series of rulings relating entirely to motions inhering in the particular bill, to enable the House, as promptly as possible, to deal with Senate amendments to House bills. Now, the ruling has been uniform that a Member can not take another in charge of a conference report off the floor by making a preferential motion touching the amendments of the other body. But this motion belongs to an entirely different class of motions; that is, motions that affect the general business of the House. It ought to be in the power of the House to consider the Senate amendments to a conference report, and it ought to be in the power of a majority of the House to postpone their consideration with as little delay as practicable under the rules, and the construction given to the rules by the Chair and the precedents heretofore made. Now,

¹ Champ Clark, of Missouri, Speaker.

² Third session Sixty-first Congress, Record, p. 2796.

³ Joseph G. Cannon, of Illinois, Speaker.

the gentleman from Virginia makes this preferential motion, and is the proposer and mover of the motion that this House shall not consider these amendments, if it be agreed to today, but on the next legislative day. That in no way affects the manner of dealing with the Senate amendments to the bill. Therefore if the gentleman in charge of the conference report should be entitled to the floor, he would be entitled to the floor for an hour touching a motion that does not affect the disposition of the Senate amendments to the House bill, but which does tend to determine, and does determine, or give the majority of the House the power to determine, whether they will consider it today or tomorrow. The Chair therefore recognizes the gentleman from Virginia to move the previous question on the motion to postpone.

2686. The ordering of the previous question after a resolution had been read and before committee amendments had been reported was held to preclude reading or consideration of such amendments.

On May 9, 1911,¹ Mr. James. T. Lloyd, of Missouri, from the Committee on Accounts, reported the resolution H. Res. 128, declaring vacant certain offices in the service of the House.

The resolution was read by the Clerk, but before the committee amendments recommended by the committee had been reported Mr. Lloyd demanded the previous question, which was ordered.

Mr. Lloyd then asked for the reading of the committee amendments.

Mr. James R. Mann, of Illinois, made the point of order that the previous question had been ordered and the resolution was not longer open to amendment.

The Speaker² sustained the point of order.

2687. The vote having been taken on agreeing to a report of the Committee of the Whole on which the previous question had been ordered, it was held that the operation of the previous question had been consummated and did not apply to related questions again brought before the House.

The previous question covers the main question, but does not apply to incidental questions arising therefrom.

On July 10, 1914,³ the Committee of the Whole House on the state of the Union reported to the House the Senate amendments to the Indian appropriation bill, with the recommendation that Senate amendments numbered 6 and 13 be agreed to and the remainder be disagreed to.

On motion of Mr. John H. Stephens, of Texas, the previous question was ordered.

The question recurring on the recommendation of the Committee of the Whole, and being divided to permit a separate vote on each Senate amendment, was decided in the affirmative with the exception of the recommendation that the House disagree to Senate amendment No. 140 which was decided in the negative.

Mr. Pat Harrison, of Mississippi, then moved to concur in Senate amendment No. 140.

Mr. James R. Mann, of Illinois, objected that the motion to concur was not in order after the previous question had been ordered.

¹ First session Sixty-second, Congress, Record, p. 1163.

² Champ Clark, of Missouri, Speaker.

³ Second session of Sixty-third Congress, Record, p. 11942.

The Speaker¹ ruled:

The Chair thinks that the motion for the previous question expended its force when the vote was taken, and that this amendment is back in the House in the same condition that it would have been if it had never been sent to the committee, and that the motion of the gentleman from Mississippi to concur in the Senate amendment is in order. The question is on the motion of the gentleman from Mississippi to concur in the Senate amendment.

2688. It is in order to debate a question of personal privilege after the previous question has been ordered on a pending question.

On December 12, 1912,² the previous question had been ordered on the contested-election case of McLean against Bowman, when Mr. A. Mitchell Palmer, of Pennsylvania, claimed the floor on a question of personal privilege.

Mr. James R. Mann, of Illinois, made the point of order that the previous question having been ordered, a question of personal privilege could not be debated until the vote had been taken on the pending question.

The Speaker³ ruled:

The Chair is of the opinion that if there is a question of personal privilege involved, the gentleman ought to be heard on it, notwithstanding the fact that the previous question has been ordered on the pending resolutions.

2689. Forty minutes of debate are allowed on a proposition on which the previous question is ordered without debate, one-half for those favoring and one-half for those opposing, and where it developed, after recognition, that both favored the proposition the Speaker required each to yield half his time to those opposing the motion.

On January 30, 1923,⁴ Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, by direction of that committee presented a resolution providing for the consideration of the joint resolution (S. J. Res. 12) relating to the importations of sugars from Argentina.

On motion of Mr. Campbell, prior to debate, the previous question was ordered on the resolution.

The Speaker, under the rule, recognized Mr. Campbell and Mr. Edward W. Pou, of North Carolina, the ranking minority member of the Committee on Rules, for 20 minutes each.

Both Mr. Campbell and Mr. Pou having addressed the House in favor of the resolution, Mr. Thomas L. Blanton, of Texas, made the point of order that the Speaker in allotting the time for debate had not complied with the requirements of the rule, and that half the time should be yielded to members opposing the proposition.

The Speaker⁵ sustained the point of order and said:

The Chair had no knowledge how the gentlemen on the Committee on Rules stood. The Chair recognized the chairman of the Committee on Rules for 20 minutes and then the ranking minority member of the Committee on Rules for 20 minutes.

¹ Champ Clark, of Missouri, Speaker.

² Third session Sixty-second Congress, Record, p. 549.

³ Champ Clark, of Missouri, Speaker.

⁴ Fourth session Sixty-seventh Congress, Record, p. 2732.

⁵ Frederick H. Gillett, of Massachusetts, Speaker.

The Chair was not aware that the gentleman from North Carolina was in favor of the resolution. The Chair recognized him, as he always does the ranking member of the minority.

The rule provides that one-half of such time shall be given in favor of and one-half in opposition. As the House is aware, it is always the custom in the House to recognize the ranking member of the Committee on Rules in favor and the ranking member of the minority against. When the gentleman from Kansas had finished and reserved the balance of his time, the Chair recognized the gentleman from North Carolina for 20 minutes.

The Chair assumed that he was against the rule. Then the first knowledge the Chair had that the gentleman from North Carolina was in favor of the rule was when he took the floor and occupied time for 10 minutes. The Chair thinks the point of order should be made when recognition is had. When the Chair recognized the gentleman from North Carolina, the Chair sanctioned that. But the Chair thinks that in fairness to the rule and in fairness to the House, the gentleman from North Carolina having yielded half of his time in opposition, it would be but fair that the gentleman from Kansas should yield half his time also in opposition to the rule.

Thereupon, Mr. Campbell and Mr. Pou yielded 10 minutes each to Members opposed to the resolution.

2690. The rule permitting forty minutes debate does not apply when the question on which the previous question is ordered without debate is otherwise undebatable.

On January 27, 1912,¹ Mr. Oscar W. Underwood, of Alabama, 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. 18642, the metal schedule tariff bill, and on that motion demanded the previous question.

The previous question being ordered, Mr. James R. Mann, of Illinois, demanded recognition for twenty minutes under the rule permitting forty minutes debate when the previous question is ordered on a proposition without previous debate.

The Speaker² held:

It seems to the Chair that if the motion to close debate were a debatable motion, the gentleman from Illinois would undoubtedly be correct in his point of order, but the motion to close debate is not debatable under any circumstances whatever, and therefore the point of order is overruled.

2691. If the House adjourn without voting on a proposition on which the previous question has been ordered, the question comes up as unfinished business on the next legislative day, Wednesday excepted.

On February 21, 1912,³ the day being Calendar Wednesday, Mr. Oscar W. Underwood, of Alabama, asked unanimous consent to take up for further consideration the bill H. R. 20182, the chemical schedule tariff bill, on which the previous question had been ordered at adjournment on the preceding day.

Objection was made and Mr. Underwood moved to interrupt proceedings in order on Calendar Wednesday for that purpose.

The question being put, the Speaker⁴ announced:

Two-thirds having voted in favor thereof, the motion is agreed to.

¹ Second session Sixty-second Congress, Record p. 1407.

² Champ Clark, of Missouri, Speaker.

³ Second session Sixty-second Congress, Record p. 2293.

⁴ Champ Clark, of Missouri, Speaker.

2692. On June 18, 1919,¹ the Speaker announced that the day was Calendar Wednesday and the regular order was the call of the committees under the rule.

Mr. Joseph Walsh, of Massachusetts, as a parliamentary inquiry, desired to know if the conference report on the bill (H. R. 3417) for the repeal of the daylight saving law, on which the previous question had been ordered at adjournment on the preceding day, was not the unfinished business.

The Speaker² held:

It will not be in order until to-morrow.

2693. A resolution coming over from the preceding day with the previous question ordered was held to take precedence of a motion for disposition of a veto message from the President.

On August 19, 1919,³ Mr. Thomas L. Blanton, of Texas, requested recognition to move to further postpone consideration of the message from the President returning without approval the daylight-saving bill, consideration of which had been postponed to that day.

The Speaker⁴ said:

The regular order is the unfinished business, House resolution 217, directing the Federal Trade Commission to inquire into the proposed increase in the price of shoes and the increased price of sugar, clothing, and coffee, which was pending when the House adjourned last night, on which the previous question was ordered. When the House adjourned last night a motion to recommit was pending, and on that the previous question had been ordered, as well as on the resolution. So, the first question is on the motion to recommit.

2694. Business in order on Friday and on which the previous question was pending at adjournment on that day comes up as the unfinished business on the next legislative day.

When the House adjourns on days set apart for special business without ordering the previous question, the pending measure comes up as the unfinished business on the next day on which that class of business is again in order.

The motion to recommit is not in order until the bill has been read the third time.

On Saturday, January 11, 1913,⁵ following the reading and approval of the Journal, the Speaker⁶ announced, as the unfinished business the bill (H. R. 27475) increasing Civil War pensions, which had been considered under the rule on Friday and had come over from the preceding day, with the previous question ordered.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the bill might not be again taken up for consideration until the next Friday on which that class of business was in order.

¹ First session Sixty-sixth Congress, Record p. 1303.

² Frederick H. Gillett, of Massachusetts, Speaker.

³ First session Sixty-sixth Congress, Record p. 3979.

⁴ Frederick H. Gillett, of Massachusetts, Speaker.

⁵ Third session Sixty-second Congress, Record p. 1405.

⁶ Champ Clark, of Missouri, Speaker.

The Speaker ruled:

The gentleman from Tennessee is a very careful student of the rules, and the Chair dislikes to summarily overrule any point he makes, but this matter has been decided several times, and at least once by Speaker Carlisle, who is universally admitted to be one of the greatest Speakers of the House. It has always been ruled against the contention of the gentleman from Tennessee, and the line of demarcation is that if the previous question is ordered on Friday it comes up as unfinished business on the next legislative day. If it is not ordered then, it will go over until the next Friday on which the committee has the right of way. The unfinished business is House bill 27475. When the House adjourned last night the previous question had been ordered on the bill and amendments to the final passage. Then the gentleman from Georgia, Mr. Roddenbery, made a motion to recommit with instructions, and the gentleman from New York, Mr. Fitzgerald, raised the point of order that the bill was not in the stage where a motion to recommit could be offered, and the gentleman from Missouri, Mr. Russell, made a motion for the previous question on the motion to recommit.

The question had never been raised before during the service in the House of the present occupant of the chair, and the practice of the House has been to offer the motion to recommit after the third reading of the bill. On a hasty reading of the rule it seemed to indicate that the motion to recommit might be offered at any time after a bill was reported back to the House, and the rule itself would bear that construction, so the Chair ruled that the gentleman from Georgia had the right to offer it when he did.

Since that the Chair has investigated the matter and is quite certain that the gentleman from New York was right and the Chair was wrong in that ruling and that the motion to recommit is not in order until after the third reading. The Chair makes this statement so that nobody will quote the ruling made last night hereafter as a precedent.