

## Chapter CCLII.<sup>1</sup>

### THE MOTION TO REFER AS RELATED TO THE PREVIOUS QUESTION.

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1. Applies to resolutions and certain motions. Sections 2742–2746.
  2. As applied to resolutions on which previous question is ordered. Sections 2747, 2748.
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**2742. The motion to commit after the ordering of the previous question, as provided by section 1 of Rule XVII, applies to simple resolutions as well as to bills and joint resolutions.**

**The motion to recommit may not be made while another has the floor, having begun debate, and a Member proposing a resolution is entitled to one hour for debate, during which time the motion may not be offered without his consent.**

On January 12, 1916,<sup>2</sup> Mr. Frank Buchanan, of Illinois, rising to a question of privilege, presented articles of impeachment against H. Snowden Marshall, United States district attorney for the Southern District of New York, and offered a resolution (H. Res. 90) directing the Committee on the Judiciary to investigate the charges preferred.

Mr. John J. Fitzgerald, of New York, proposed a motion to commit the resolution to the Committee on the Judiciary.

Mr. Buchanan submitted that he had not yielded the floor, and Mr. Fitzgerald was therefore not entitled to recognition for the purpose of moving to commit.

The Speaker sustained the point of order and recognized Mr. Buchanan for one hour.

At the conclusion of the hour Mr. Fitzgerald, being recognized, moved to refer the resolution to the Committee on the Judiciary.

Mr. Buchanan raised a question of order against the motion on the ground that the rule providing for the motion applied to bills and joint resolutions only.

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<sup>1</sup>Supplementary to Chapter CXXII.

<sup>2</sup>First session Sixty-fourth Congress, Record, p. 971.

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

As there was some question about that some time ago, the Chair will clear it all up at once.

There are two rules relating to the previous question and the motion to commit, which at first blush seem to be in conflict, but the Chair thinks there is no conflict. Rule XVII, section 1, provides:

“PREVIOUS QUESTION.

“1. There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.”

It has been decided that this rule applies to House resolutions as well as to the others.

Clause 4 of Rule XVI, which relates to joint resolutions, misled some of us in the beginning. That is as follows:

“4. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely, which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question. After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution.”

Now, that subdivision of Rule XVI applies to bills and joint resolutions, and if it applied here it would cut out this House resolution, but Rule XVII lets this motion in. The question is on the motion to refer this resolution to the Committee on the Judiciary.

**2743. The Committee of the Whole having reported back Senate amendments to a bill with recommendations for their disposition, it was held that a motion to recommit properly applied to the bill and not to the amendments.**

**It is not in order by way of a motion to recommit to strike out language inserted by the House.**

On August 16, 1921,<sup>2</sup> the House resolved into the Committee of the Whole House on the state of the Union under motion authorized by the following resolution:

*Resolved*, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the amendments of the Senate to the bill (H. R. 7294) entitled “An act supplemental to the national prohibition act,” under the five-minute rule. After the completion of such consideration the committee shall arise and report the amendments of the Senate to the House with such recommendation as may have been adopted, whereupon the previous question shall be considered as ordered on the Senate amendments and all motions incidental thereto recommended by the committee to final passage without intervening motion except one motion to recommit.

<sup>1</sup> Champ Clark, of Missouri, Speaker.

<sup>2</sup> First session Sixty-seventh Congress, Record, p. 5081.

Consideration having been concluded, the Committee rose and the Chairman reported—

that that committee had had under consideration the Senate amendments to H. R. 7294, and had directed him to report the same to the House with the recommendation that the amendments be agreed to and that the House concur in the action of the committee.

The question being taken on agreeing to the recommendation of the Committee of the Whole, it was decided in the affirmative.

Mr. Thomas L. Blanton, of Texas, asked recognition to move to recommit the bill.

Mr. John Q. Tilson, advanced the suggestion that—

we have been here passing upon a series of amendments to the bill in their order. The bill as a whole has not been before the House and is not before the House now, but a series of amendments.

Now, what would a motion to recommit carry? Would it carry one amendment or all amendments? I do not see what the motion to recommit can be made to apply to here. Each amendment has been passed upon seriatim and adopted and the matter closed. It seems to me we are not in a position of passing a bill through the House.

Mr. James R. Mann, of Illinois, too, the position that—

the bill is still in the possession of the House, and under the practice of the House, if not under the strict rules of the House, a motion to recommit is in order so long as the bill remains before the House and is not sent to conference. The rule itself is drawn, of course, in conformity with the usual provisions of rules, except the motion to recommit being cut out by the previous question.

Now, frequently it happens that a gentleman does not know, or the House does not know, whether it desires to vote for a motion to recommit until it has disposed of pending amendments. The last amendment recommended by the Committee of the Whole House on the state of the Union has just been voted on by the House. To say that a motion to recommit must have been made before the amendment was disposed of is to put the House in a very awkward position. It seems to me, in view of the practice and the precedents, it is not desirable to cut out the motion to recommit practically entirely, because it could not well be made until the committee amendments were acted upon.

You can order the bill to be engrossed and read a third time; you can make a motion to recommit generally, or make a motion to recommit with instructions as to certain amendments. The only amendments that would be in order now would be amendments, of course, to the Senate amendments. But the House might reverse its opinion as to a Senate amendment, although it had been disagreed to or agreed to.

That is what the motion to recommit is for. That is the practice—under the motion to recommit to reverse the action of the House and order a bill to the third reading.

Mr. Philip P. Campbell, of Kansas, agreed:

I was about to suggest, Mr. Speaker, that we are speculating now without knowing what the motion to recommit may be. I have no doubt the motion to recommit will be subject to the point of order, but I think there is no question that it is in order to offer a motion to recommit.

The Speaker held the motion to recommit in order, and recognized Mr. Blanton, who moved—

to recommit the bill to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following language stricken from the bill:

*“Provided further, That this provision against importation shall not apply to shipments en route to the United States at the time of the passage of this act.”*

Mr. Tilson made the point of order that the motion to recommit proposed to strike out language just adopted by the House.

Mr. Mann support the point of order, and said:

Speaker Clark held repeatedly—and his holdings have been followed by the present Speaker—that it was not in order in a motion to recommit to direct the committee to report back striking out an amendment which had been agreed to by the House; so this motion is not in order, because that is what it proposes to do.

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

**2744. The previous question having been ordered on a motion to agree to a Senate amendment to a House bill, a motion to recommit is in order.**

On February 10, 1910,<sup>2</sup> the House was considering amendments of the Senate to the urgent deficiency appropriation bill.

Mr. Augustus P. Gardner, of Massachusetts, moved that the House recede from its disagreement to Senate amendment No. 39, providing for a commission to study immigration problems, and concur therein.

On motion of Mr. James A. Tawney, of Minnesota, the previous question was ordered.

Mr. John J. Fitzgerald, of New York, moved to commit the bill and amendment to the Committee on Immigration and Naturalization, with instructions to report it back to the House with an amendment to the Senate amendment.

Mr. Gardner made the point of order that while motion to recommit would be in order before the stage of disagreement was reached, under the pending status that motion would be in order which would tend to most speedily bring the Houses together.

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

The Chair will read:

“The previous question having been ordered on a motion to agree to a Senate amendment to a House bill”—

Which is this case—

“a motion to commit is in order.

“On November 1, 1893, the House was considering the Senate amendments to the bill (H. R. 1) to repeal a part of the act of July 14, 1890, relating to the purchase of silver bullion.

“Mr. Leonidas F. Livingston, of Georgia, submitted the question of order whether after the previous question should have been ordered on a motion to concur in a Senate amendment, it would be in order to commit the bill and amendment to a committee with instructions.

“The Speaker expressed the opinion that the motion to commit would in such case be in order.”

That was a ruling by Mr. Speaker Crisp, of Georgia. The Chair has not been referred to, and does not recollect any other precedents, but upon general principles it seems to the Chair that the precedent referred to is correct. The previous question operates upon a motion to recede and concur. Under the operation of that question the House has receded, and the question now is, the previous question operating, whether the House will concur, which brings the two bodies together. But the motion to commit with instructions, under Rule XVII and under the precedents, seems to the Chair to be in order. The Clerk will report the motion.

**2745.** On March 1, 1915,<sup>4</sup> the House was considering Senate amendments to the agricultural appropriation bill.

<sup>1</sup> Frederick H. Gillett, of Massachusetts, Speaker.

<sup>2</sup> Second session Sixty-first Congress, Record, p. 1720.

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

<sup>4</sup> Third session Sixty-third Congress, Record, p. 5053.

The previous question having been ordered, Mr. Otis Wingo, of Arkansas, offered a motion to recommit, and on that motion moved the previous question.

Mr. Augustus P. Gardner, of Massachusetts, raised a question of order against the motion and argued:

Mr. Speaker, the general practice of a motion to recommit under general parliamentary law is that it shall not be in order after the previous question. But the practice grew up because it was found that we considered bills in such a narrow way that there was only one amendable stage.

The House was given an extra stage for a record vote, for a last glance, by a motion to recommit after the previous question was ordered. That was done because it was found that the House was in the habit of ordering the previous question without much thought. Therefore this new stage in the consideration of a bill when it first went through the House, the equivalent of an extra reading, as it were, was allowed. That is allowed by two rules; first by section 4 of Rule XVI, which reads:

“After the previous question shall have been ordered on the passage of a bill or joint resolution”—

This is not a bill or joint resolution, with the question of passage pending, but a question of agreeing to a certain amendment—“one motion to recommit shall be in order, and the Speaker shall give preference”—

And so forth.

That is Rule XVI, section 4. Now, there is another rule of the House under which a motion to recommit is permissible after the previous question is ordered. It is Rule XVII, paragraph 1. The last sentence of that paragraph reads:

“It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage”—

This is not the question of the passage; this is a question of agreeing to a Senate amendment—“for the Speaker to entertain and submit a motion to recommit, with or without instructions, to a standing or select committee.”

In other words, Mr. Speaker, this is not a case for one of these extra stages. They are not separate readings, first, second, and third, motions to engross, and so forth, but a plain question of agreeing to a Senate amendment. It is not a question needing a successive stage.

The Speaker<sup>1</sup> overruled the point of order, and said:

By analogy there must be some place, somewhere, to make the motion to recommit. The question now is on the motion for the previous question on the motion to recommit.

**2746. The motion to refer is in order before the previous question is demanded, but after the previous question has been ordered on a bill to final passage, the motion to refer is not admissible until after the third reading.**

On March 5, 1930,<sup>2</sup> the House was considering the bill (H. R. 9683) to amend the Federal reserve act by prescribing a penalty for circulation of statements derogatory to National and State member banks.

The consideration of the bill for amendment having been completed, a motion by Mr. Luis T. McFadden, of Pennsylvania, for the previous question on the bill and all amendments to final passage was agreed to.

Whereupon, Mr. Charles H. Brand, of Georgia, asked recognition to offer a motion to refer the bill to the Committee on Banking and Currency.

<sup>1</sup> Champ Clark, of Missouri, Speaker.

<sup>2</sup> Second session Seventy-first Congress, Record, p. 4389.

The Speaker pro tempore <sup>1</sup> declined recognition and said:

That comes on the final passage of the bill, before the question is put on the final passage.

It seems to the Chair that the practice is well established, the previous question on the bill to final passage having been adopted, the motion to recommit is not in order until after the vote on the engrossment and third reading of the bill and before the final passage of the bill.

Mr. Charles F. Crisp, of Georgia, took issue with the Chair and argued that the distinction between the two motions, the motion to refer and the motion to recommit, had not been taken into consideration, and that the former was in order either before or after the ordering of the previous question.

The Speaker pro tempore dissented and held:

The previous question shuts off the right to make a motion to refer until after the motion on the engrossment and third reading of the bill is disposed of. The motion to refer might have been in order before the previous question was ordered on the bill to final passage; but the previous question having been ordered it seems clear to the Chair that a motion to refer is not now in order until after the vote on the engrossment and third reading.

The rule, as the Chair understands it, is, as stated in the Manual—section 790—as follows:

“The motion to commit may be made pending the demand for the previous question on the passage, whether a bill or resolution be under consideration (V, 5576); but when the demand covers all stages of the bill to the final passage the motion to commit is made only after the third reading, and is not in order pending the demand or before the engrossment or third reading. (V, 5578–5581.)”

The previous question was ordered on the bill to final passage, so that it seems clear to the Chair that the motion to recommit is not in order until after the motion on the engrossment and third reading is disposed of.

**2747. Where the motion for the previous question covers all stages of the bill to final passage the motion to recommit is made after the third reading, and is not in order after the question has been put on the passage of the bill.**

On March 11, 1924,<sup>2</sup> the previous question has been ordered on the resolution (H. Res. 216) regarding a request Attorney General for certain information relative to charges against two Members of the House.

A pending amendment having been agreed to, the Speaker put the question on agreeing to the passage of the resolution.

Mr. Finis J. Garrett, of Tennessee, demanded the yeas and nays on the question and, a parliamentary inquiry, asked if it would be in order to move to recommit the resolution.

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

It was in order before this vote was taken. The Chair has put the question on agreeing finally to the resolution, and the gentleman from Tennessee has demanded the yeas and nays. Obviously, it is too late. The gentleman from Tennessee demands the yeas and nays.

**2748. The motion to recommit a simple resolution may be made at any time before the question is put on the passage of the resolution and is not in order after the resolution has been agreed to.**

<sup>1</sup> Carl E. Mapes, of Michigan, Speaker pro tempore.

<sup>2</sup> First session Sixty-eighth Congress, Record, p. 3994.

<sup>3</sup> Frederick H. Gillett, of Massachusetts, Speaker.

**The Member in charge of the bill is entitled to prior recognition to move the previous question.**

On June 11, 1919,<sup>1</sup> Mr. Carl E. Mapes, of Michigan, by direction of the Committee on Accounts, presented as privileged the resolution (H. Res. 98) authorizing expenditures by the Select Committee on Expenditures in the War Department.

Mr. Thomas L. Blanton, of Texas, asked recognition to offer an amendment.

Mr. Mapes requested recognition to move the previous question on the resolution.

The Speaker recognized Mr. Mapes, as the Member in charge of the bill, to demand the previous question.

The previous question was ordered, and the question recurring on the passage of the resolution it was decided in the affirmative without division.

Mr. Blanton offered a motion to recommit the resolution to the Committee on Accounts with instructions to report it back forthwith with an amendment striking out provision for compensation for legal services.

Mr. Madden made the point of order that the motion was not in order after the resolution had been agreed to.

After debate the Speaker<sup>2</sup> said:

The gentleman from Texas rose and said he wished to offer an amendment, and at the same time the gentleman from Michigan who had charge of the bill rose and moved the previous question. The Chair followed the precedent of all Speakers in recognizing the gentleman who had charge of the bill for the motion for the previous question. If the House wished to consider the amendment of the gentleman from Texas and did not wish the previous question it could have voted it down. The previous question, however, was ordered by the House and the gentleman then made no motion to recommit. The resolution itself was then adopted, and after the resolution was adopted the gentleman from Texas offered a motion to recommit. The time for the motion to recommit is before the passage of a bill, but a resolution differs from an ordinary bill, because with an ordinary bill there is a third reading and after that and before the passage of the bill the motion to recommit must be made. Here there was no third reading, so there was but one motion for the passage of the resolution and the motion to recommit should have been made before that motion. It can not be made after the resolution has passed. The Chair sustains the point of order.

**2749. The previous question having been ordered, a motion to recommit embodying argument is not in order.**

On November 29, 1922,<sup>3</sup> the House had under consideration the bill (H. R. 12817) to amend the merchant marine act of 1920.

The previous question having been ordered, Mr. Rufus Hardy, of Texas, offered a motion to recommit the bill to the Committee on Merchant Marine and Fisheries with instructions to report it back to the House forthwith with certain amendments, including an amendment to—

Strike from the bill all the provisions of Title IV, all of which relate to granting subsidies to ship-owners.

Mr. Everett Sanders, of Indiana, made the point of order that the instructions carried by the motion to recommit embodied argument and was not admissible under the operation of the previous question.

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<sup>1</sup>First session Sixty-sixth Congress, Record, p. 975.

<sup>2</sup>Frederick H. Gillett, of Massachusetts, Speaker.

<sup>3</sup>Third session Sixty-seventh Congress, Record, p. 427.

The Speaker<sup>1</sup> held that argument was not in order in a motion to recommit, and that the instructions included descriptive matter which might be construed as argumentative.

**2750. The motion to recommit is not admitted after the previous question has been ordered on a report from the Committee on Rules.**

On April 5, 1909,<sup>2</sup> Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, reported a resolution providing for the consideration of the bill H. R. 1438, the tariff bill.

The previous question having been ordered, Mr. Champ Clark, of Missouri, offered a motion to recommit the resolution to the Committee on Rules with instructions to report it back with an amendment providing for consideration under the five-minute rule.

Mr. Dalzell made the point of order that the motion to recommit was not admissible after the previous question had been ordered on a report from the Committee on Rules.

After debate, the Speaker<sup>3</sup> read a decision<sup>4</sup> by former Speaker Crisp, and said:

This ruling of Mr. Speaker Crisp has been four times, the Chair is reminded, sustained by Mr. Speaker Henderson, and the present occupant of the chair has on two occasions followed the rulings of Mr. Speaker Crisp and Mr. Speaker Henderson. The Chair now reads from the Manual, page 273, at the bottom, the rule that was adopted in the Congress presided over by Mr. Speaker Crisp, as follows:

“It shall always be in order to call up for consideration a report from the Committee on Rules, and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of.”

And under that rule these decisions were made by Mr. Speaker Crisp, by Mr. Speaker Henderson, and the present occupant of the chair. It is an exception under the express rule to the ordinary practice arising under Rules XVI and XVII.

The question is on the motion of the gentleman from Pennsylvania.

**2751. On June 17, 1910,<sup>5</sup> Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, reported the resolution (H. Res. 808) amending the rules of the House by adding a new section to Rule XXVIII, providing for the motion to discharge committees from the further consideration of bills under certain circumstances.**

After debate, on motion of Mr. Walter I. Smith, of Iowa, the previous question was ordered.

Mr. William W. Rucker, of Missouri, as a parliamentary inquiry, asked if it would be in order to move to recommit the resolution.

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

Under the decisions, beginning with Speaker Crisp down to the present time, a motion to recommit a resolution from the Committee on Rules does not apply; is not in order.

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<sup>1</sup> Frederick H. Gillett, of Massachusetts, Speaker.

<sup>2</sup> First session Sixty-first Congress, Record, p. 1117.

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

<sup>4</sup> Section 5594 of Hinds' Precedents.

<sup>5</sup> Second session Sixty-first Congress, Record, p. 8445.

<sup>6</sup> Joseph G. Cannon, of Illinois, Speaker.

**2752.** On October 5, 1917,<sup>1</sup> Mr. Finis J. Garrett, of Tennessee, reported from the Committee on Rules the resolution (H. Res. 168) providing for consideration of the bill H. R. 5723, the war-risk insurance bill, and, after debate, moved the previous question on the resolution.

Mr. Frederick H. Gillett, of Massachusetts, offered a motion to recommit.

Mr. John J. Fitzgerald, of New York, made the point of order that the rule admitting the motion to recommit after the demand for the previous question did not apply to reports from the Committee on Rules.

The Speaker<sup>2</sup> cited a decision by former Speaker Cannon on a similar question of procedure, and sustained the point of order.

**2753.** On January 31, 1929,<sup>3</sup> Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules, presented for privileged consideration the resolution (H. Res. 303) to take from the Speaker's table and send to conference the first deficiency appropriation bill with Senate amendments thereto.

Mr. Charles R. Crisp, of Georgia, submitted a parliamentary inquiry as to whether it would be in order to move to recommit the resolution to the Committee on Rules with instructions.

After extended debate, the Speaker<sup>4</sup> held:

Clause 4 of Rule XVI of the House with regard to the full liberty of the motion to recommit is as follows:

"After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the speaker shall give preference in recognition for such purposes to a Member who is opposed to the bill or joint resolution."

This is not a joint resolution. It is a House resolution. The Chair thinks that a motion to recommit this resolution is not in order.

**2754.** On May 31, 1932,<sup>5</sup> Mr. Edward W. Pou, of North Carolina, from the Committee on Rules, by direction of that committee, reported a resolution providing for the appointment of a special committee to investigate Government competition with private enterprise.

The previous question having been ordered, Mr. Tilman B. Parks, of Arkansas, inquired if it would be in order to move to recommit the resolution.

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

A motion to recommit a special rule from the Committee on Rules is not in order.

The question is on the passage of the resolution.

**2755. Before the adoption of rules, while the House was acting under general parliamentary law, it was held that the motion to recommit was in order pending the motion for the previous question or after it has been ordered on a resolution.**

On April 7, 1913,<sup>7</sup> at the organization of the House and prior to the adoption of rules, Mr. Robert L. Henry, of Texas, offered a resolution (H. Res. 8) to adopt the rules of the Sixty-second Congress as the rules of the Sixty-third Congress.

<sup>1</sup> First session Sixty-fifth Congress, Record, p. 7849.

<sup>2</sup> Champ Clark, of Missouri, Speaker.

<sup>3</sup> Second session Seventieth Congress, Journal, p. 399; Record, p. 2550.

<sup>4</sup> Nicholas Longworth, of Ohio, Speaker.

<sup>5</sup> First session Seventy-second Congress, Record, p. 11681.

<sup>6</sup> Loring M. Black, of New York, Speaker pro tempore.

<sup>7</sup> First session Sixty-third Congress, Record, p. 77.

After debate, on motion of Mr. Henry, the previous question was ordered on the adoption of the resolution.

Mr. A. W. Lafferty, of Oregon, moved to recommit the resolution to a select committee to be appointed by the Speaker,<sup>1</sup> with instructions to report the resolution back to the House with a substitute providing for the adoption of the rules of the Sixty-second Congress with certain amendments.

Mr. Thomas W. Hardwick, of Georgia, made the point of order that the motion to recommit was not admissible under general parliamentary law.

The Speaker, in ruling, cited decisions by former Speakers Crisp, Reed, and Carlisle holding that under parliamentary law and the practice of the House it was customary before the adoption of rules to entertain the motion to recommit pending a motion for the previous question or after ordering of the previous question, and overruled the point of order.

**2756.** On December 7, 1931,<sup>2</sup> at the opening session of the Seventy-second Congress, prior to the adoption of rules, Mr. Edward W. Pou, of North Carolina, offered a resolution providing for the adoption of rules.

Mr. Carl E. Mapes, of Michigan, rising to a parliamentary inquiry, asked if in event the previous question was ordered on the resolution a minority Member would be recognized to offer a motion to recommit.

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

Within the spirit of the rules of the Seventy-first Congress on the motion to recommit, the Chair thinks that they would have that right. Speaker Clark, at the beginning of the Sixty-third Congress, ruled to the same effect.

**2757. A rule provides that after the previous question is ordered on the passage of a bill preference in recognition to move to recommit shall be given a Member opposed to the bill.**

**Form and history of section 4 of Rule XVI.**

A paragraph of section 4 of Rule XVI provides:

After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution.

This amendment to section 4 of Rule XVI was agreed to March 15, 1909,<sup>4</sup> in the adoption of the rules at the organization of the House in the Sixty-first Congress.

Provision for the motion to recommit after the ordering of the previous question had been afforded by the rules<sup>5</sup> since 1880.<sup>6</sup> But debate on the adoption of this amendment indicates that the modification was occasioned by the practice which had grown up under which the Speaker recognized the Member in charge of the bill to make the motion to recommit, in effect nullifying the purpose of the

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<sup>1</sup> Champ Clark, of Missouri, Speaker.

<sup>2</sup> First session Seventy-second Congress, Record, p. 12.

<sup>3</sup> John N. Garner, of Texas, Speaker.

<sup>4</sup> First session Sixty-first Congress, Record, p. 22.

<sup>5</sup> Section 1 of Rule XVII.

<sup>6</sup> Record, p. 23.

motion. This amendment is intended to insure recognition of a Member actually opposed to the measure and afford the House a last opportunity to express its preference on the final form of the bill.

**2758. A unanimous-consent agreement to close debate and vote at a specific time is in effect an order for the previous question, and the motion to recommit is in order under Rule XVI.**

**The motion to recommit and the motion to recommit with instructions are of equal privilege and have no relative precedence.**

**Recognition to move recommitment is determined by the attitude of proponents on the pending bill, and a Member opposed to the bill without qualification is recognized in preference to a Member opposed to the bill in part or conditionally.**

On July 12, 1909,<sup>1</sup> on motion of Mr. Sereno Payne, of New York, by unanimous consent, the joint resolution (S. J. Res. 40) proposing a constitutional amendment providing for an income tax, was taken up for consideration, debate thereon to continue until 4 o'clock p. m., at which time a vote should be taken.

The time for debate having expired, Mr. Robert L. Henry, of Texas, proposed to offer a motion to recommit the joint resolution.

Mr. Payne made the point of order that the agreement limiting debate was equivalent to ordering the previous question and amendments were not in order.

After debate, the Speaker<sup>2</sup> ruled:

The Chair will rule in this case according to the order of the House, whatever the consequences of that ruling may be. It is not the office or the duty of the Chair to disobey the rules of the House upon one hand as its presiding officer, or set aside the order upon the other. Now, what is the situation? In a colloquy between the gentleman from New York, Mr. Payne, and the gentleman from Missouri, Mr. Clark, as to time for discussion upon this joint resolution it was agreed, in substance, that general debate should be closed upon the resolution at 4 o'clock, at which time a vote should be taken upon the joint resolution. Now, then, in the opinion of the Chair, that is equivalent to the previous question, by unanimous consent, and if there was no such thing as the previous question under the rules of the House an agreement made by unanimous consent that a vote shall be taken upon a joint resolution at a given time would only be dispense with by the same unanimous consent, in the opinion of the Chair, that made the agreement; so that the agreement operates as the previous question, and was something more than the previous question, because under that agreement, made by unanimous consent, in the opinion of the Chair it would require unanimous consent to unmake it. Therefore the Chair must hold that the point of order is well taken upon the amendment.

An appeal by Mr. Henry from the decision of the Chair was, on motion of Mr. Payne, laid on the table, yeas 186, nays 144.

The joint resolution was ordered to a third reading and was read a third time.

Mr. Henry again proposed to offer a motion to recommit. Mr. Augustus P. Gardner, of Massachusetts, also asked recognition to move to recommit the joint resolution.

The Speaker said:

After the previous question shall have been ordered on the passage of a bill or joint resolution, a motion to recommit shall be in order; and the Speaker shall give preference of recognition for

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<sup>1</sup>First session Sixty-sixth Congress, Record, p. 4438.

<sup>2</sup>Joseph G. Cannon, of Illinois, Speaker.

such purpose to a Member who is opposed to the bill or joint resolution. Is the gentleman an opponent of the joint resolution?

Mr. Henry replied:

I am opposed to it as long as there is any chance under the rules to amend it and make it a better proposition.

Mr. Gardner stated:

Mr. Speaker, I am opposed to the joint resolution.

The Speaker thereupon recognized Mr. Gardner as complying with the requirements of the rule.

Mr. Henry, as a parliamentary inquiry, asked if the motion to recommit with an amendment did not take precedent of the simple motion to recommit.

The Speaker replied in the negative.

**2759. Unless the previous question is ordered, a motion to recommit with instructions is open to amendment, and a substitute striking out all proposed instructions and substituting others can not be ruled out as interfering with the right of the minority to move recommitment.**

On August 16, 1912,<sup>1</sup> under authorization of a special order (H. Res. 1196), Mr. John A. Moon, of Tennessee, moved to take from the Speaker's table the Post Office appropriation bill, disagree to the Senate amendments thereto, and send the same to conference.

The previous question having been ordered, Mr. James R. Mann, of Illinois, moved to commit the Senate amendments to the Committee on the Post Office and Post Roads with instructions to report back forthwith with the recommendation that Senate amendment No. 118 be agreed to.

Mr. Moon moved to amend the motion by striking out the instructions and substituting others.

Mr. George W. Norris, of Nebraska, made the point of order that the amendment in proposing to strike out all instructions in effect deprived the minority of the right to move to recommit.

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

The Chair does not believe that at all. The Chair thinks that when the Chair has given to the minority a right to make a motion, although Rule XVII does not recognize and does not require it, though Rule XVI does, and when the minority exercises that right under the preference given by the item to make the motion, then the motion is in the hands of the House and subject to every rule of the House and to every rule of amendment. But there is no question in the mind of the Chair but that the motion of the gentleman from Tennessee is germane to the subject, and it does not take away from the minority the preferential right in the matter, but it has a right to say whether it prefers the proposition of the minority or the majority.

**2760. Under Rule XVII, one proper motion to recommit is in order pending demand for the previous question or after the previous question has been ordered.**

**A motion to recommit having been ruled out of order, another motion is in order if offered in good faith, but subsequent recognition to move**

<sup>1</sup> Second session Sixty-second Congress, Record, p. 11090.

<sup>2</sup> Champ Clark, of Missouri, Speaker.

**recommitment is within the discretion of the Speaker and may be denied if dilatory.**

On December 5, 1912,<sup>1</sup> the House resumed consideration of the bill (H. R. 22593) for the physical valuation of railroads, on which the previous question had been ordered and on which a motion to recommit with instructions offered by Mr. James R. Mann, of Illinois, was pending.

Mr. Thetus W. Sims, of Tennessee, made a point of order that the instructions proposed included amendments not germane to the bill.

The point of order being sustained, Mr. Mann proposed to offer a further motion to recommit with instructions.

Mr. William A. Cullop, of Indiana, raised a question of order against the motion, first, on the ground that the motion to recommit was not admissible after the previous question had been ordered, and, second, that a similar amendment proposed in a motion to recommit had already been ruled out of order.

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

The Chair overrules the first point of order that this motion to commit could not be offered after the previous question was ordered. The rule is clear on that question. Rule XVII, says:

“It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.”

The Chair, for the elucidation of the matter, will state this in regard to how many motions anybody is allowed to make to recommit. Of course a Member can only make one if it is germane, but a motion to recommit is not a motion to recommit at all if it is ruled out on the point of order, and the logic of the rule is that everybody wanted the privilege of making a motion to recommit to be absolute so nobody could take the power away from a Member, and a Member would have the right to offer a motion to recommit which is germane. If that turned out to be obnoxious to the point of order, that would go out. Well, now, the Chair does not undertake to say that a Member can offer motions to recommit interminably that are not germane. That is a matter in the discretion of the Chairman at the time, but where the Chair believes a Member is acting in good faith he will entertain them within reasonable limits. The Chair overrules the second point of order on the proposition submitted now, and the question is on the motion to recommit with the last instructions read.

**2761. A motion to recommit having been ruled out of order with the previous question operating, a proper motion to recommit may be offered.**

On January 15, 1932,<sup>3</sup> the Committee of the Whole House on the state of the Union reported the bill H. R. 7360, the farm relief bill, providing for the establishment of the Finance Relief Corporation, with amendments and with the previous question operating under the special order under which it was being considered.

Mr. Louis T. McFadden, of Pennsylvania, moved to recommit the bill to the Committee on Banking and Currency with instructions including an amendment which was ruled out of order as not germane.

Whereupon, Mr. Fiorello H. LaGuardia, of New York, offered a motion to recommit.

Mr. John J. O'Connor, of New York, made the point of order that one motion to recommit having been offered under the rule, a second motion was not in order.

<sup>1</sup>Third session Sixty-second Congress, Record, p. 176.

<sup>2</sup>Champ Clark, of Missouri, Speaker.

<sup>3</sup>First session Seventy-second Congress, Record, p. 2080.

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

The point of order having been sustained to the motion to recommit by the gentleman from Pennsylvania, Mr. McFadden, a motion to recommit by the gentleman from New York, Mr. LaGuardia, is in order. I will ask the gentleman from New York if he is opposed to the bill?

Mr. LaGuardia having answered in the affirmative, the Speaker directed the Clerk to report the motion.

**2762. Under the later rule but one motion to recommit is in order, and the Speaker in recognizing for the motion is required to give preference to a Member opposed to the bill.**

**The motion to recommit is subject to amendment, as by adding instructions, unless the previous question is ordered.**

**In construing the rules no distinction is made between the motion to recommit and the motion to recommit with instructions, and neither is entitled to precedence over the other.**

**In recognizing for the motion to recommit, the Speaker gives preference to members of the committee reporting the bill, and if no member of the committee rises, recognizes within his discretion any Member opposed to the bill and from such recognition there is no appeal.**

On March 15, 1910,<sup>2</sup> the pending question was on the passage of the legislative, executive, and judicial appropriation bill.

Mr. William S. Bennet, of New York, moved to recommit the bill to the Committee on Appropriations.

Simultaneously, Mr. Martin D. Foster, of Illinois, and Mr. William A. Cullop, of Indiana, respectively, asked recognition to offer motions to recommit.

The Speaker,<sup>3</sup> after severally ascertaining their attitude on the bill, ruled:

Neither of the three gentlemen, rising at substantially the same time, are on the Committee on Appropriations. Neither one, so far as the Chair can determine, has any prior title to recognition, and therefore the Chair under that condition will recognize the gentleman on the majority side.

There can be but one motion to recommit, and the motion to recommit with instructions is, in fact, substantially the same as the motion to recommit. A motion to recommit is amendable with instructions, provided the motion for the previous question is defeated. They are, in fact, therefore the same motions. And the Chair may state further that the practice of the House has been, so far as the Chair recollects, on motions to recommit, prior to the adoption of the late rule upon that subject, to recognize a friend of the bill. The interjection of the motion to refer after the previous question is ordered is an anomalous proceeding, and in order only because of a special provision of the rules. The object of this provision was, as the Chair has always understood, that the motion should be made by one friendly to the bill, for the purpose of giving one more change to perfect it, as perchance there might be some error that the House desired to correct. But since the adoption of the late rule upon this subject, the Chair is compelled, provided some one arises and moves to recommit the bill, to submit the question: "Is the gentleman opposed to the bill?" And if so, the Chair, following the kindred practice of the House, would have recognized some one on the Committee on Appropriations who was opposed to the bill.

But no one arising, the Chair is at liberty to recognize any gentleman that arises to make the motion. The gentleman from New York, who first addressed the Chair, states that he is opposed to the bill, and therefore the Chair recognizes the gentleman from New York.

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<sup>1</sup> John N. Garner, of Texas, Speaker.

<sup>2</sup> Second session Sixty-first Congress, Record, p. 3220.

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

Mr. Foster proposed to appeal from the decision of the Chair.

The Speaker declined to entertain an appeal on a question of recognition.

Mr. Bennet moved the previous question on his motion to recommit.

The question being taken on ordering the previous question was decided in the negative.

Mr. Foster moved to amend the motion to recommit by adding instructions to report the bill back forthwith with an amendment striking out appropriations for automobiles for the Speaker and the Vice President, and on that motion asked the previous question.

Mr. Cullop then requested recognition to offer an amendment to the pending amendment.

The Speaker reminded that the previous question has been ordered and further amendment was not in order.

**2763. One proper motion to recommit is in order under operation of the previous question, and one motion being ruled out, another motion to recommit is in order.**

On May 8, 1913,<sup>1</sup> the House was considering the bill H. R. 3321, the tariff bill, which had come over as unfinished business from the preceding day with the previous question ordered.

Mr. Sereno E. Payne, of New York, offered a motion to recommit with instructions which was held not to be germane to the bill, on a point of order raised by Mr. Oscar W. Underwood, of Alabama.

Mr. Payne then offered a motion to recommit with other instructions.

Mr. Victor Murdock of Kansas, raised the question of order that Mr. Payne had already been recognized to offer a motion to recommit and was not entitled to a second recognition for that purpose.

The Speaker<sup>2</sup> overruled the point of order, and held that the first motion to recommit, having been ruled out, was not considered as complying with the requirement of the rule and it was still in order to entertain a proper motion to recommit.

**2764. The leading opponent of the pending measure is entitled to prior recognition to move to recommit.**

**A motion may be withdrawn in the House at any time before action or decision thereon.**

On August 5, 1911,<sup>3</sup> the House was considering the resolution (H. Res. 246) adopting the report of the Committee on Expenditures in the State Department on charges against certain officials in that department in connection with the painting of the portrait of former Secretary of State Day.

The previous question having been ordered, Mr. John Q. Tilson, of Connecticut, moved to recommit the resolution to the Committee on Expenditures in the Department of State.

Mr. John A. Martin, of Colorado, also proposed to offer a motion to recommit.

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<sup>1</sup> First session Sixty-third Congress, Record, p. 1384.

<sup>2</sup> Champ Clark, of Missouri, Speaker.

<sup>3</sup> First session Sixty-second Congress, Record, p. 3666.

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

The gentleman from Connecticut, who led the fight against this resolution is, I think, entitled to make the motion to recommit.

Mr. Tilson thereupon announced the withdrawal of his motion in order to permit Mr. Martin to move to recommit.

The Speaker said:

The Chair is of the opinion that the spirit of the rule is that the leader on the side of opposition to a particular measure has the right to make the motion to recommit, and his side itself has that preference. The Chair offered to recognize the gentleman from Connecticut, Mr. Tilson, to make the motion to recommit, but the gentleman from Connecticut waived his right and asked the Chair to recognize the gentleman from Colorado.

Mr. Ollie M. James, of Kentucky, made the point of order that a motion could not be withdrawn in the House save by unanimous consent.

The Speaker said:

Any motion in the House can be withdrawn before action is taken.

**2765. The practice is for the Speaker to ask a Member offering a motion to recommit if he is opposed to the bill, and if he is not, then to inquire if any Member opposed to the bill desires to move recommitment, and if none rises the Member first rising is recognized.**

On October 1, 1918,<sup>2</sup> the bill H. R. 12776, the emergency power bill, was ordered to be engrossed and was read a third time.

Mr. Richard Wayne Parker, of New Jersey, proposed to offer a motion to recommit the bill with instructions.

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

Is the gentleman opposed to the bill?

Mr. Parker replied:

No.

The Speaker then inquired:

Does any gentleman in the House who is opposed to the bill desire to make a motion to recommit? If not, the Chair will recognize the gentleman from New Jersey.

There being no response, the Speaker recognized Mr. Parker to offer the motion proposed.

**2766.** On February 28, 1919,<sup>4</sup> the House was considered the sundry civil appropriation bill, on which the previous question had been ordered to final passage.

Mr. John L. Burnett, of Alabama, offered a motion to recommit the bill to the Committee on Appropriations.

The Speaker<sup>5</sup> asked if the gentleman was opposed to the bill, and on being answered in the negative announced:

If anybody who is opposed to the bill wants to offer a motion to recommit, the Chair will recognize him. Anybody who qualifies by stating that he is opposed to the bill has the right

<sup>1</sup> Champ Clark, of Missouri, Speaker.

<sup>2</sup> Second session Sixty-fifth Congress, Record, p. 11011.

<sup>3</sup> Champ Clark, of Missouri, Speaker.

<sup>4</sup> Third session Sixty-fifth Congress, Record, p. 4673.

<sup>5</sup> Champ Clark, of Missouri, Speaker.

of way. If nobody does that, then the gentleman from Alabama will be recognized. The Clerk will report the motion offered by the gentleman from Alabama.

**2767. In recognizing Members to move to recommit the Speaker gives preference, first, to the ranking minority member of the committee reporting the bill; then to the remaining minority members of that committee in the order of their rank, and if no member of the committee qualifies, then to the leader of the minority party in the House.**

On May 7, 1913,<sup>1</sup> during consideration of the bill H. R. 3321, the tariff bill, the speaker,<sup>2</sup> in response to a parliamentary inquiry submitted by Mr. Victor Murdock, of Kansas, said:

The Chair laid down this rule, from which he never intends to depart unless overruled by the House, that on a motion to recommit he will give preference to the gentleman at the head of the minority list, provided he qualifies, and then go down the list of the minority of the committee until it is gotten through with. And then if no one of them offer a motion to recommit the Chair will recognize the gentleman from Illinois, Mr. Mann, to make it, but if he does not do so, will recognize the gentleman from Kansas, Mr. Murdock, as the leader of the third party in the House. Of course he would have to qualify. The Chair will state it again. The present occupant of the chair laid down a rule here about a year ago that in making this preferential motion for recommitment the Speaker would recognize the top man on the minority of the committee if he qualified—that is, if he says he is opposed to the bill—and so on down to the end of the minority list of the committee. Then, if no gentleman on the committee wants to make the motion, the Speaker will recognize the gentleman from Illinois, Mr. Mann, because he is the leader of the minority. Then, in the next place, the Speaker would recognize the gentleman from Kansas, Mr. Murdock. But in this case, the gentleman from Kansas, Mr. Murdock, is on the Ways and Means Committee, which would bring him in ahead, under that rule, of the gentleman from Illinois, Mr. Mann.

**2768. Members of the committee reporting a bill are entitled to prior recognition for the purpose of moving to recommit.**

On February 22, 1921,<sup>3</sup> the conference report on the first deficiency appropriation bill was under consideration in the House.

The previous question having been ordered, Mr. Alben W. Barkley, of Kentucky, asked recognition to offer a motion to recommit.

Mr. George Holden Tinkham, of Massachusetts, claimed prior right to recognition to move to recommit for the reason that he was a member of the Committee on Appropriations reporting the bill.

The Speaker<sup>4</sup> thereupon recognized Mr. Tinkham.

**2769. A member of the committee reporting a bill is entitled to prior recognition to move recommitment in preference to one not a member of the committee.**

**A Member opposed to the bill as a whole is recognized to move to recommit in preference to one opposed to a portion of the bill only.**

On January 14, 1913,<sup>5</sup> the House had under consideration the Post Office appropriation bill, on which the previous question had been ordered to final passage.

<sup>1</sup> First session Sixty-third Congress, Record, p. 1373.

<sup>2</sup> Champ Clark, of Missouri, Speaker.

<sup>3</sup> Third session Sixty-sixth Congress, Record, p. 3645.

<sup>4</sup> Frederick H. Gillett, of Massachusetts, Speaker.

<sup>5</sup> Third session Sixty-second Congress, Record, p. 1519.

The bill having been read a third time, Mr. John J. Gardner, of New Jersey, and Mr. Victor Murdock, of Kansas, rose to move to recommit the bill.

The Speaker<sup>1</sup> inquired of the gentlemen in turn if they were opposed to the bill.

Mr. Gardner replied:

I am not opposed to the bill in the sense that I would vote against it as it now stands, but I am opposed to a provision in it as it stands, and I would like to get it out.

Mr. Murdock replied:

I am opposed to this bill.

The Speaker held:

Under the rulings the gentleman from Kansas has the right, being on the committee, to offer the motion to recommit. The gentleman from New Jersey is also on the committee and ranks the gentleman from Kansas, but the gentleman from New Jersey does not answer affirmatively.

**2770. Prior right to move to recommit belongs to the member of the committee reporting the bill who first rises and qualifies as opposed to the bill.**

**In recognizing for the motion to recommit the Speaker will not investigate the attitude of a Member on the bill further than to inquire, and accepts his statement as final.**

**Under the rule for the previous question, but one proper motion to recommit is in order.**

On March 8, 1910,<sup>2</sup> the House had under consideration the Post Office appropriation bill, the previous question having been ordered on the bill to final passage.

Following the third reading of the bill, Mr. J. Sloat Fassett, of New York, and Mr. Charles E. Townsend, of Michigan, respectively, addressed the Chair and requested recognition for the purpose of offering a motion to recommit.

Speaker<sup>3</sup> said:

Two gentlemen have arisen and asked for recognition—the gentleman from Michigan and the gentleman from New York. The gentleman from New York is a member of the Committee on the Post Office and Post Roads. Under the practice it is proper that the first recognition should go to a member of the committee, provided that he arises to make a motion that is in order, and he is opposed to the bill, and the gentleman states that he is. The Chair, therefore, following the usage, recognizes the gentleman from New York.

Mr. Townsend submitted that Mr. Fassett's attitude during consideration had not demonstrated that he was opposed to the bill.

The Speaker replied:

The Chair must take the word of the gentleman—he is entitled to recognition if he is opposed to the bill—as the Chair took the word of the gentleman from Michigan.

The question being taken on agreeing to the motion to recommit offered by Mr. Fassett, it was decided in the negative.

Mr. Townsend thereupon asked recognition to offer a motion to recommit with instructions.

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<sup>1</sup> Champ Clark, of Missouri, Speaker.

<sup>2</sup> Second session Sixty-first Congress, Record, p. 2917.

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

The Speaker ruled:

But one motion to recommit is in order. The question is on the passage of the bill.

**2771. When the previous question has been ordered on a bill and amendments to final passage, members of the committee reporting the bill who qualify without condition or reservation are entitled to priority in recognition to move to recommit.**

On January 6, 1932,<sup>1</sup> the previous question had been ordered on the first deficiency appropriation bill, when Mr. Andrew J. Montague, of Virginia, Mr. Fiorello LaGuardia, of New York, and Mr. William B. Oliver, of Alabama, rose simultaneously to offer a motion to recommit.

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

The gentleman from Virginia, Mr. Montague, and the gentleman from New York, Mr. LaGuardia, desire to submit a motion to recommit the bill. The practice of the House heretofore has been to give to the minority the right to make the motion to recommit when a member of the minority qualifies for that purpose. So the Chair will ask the gentleman from New York and the gentleman from Virginia if each of them is opposed to the bill?

Mr. Montague said he was opposed to the bill; Mr. LaGuardia said he was opposed to the bill in its present form and expected to vote against it; Mr. Oliver said:

Mr. Speaker, as a member of the committee and as one who is opposed to the bill in its present form, I should like to offer a motion to recommit.

Mr. Joseph W. Byrns, of Tennessee, objected to the form of Mr. Oliver's qualification, and the Speaker said:

Permit the Chair to say to the gentleman from Tennessee that a member of the committee who qualifies as being opposed to the bill undoubtedly would have preference in recognition. Is the gentleman opposed to the bill as it stands?

Mr. Oliver answered in the affirmative and announced his intention to vote against the bill.

The Speaker held:

The gentleman from Alabama qualifies and is entitled to submit a motion to recommit.

**2772. The right to move to recommit a House bill with Senate amendment belongs to a Member opposed to the bill rather than to one opposed to the Senate amendment only.**

On April 25, 1916,<sup>3</sup> the House agreed to a resolution (H. Res. 216) reported from the Committee on Rules, sending to conference without intervening motion except one motion to recommit the bill H. R. 12766, the Army reorganization bill, with Senate amendments thereto.

Mr. Julius Kahn, of California, ranking minority member of the Committee on Military Affairs, reporting the bill, being recognized, offered a motion to recommit.

Mr. Meyer London, of New York, who was not a member of the Committee on Military Affairs, also demanded recognition to move to recommit.

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<sup>1</sup> First session Seventy-second Congress, Record, p. 1396.

<sup>2</sup> John N. Garner, of Texas, Speaker.

<sup>3</sup> First session Sixty-fourth Congress, Record, p. 6821.

Mr. Kahn, for the purpose of qualifying, announced that he was opposed to the Senate amendment.

Mr. London submitted that he was opposed both to the Senate amendment and to the bill.

The Speaker<sup>1</sup> remarked tentatively:

The Chair is inclined to the opinion that the matter in controversy here is the Senate amendment, and that it is the only thing in controversy.

Mr. Pat Harrison, of Mississippi, argued that the attitude of a Member on the bill and not on the amendment was the true criterion under the rule providing for the motion to recommit.

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

Mr. Speaker, this is a House bill that has passed the House. A motion to reconsider the vote by which the bill was passed was made and that motion was laid on the table, and it is not within the power of the House itself under the rules of the House to change a word in the House bill of its own motion. The only way that it can make a change in the House bill as it passed the House is by agreeing to some proposition which the Senate proposes or which comes to the House as a result of a conference between the House and the Senate. The House can not take any vote upon the House bill now. The only thing that the House can dispose of now are the Senate amendments. To ask whether a Member is opposed to the original House bill upon which the House can not act would be ridiculous, as it seems to me. The question is, What will the House do with the Senate amendments? That is the question that has to be put when the Speaker asks whether the Member making the motion is opposed to the proposition.

The Speaker ruled:

The Chair is inclined to think, after reflection, that the gentleman from New York who is opposed to the whole business from start to finish, and who not only speaks for a minority but is the whole minority in himself, is entitled to recognition to make that motion. The Chair recognizes the gentleman from New York.

**2773. In qualifying to offer a motion to recommit, the attitude of the Member at the time the motion is made and not at any previous time governs, and statements previously made by the proponent in the discussion of the bill are not taken into consideration.**

**In recognizing under the rule to move to recommit, the Speaker is governed by the attitude of Members toward the bill and not by their political affiliation.**

**A member of the committee opposed to the bill reporting the measure is entitled to recognition to move recommitment over one not a member of the committee but otherwise equally qualified.**

On September 5, 1918,<sup>2</sup> the previous question was ordered on the bill S. 1419, the water-power bill, to final passage.

Mr. Scott Ferris, of Oklahoma, a member of the Committee on Water Power, reporting the bill, proposed to offer a motion to recommit.

Mr. Joseph Walsh, of Massachusetts, also asked recognition to propose a motion to recommit, and argued that he was entitled to prior recognition for the purpose because, although not a member of the committee reporting the bill, he

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<sup>1</sup> Champ Clark, of Missouri, Speaker.

<sup>2</sup> Second session Sixty-fifth Congress, Record, p. 10051.

was a member of the political minority while Mr. Ferris belonged to the political majority of the House.

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

The Chair laid down the rules covering a motion to recommit in the first Congress in which he was Speaker. It is a triple condition. The first one is, if anyone is opposed to the bill, if one man is and no one else is, the one who is out and out opposed to it is entitled to recognition. That is condition No. 1. The second one is the mandate in the rule that a member of the minority shall be recognized in preference to a member of the majority. The Chair has ruled half a dozen times that that does not mean a political majority and minority, that it means a majority and minority on the bill. The third condition is that a member of the committee has preference over the other Members of the House equally qualified. The gentleman from Oklahoma, a member of the committee, the second member upon it, makes a motion to recommit. Of course, the contention of the gentleman from Oklahoma that he received recognition has nothing to do with the matter. He has every qualification, however. In the first place, he is a member of the committee. In the second place, he is opposed to the bill out and out, and in the third place, so far as the Chair can ascertain at the present time, he is a member of the minority—that is, in a minority touching this bill. The Chair does not know how it is going to turn out on the roll call, but from the beginning, since the time the bill was first considered, the gentleman from Oklahoma has been in opposition. If the gentleman from Iowa, Mr. Haugen, had arisen before the gentleman from Oklahoma, the Chair would have been delighted to recognize him, but the question of majority and minority has nothing to do with the political complexion of the House on a motion to recommit. The gentleman from Oklahoma is recognized, and the Clerk will report his motion.

Mr. Walsh then submitted that Mr. Ferris did not qualify to offer a motion to recommit because he had on previous occasions voiced support of the bill and referred to citations from the Congressional Record:

Mr. THOMAS. Do you not think the best thing to do with this bill is to defeat it?

Mr. FERRIS. I do not; I have tried here for years; and I want to try a little longer to help get this bill through.

Also:

Mr. THOMAS. does the gentleman not think, to be plain about this matter, that this bill is purely a socialistic bill?

Mr. FERRIS. Mr. Chairman, of course I think this is a good bill.

The Speaker said:

The gentleman from Oklahoma rose and offered his motion, and the Chair asked him, as he would have asked anyone else, as he has always done, if he was opposed to the bill, and the gentleman from Oklahoma answered without any equivocation or hesitation that he was. What the gentleman from Oklahoma thought yesterday the Chair does not know. The bill may have changed for all he knows in a dozen different directions. All that the Chair knows about a bill that has been in the Committee of the Whole House or the Committee of the Whole House on the state of the Union is what the chairman reports to him. The Chair does know this, that the gentleman from Oklahoma filed a minority report, and just judging from what the Chair heard when he came in here once in a while he thought that he was leading the fight against the bill. But, however that may be, what he said yesterday or the day before or the day before that has nothing in the world to do with the answer that he gave the Speaker when the Speaker propounded the acid test. So the point of order of the gentleman from Massachusetts is overruled.

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<sup>1</sup> Champ Clark, of Missouri, Speaker.