

Chapter CCXLI.

THE QUESTION OF CONSIDERATION.

1. In relation to other motions and debate. Sections 2436, 2437.
 2. In relation to adjournment. Section 2438.
 3. In relation to questions of order. Section 2439.
 4. As to reports from the Committee on Rules. Sections 2400, 2441.
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2436. It is not in order to raise the question of consideration against a bill until the bill has been read.

It is not in order in the House to move to postpone or otherwise consider a bill which is still in the Committee of the Whole.

The first reading of a bill in Committee of the Whole may be dispensed with by unanimous consent only, and a motion to that effect is not in order.

In Committee of the Whole amendments are not in order on the first reading of the bill.

The Chairman's count of a quorum is not subject to verification by tellers.

The Committee of the Whole having risen to report proceedings incident to securing a quorum the Speaker declined to entertain a motion to adjourn.

On April 15, 1914,² the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary.

The Clerk read the title of the bill when Mr. Mann proposed to raise the question of consideration.

The Chairman³ held that the question of consideration could not be raised until the bill had been read in full.

Presently, the committee rose and reported to the House having come to no resolution, and Mr. John T. Watkins, of Louisiana, moved that further consideration of the bill be postponed until the fourth Wednesday in May, 1914.

¹ Supplementary to Chapter CXI.

² Second-session Sixty-third Congress, Record, p. 6766.

³ Joseph J. Russell, of Missouri, Chairman.

Mr. James R. Mann, of Illinois, made the point of order that the motion to postpone was not in order while the bill was pending in Committee of the Whole.

The Speaker¹ sustained the point of order.

The House again resolved into the Committee of the Whole and after the Clerk had proceeded for some time with the reading of the bill, Mr. J. Hampton Moore, of Pennsylvania, asked recognition to move to strike out the last word.

The Chairman declined to recognize for that purpose on the ground that the motion to amend is not in order on the first reading of a bill.

Mr. Moore then moved to dispense with the first reading of the bill.

The Chairman stated:

A motion of that sort is not in order. The first reading of the bill can only be dispensed with by unanimous consent.

Mr. Martin B. Madden, of Illinois, made the point that there was not a quorum present, and the Chairman having announced the presence of a quorum, Mr. Madden demanded tellers to ascertain if a quorum was present.

A point of order by Mr. Finis J. Garrett, of Tennessee, that the count of a quorum by the Chair is not subject to verification by tellers, was sustained by the Chairman.

After further reading of the bill, a second point of no quorum was sustained and the roll was called. The committee having risen to report proceedings incident to securing a quorum, Mr. Martin D. Foster, of Illinois, moved that the House adjourn.

The Speaker declined to recognize for that purpose, and after receiving the report of the Chairman, directed that the committee resume its sitting.

2437. The question of consideration may be demanded against the motion to reconsider.

A motion to reconsider is debatable if the motion proposed to be reconsidered was debatable and the previous question is not operating.

On January 19, 1925,² Mr. Daniel R. Anthony, Jr., of Kansas, moved to reconsider the vote by which the bill (H. R. 5084) amending the national defense act had been passed earlier in the same day.

In that connection Mr. Anthony inquired if the motion to reconsider was debatable.

The Speaker³ held that as the proposition sought to be reconsidered was debatable the motion to reconsider was debatable.

Mr. Thomas L. Blanton, of Texas, demanded the question of consideration on the motion to reconsider.

The Speaker took the question under advisement and subsequently announced:

The Chair perhaps ought to state now, although it is a little late, that the Chair has looked the matter up in respect to the question of consideration raised by the gentleman from Texas, and he thinks the question of consideration can be raised, if the gentleman wishes to make it.

¹ Champ Clark, of Missouri, Speaker.

² Second session Sixty-eighth Congress, Record, p. 2100.

³ Frederick H. Gillett, of Massachusetts, Speaker.

2438. Although the question of consideration has been once decided in the affirmative it may nevertheless be raised on a subsequent day when the bill is again called up as unfinished business.

A point of order against taking from the Speaker's table a Senate bill substantially the same as a House bill already reported favorably and on the House Calendar, comes too late after actual consideration has begun.

On July 24, 1919,¹ Mr. George S. Graham, of Pennsylvania, called up from the Speaker's table as the unfinished business, the bill S. 180, the Near East relief bill, against which the question of consideration had been raised on a previous day.

Mr. J. Hampton Moore, of Pennsylvania, having again raised the question of consideration, Mr. Graham submitted that the question of consideration had been passed upon by the House when the bill was first taken from the Speaker's table, and was not again in order.

The Speaker² overruled the point of order and said:

The Chair thinks that the fact that the question has been raised on one day does not preclude its being raised another day.

Mr. Louis C. Cramton, of Michigan, advanced the further point of order that the House bill of like import was improperly on the House Calendar and it was consequently not in order to call up the Senate bill from the Speaker's table for consideration.

The Speaker held that however meritorious the point of order might be it was too late to present it after consideration had actually begun, and said:

The Chair without examination of the bill can not decide whether the gentleman's point of order is well taken, but it is too late now to make that point of order, the bill having already been considered by the House. The question is, Shall the bill be now considered by the House?

2439. A point of order relating to a proposition against which the question of consideration had been demanded was held in abeyance until the House had decided the question of consideration.

On January 17, 1913,³ Mr. John L. Burnett, of Alabama, called up the conference report on the bill (S. 3175), the immigration bill. The Clerk having completed the reading of the report, Mr. James R. Mann, of Illinois, proposed to make the point of order that the conferees had exceeded their jurisdiction.

Mr. J. Hampton Moore, of Pennsylvania, claimed the floor to raise the question of consideration.

In declining to recognize Mr. Mann to make the point of order the Speaker⁴ said:

The Chair thinks that if the House is not going to consider the bill there is no use arguing points of order about it.

The Chair will hear the gentleman on his point of order as soon as this question is determined. The question is, Will the House now consider this conference report on the immigration bill?

¹ First session Sixty-sixth Congress, Record, p. 3112.

² Frederick H. Gillett, of Massachusetts, Speaker.

³ Second session Sixty-second Congress, Record, p. 1684.

⁴ Champ Clark, of Missouri, Speaker.

2440. The question of consideration may not be raised against a report from the Committee on Rules relating to the order of considering individual bills.

On December 15, 1919,¹ Mr. Philip P. Campbell, of Kansas, called up a resolution (H. Res. 416) reported from the Committee on Rules providing for the consideration of House Report No. 487, from the Select Committee on Expenditures in the War Department.

Mr. Thomas L. Blanton, of Texas, raised the question of consideration against the resolution.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the question of consideration could not be raised against a report from the Committee on Rules.

The Speaker² sustained the point of order and said:

The Chair thinks the question of consideration can not be raised upon a report from the Committee on Rules. The Chair sustains the point of order.

An appeal by Mr. Blanton from the decision of the Chair was, on the motion of Mr. Walsh, laid on the table.

2441. On February 19, 1925,³ Mr. Bertrand H. Snell, of New York, from the Committee on Rules, reported a resolution relating to the consideration of the bill (H. R. 745) for the establishment of migratory bird refuges.

Mr. Thomas L. Blanton, of Texas, demanded the question of consideration.

Mr. Snell submitted that it was not in order to raise the question of consideration on a report from the Committee on Rules.

The Speaker⁴ said:

You can not raise the question of consideration on a report from the Committee on Rules.

2442. The question of consideration may not be raised on a motion relating to the order of business.

The question of consideration may not be raised against a motion to resolve into the Committee of the Whole.

On May 27, 1920,⁵ Mr. William R. Green, of Iowa, 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. 14197) to amend the revenue act of 1918.

Mr. Sydney Anderson, of Minnesota, proposed to raise the question of consideration.

Mr. James R. Mann, of Illinois, made the point of order that the question of consideration was decided by the vote of the House on going into the Committee of the Whole and to permit it to be again raised was unwarranted duplication and not in order.

The Speaker⁶ ruled:

A vote not to go into the Committee of the Whole House would be tantamount to a refusal to consider. The point of order is sustained. The question is on the motion to go into the committee.

¹ Second session Sixty-sixth Congress, Record, p. 598.

² Frederick H. Gillett, of Massachusetts, Speaker.

³ Second session Sixty-eighth Congress, Record, p. 4181.

⁴ Frederick H. Gillett, of Massachusetts, Speaker.

⁵ Second session Sixty-sixth Congress, Record, p. 7759.

⁶ Frederick H. Gillett, of Massachusetts, Speaker.

2443. The question of consideration may not be raised on a motion to take from the Speaker's table Senate bills substantially the same as House bills already favorably reported and on the House Calendar.

On March 1, 1921,¹ Mr. Carl E. Mapes, of Michigan, moved to take from the Speaker's table the bill (S. 5023) closing a road in the District of Columbia, a House bill of similar tenor having been previously reported favorably and being on the House Calendar.

Mr. Thomas L. Blanton, of Texas, proposed to raise the question of consideration.

The Speaker² held that the question of consideration might not be raised and said:

The Chair would state that the gentleman has moved to take up this bill, which was agreed to, and the Chair thinks that that is equivalent to a question of consideration.

2444. The question of consideration is admitted in the Committee of the Whole on Calendar Wednesday.

On February 16, 1910,³ the House resolved into the Committee of the Whole House on the state of the Union under the Calendar Wednesday rule for the consideration of the resolution (H. Res. 163) for painting portraits of certain ex-Speakers of the House of Representatives.

Mr. John J. Fitzgerald, of New York, demanded the question of consideration against the resolution.

Mr. Charles H. Burke, of South Dakota, made a point of order against the request for the question of consideration.

After debate, the Chairman⁴ ruled:

The gentleman from New York raised the question of consideration. As to whether this may be the proper time or not, the Chair rules that this is the first opportunity on which the question could be raised. As touching the question of the effect of the raising of the point of order and the discussion of that proposition, the Chair reads now from the Index of the Digest as follows:

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

The question of consideration, therefore, can be now considered and the question is, Will the committee consider the resolution?

2445. Under the later practice it has been held that the question of consideration may be raised against a Union Calendar bill in the House on Calendar Wednesday.

On December 17, 1924,⁵ it being Calendar Wednesday, Mr. Fiorello H. LaGuardia, of New York, by direction of the Committee on the Post Office and Post Roads, called up the bill (H. R. 6942) establishing an air mail service.

Mr. Thomas L. Blanton, of Texas, raised the question of consideration against the bill.

¹ Third session Sixty-sixth Congress, Record, p. 4201.

² Frederick H. Gillett, of Massachusetts, Speaker.

³ Second session Sixty-first Congress, Record, p. 1974.

⁴ Charles G. Washburn, of Massachusetts, Chairman.

⁵ Second session Sixty-eighth Congress, Record, p. 738.

The question being taken, on a division, the yeas were 106, nays 23, and the Speaker¹ announced:

The House automatically resolves itself into Committee of the Whole House on the State of the Union.

2446. It is in order on Calendar Wednesday to raise the question of consideration against a Union Calendar bill when called up for consideration in the House and before resolving into the Committee of the Whole.

The question of consideration against a bill being decided in the affirmative on Calendar Wednesday, the House automatically resolves into the Committee of the Whole, and no intervening business, as the motion to adjourn or questions of privilege, are in order.

On April 28, 1926,² when the Committee on Foreign Affairs was reached in the Calendar Wednesday call of committees, Mr. Hamilton Fish, jr., of New York, in behalf of that committee, called up the bill (H. R. 9694) to erect an American military monument in France.

Mr. Tom Connally, of Texas, offered as privileged a motion to dispense with proceedings in order on Calendar Wednesday under the Calendar Wednesday rule.

The Speaker³ ruled:

In the opinion of the Chair, the motion of the gentleman from New York is of higher privilege than the motion of the gentleman from Texas. It is within the province of the committee to call up any bill it has on the calendar. Of course, the gentleman from Texas can raise the question of consideration.

Thereupon, Mr. Connally raised the question of consideration against the bill.

The question being put, it was decided in the affirmative, yeas 224, nays 91.

Pending the announcement resolving the House into the Committee of the Whole, Mr. Connally moved that the House adjourn.

Mr. Frederick R. Lehlbach, of New Jersey, made the point of order that the question of consideration having been decided in the affirmative the House automatically resolved into the Committee of the Whole, and no intervening motion was in order.

The Speaker⁴ sustained the point of order and announced:

The Chair sustains the point of order made against the motion to adjourn, and the House automatically resolves itself into Committee of the Whole House on the state of the Union for the consideration of the bill.

2447. The question of consideration may be raised against unfinished business on the House Calendar in order under the Calendar Wednesday rule.

The question of consideration is not debatable.

On Wednesday, December 14, 1910,⁵ the Committee on the Revision of the Laws having been reached under the Calendar Wednesday call of committees,

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² First session Sixty-ninth Congress, Record, p. 8383.

³ Bertrand H. Snell, of New York, Speaker pro tempore.

⁴ Nicholas Longworth, of Ohio, Speaker.

⁵ Third session Sixty-first Congress, Record, p. 297.

Mr. Reuben O. Moon, of Pennsylvania, from that committee, called up as the unfinished business the bill (H. R. 23377) to amend the laws relating to the judiciary.

Mr. William Hughes, of New Jersey, asked recognition to raise the question of consideration against the bill.

Mr. Moon was proceeding in debate when Mr. Marlin E. Olmsted, of Pennsylvania, made the point of order that the question of consideration was not debatable.

The Speaker¹ sustained the point of order.

Mr. Olmsted submitted the further point of order that the question of consideration might not be interposed touching a bill under consideration.

After debate, the Speaker ruled:

Calendar Wednesday was set aside for the consideration of bills called up by committees, each committee being entitled to two days at least for the consideration of business so presented. The question of consideration under the general practice of the House and under the rules and precedents of the House could not be raised except at the proper time, and the proper time would be prior to the beginning of debate.

The question of consideration of this bill was not raised on last calendar Wednesday, but this is another day, and the House, in pursuance of the business on calendar Wednesday, is met by a question of consideration upon the bill which came over as unfinished business from last calendar Wednesday. So that, while under the practice of the House the question of consideration might not have been raised last Wednesday after debate had begun on this bill, yet on this day, before debate begins again, we have the question presented whether the question of consideration can be raised upon the bill.

There are no precedents exactly in point, and yet the rule should receive the construction that would enable the House to have the greatest liberty to determine what it will do on a given day. The object of the question of consideration is to enable the House to protect itself on any day against business which it may not wish to consider on that day. Should the House to-day be constrained to consider a bill against its will simply because it has begun consideration of the bill on a preceding day? It has been well said by the gentleman from Illinois that unless the House can at the proper time dispose of this bill by refusing to consider it, it may, under the rule, be bound to consider it until its consideration can be completed, unless it be willing to postpone it indefinitely or to defeat it entirely by a proper motion.

The Chair finds little to guide him in the precedents in disposing of this point of order. The Chair is inclined, however, to say that the House may at the proper time—and if there be the any proper time before we enter upon the consideration of this bill to-day, this would be the proper time—determine whether it will refuse to consider unfinished business. There are two decisions which involve cases somewhat similar. They are to be found in the Precedents, volume 5, sections 4967, 4968. The Chair does not care to again put them in the Record. The House ought not to be deprived of the right to do what it desires to do, or what a majority of the House desire to do, on any day [applause] to a greater extent than is absolutely necessary for the orderly conduct of business. Therefore the Chair overrules the point of order.

¹Joseph G. Cannon, of Illinois, Speaker.