

Chapter LXXXVII.

THE ORDER OF BUSINESS.

1. Rule prescribing the order of business. Sections 3056, 3057.
 2. Proceedings by unanimous consent. Sections 3058–3060.
 3. Motions relating to priority of business not debatable. Sections 3061–3063.
 4. Business sometimes limited at special sessions. Sections 3064–3069.
 5. Privileged matters may interrupt. Sections 3070, 3071.
 6. Privileged consideration of revenue and appropriation bills. Sections 3072–3085.
 7. In relation to privileged motions. Sections 3086–3088.
 8. Business on the Speaker's table. Sections 3089–3111.
 9. Unfinished business. Sections 3112–3114.¹
 10. The calendars for reports of committees. Sections 3115–3117.
 11. Consideration under call of committees. Sections 3118–3130.
 12. Interruption of call of committees. Sections 3131–3133.
 13. Interruption after sixty minutes by motion to go into Committee of Whole. Sections 3134–3141.
 14. Privilege of bills reported under leave to report at any time. Sections 3142–3147.
 15. Privileged matters in general. Sections 3148–3151.²
-

3056. The order of business in the House is prescribed by rule. The old methods of arranging business in the House, and evolution of the present system.

Form and history of section 1 of Rule XXIV.

Section 1 of Rule XXIV prescribes the regular order of business.

The daily order of business shall be as follows:

First. Prayer by the Chaplain.

Second. Reading and approval of the Journal.

Third. Correction of reference of public bills.

Fourth. Disposal of business on the Speaker's table.

Fifth. Unfinished business.

Sixth. The morning hour for the consideration of bills called up by committees.

Seventh. Motions to go into Committee of the Whole House on the state of the Union.

Eighth. Orders of the day.

¹Unfinished private business. Sections 3276–3280 of this volume.

Unfinished business in Committee of the Whole. Sections 4735–4736 of this volume.

²Precedence of questions of privilege. Sections 2521–2531 of Vol. ii.

Precedence after an adjournment of a bill on which the previous question is ordered. Sections 5510–5520 of Vol. V.

Privilege of conference reports. Sections 6443–6446 of Vol. V.

Request for conference not privileged before disagreement. Section 6301 of Vol. V.

The rule relating to the order of business has undergone great changes. Indeed, in the first rules of the House there was no rule relating distinctively to the order of business.¹ The House being able to dispose of all that came before it, the question of order and precedence was not important. But as the business of the House enlarged and became more than could be comfortably transacted, order and selection became vital questions. Originally, Members presented petitions at any time when recognized by the Speaker, and committees reported in the same way. The first proposition for a rule to prescribe the order of business seems to have been made on February 19, 1807,² by Mr. Joseph Clay, of Pennsylvania, who suggested an order both for the House and Committee of the Whole; but the House after consideration postponed it indefinitely. A similar proposition was made in vain February 16, 1808.³ A ruling by Mr. Speaker Varnum on May 29, 1809,⁴ indicates that at that time custom had created an order which gave the first hour of the session to the presentation of petitions and communications. In accordance with the custom he ruled a resolution out of order in that hour. But when the rules were revised on December 23, 1811,⁵ it was provided that, as soon as the Journal was read each day, the Speaker should call the Members and Delegates by States and Territories for the presentation of petitions; and, the petitions having been presented and disposed of, reports from standing and select committees should be called for and disposed of. It was specified that these two classes of business should be in order at no other part of the day. The remainder of the day would be devoted largely to "orders of the day,"⁶—that is, such reports as had not been acted on when made and had been assigned to a day in the future for consideration. On March 13, 1822,⁷ a rule was adopted limiting the time for reports and resolutions (which seem to have worked into a place in the morning period) to one hour daily, after which should come Speaker's table business and orders of the day. On January 5, 1832,⁸ the hour allowed for the presentation of reports and resolutions was found too short. The expiration of the time would often come in the midst of a discussion, and the debate would be "snipped off," as Mr. John Randolph, of Virginia, expressed it. Resolutions also had multiplied greatly, Members even in matters of private claims discarding the use of petitions and introducing resolutions directing committees to investigate certain subjects.⁹ So

¹First session First Congress, Journal, p. 9.

²Second session Ninth Congress, Journal, pp. 595, 601. Mr. Speaker Clay wrote: "The object of all bodies, on this subject [determining what shall be considered], is the same—so to arrange the subjects of deliberation as best to promote the public interest." (Annals, fast session, Twelfth Congress, p. 1472.)

³First session Tenth Congress, Journal, pp. 179, 180; Annals, p. 1618.

⁴First session Eleventh Congress, Journal, p. 23.

⁵Twelfth Congress, Journal, pp. 89, 91.

⁶"Orders of the day" are still mentioned in the order of business, but they became obsolete many years ago. Now the House makes "special orders" which supersede often the entire order of business. See the next chapter, sections 3152–3265, of this work.

⁷First session Seventeenth Congress, Journal, p. 350; Annals; pp. 1299, 1300.

⁸First session Twenty-second Congress, Journal, p. 155; Debates, pp. 1482, 1483.

⁹For discussions as to the difficulties occasioned by this presentation of resolutions instructing committees to examine subjects, see Debates, First session Twentieth Congress, pp. 823–827, 1794–1756. The old parliamentary practice of allowing the introduction of bills only by motions for leave or through a committee to whom petitions had been referred or instructions had been given still obtained, and hence the more expeditious method of referring resolutions in the morning hour became so popular, especially for private claims, as to seriously hold back the reports of committees. (First session Twenty-second Congress, Debates, p. 1482.)

the House adopted a rule on January 5, 1832, that after the hour for petitions and resolutions had expired, it should be in order, pending discussion or consideration of such petitions or resolutions, to entertain a motion to proceed to business on the Speaker's table and to the orders of the day. Meanwhile the congestion of business was serious. As early as 1829¹ so many petitions were left unacted on as to cause complaint that the constitutional right of petition was impaired. The congestion also affected the disposition of other business, and on March 31, 1830², Mr. Henry R. Storrs, of New York, said that "they continued to make bills the order of the day for to-morrow, while to-morrow never came."

On February 6, 1838, it was found necessary to set apart each alternate Monday for calling the States and Territories for resolutions, those giving rise to debate going over. Finally the problem of disposing of resolutions was solved by including them with bills and giving a time for their presentation.³

Before 1838, it had been found desirable to restrict the presentation of petitions to Mondays, except during the first six days in the session, when they were in order every day;⁴ and in that year the time for presenting petitions was still further encroached upon in the interest of other business. Finally, on March 29, 1842, the presentation of petitions had become so difficult that the House, at the suggestion of Mr. John Quincy Adams, of Massachusetts, adopted the plan of allowing petitions to be handed to the Clerk for entry on the Journal and reference in accordance with the Member's indorsement.⁵ Thus the presentation of petitions was removed from the order of business, much time being saved thereby. In the same way, although at a much later period, the problem of the introduction of bills and the presentation of reports was solved, thereby relieving the House greatly of the congestion of business.⁶

At the time of the revision of 1880⁷ the House was confronted with a difficulty arising from the fact that such reports of committees as were not of a nature to go to Committee of the Whole had to be considered in the hour for reports. Thus, lengthy consideration of a bill, whether in good faith or for the purpose of obstruction, would hold back committee reports, and the condition became such that important measures could be reported to the House only by suspension of the rules or by unanimous consent. Therefore, in 1880, it was provided that as soon as reported each bill should be referred to one of three calendars, there to await the action of the House in regular order. Finally, in 1890,⁸ the morning hour for reports was abolished, and they were delivered to the Clerk for reference to the calendars, as petitions and bills were delivered for reference to committees.

Prior to 1880 unfinished business had been in order after the reading of the Journal; but in that revision it was placed after the morning hour for the presentation of reports. In the Forty-ninth Congress a second morning hour was introduced

¹ Second session Twentieth Congress, Debates, pp. 297, 298.

² First session Twenty-first Congress, Debates, p. 720.

³ January 10, 1837, Mr. Speaker Polk entered into an elaborate discussion of the order of business as it existed at that time. (Second session Twenty-fourth Congress, Debates, pp. 1340-1345.)

⁴ Second session Twenty-fifth Congress, Globe, p. 162.

⁵ Second session Twenty-seventh Congress, Globe, p. 367.

⁶ See section 3364 of this volume.

⁷ See report of committee, second session Forty-sixth Congress, Record, p. 200.

⁸ See Report No. 23, first session Fifty-first Congress.

for the consideration of bills that committees might present, and unfinished business became still more difficult to reach.

In 1890 unfinished business was restored to a position of privilege, in accordance with the principle that business once begun should be completed.

Thus in the order of business the time occupied in the presentation of bills, petitions, and reports has been gradually eliminated from the regular order, and the time of the House is devoted to the orderly consideration of measures that have received the sanction of committees.

3057. Discontinuance of the use of “Orders of the day” for controlling the order of business.—On January 21, 1818,¹ the old practice of assigning business for consideration on future days, was beginning to become unwieldy, and two propositions were made for new rules, one for printing a calendar of the orders of the day and another that any subject made a “special order of the day” by leave of the House should have precedence over all other orders of the day. Before this time also disappears the old entry found at the end of each day’s Journal since the beginning of Congress: “The several orders of the day were postponed until tomorrow.” It is last seen in Journals of the Eleventh Congress.²

3058. As a request for unanimous consent to consider a bill is in effect a request to suspend the order of business temporarily, a demand for the regular order may be made at any time and is equivalent to an objection.—On August 3, 1892,³ Mr. Augustus N. Martin, of Indiana, asked unanimous consent that the House now proceed to the consideration of certain bills on which the previous question had been ordered. Before the request was concluded and the business desired to be considered was indicated, Mr. Thomas B. Reed, of Maine, demanded the regular order.

Mr. Martin made the point of order that, having been recognized and having proceeded to make a request of the House, he could not be taken off the floor until his request was completely stated.

The Speaker⁴ held:

The demand for the regular order is of course equivalent to an objection, and when demanded the Chair is required to enforce it. The gentleman making a request for unanimous consent can not submit the request as against the demand for the regular order. So if at any period the regular order is demanded it is understood to be equivalent to an objection to anything but the regular order. The gentleman has the right to demand the regular order. The gentleman may state that he wants unanimous consent to consider a bill, and the Chair would direct the Clerk to read it, but any gentleman, even during the reading of the bill, could demand the regular order, and the Chair has always held that equivalent to an objection, and suspended the further reading of the bill.

3059. Unanimous consent to consider a bill implies a setting aside of the order of business for that purpose, hence the withdrawal of an objection thereto does not bring the bill up if other business has intervened.—

¹First session Fifteenth Congress, Journal, pp. 181, 167; Annals, p. 798.

²The present rule for the order of business (section 3056 of this chapter) has as its eighth stage “orders of the day.” This is a survival of the past and does not represent any business under the present practice. The use of special orders is very frequent; but they have priority over the rule for the order of business.

³First session Fifty-second Congress, Journal, p. 351; Record, p. 7028.

⁴Charles F. Crisp, of Georgia, Speaker.

On May 24, 1898,¹ Mr. Charles A. Boutelle, of Maine, asked unanimous consent for the consideration of a bill relating to the hospital service of the Navy. Mr. Oscar W. Underwood, of Alabama, objected. Later Mr. Boutelle announced that the gentleman from Alabama had withdrawn his objection.

Mr. John W. Gaines, of Tennessee, made the point of order that the objection could not be withdrawn.

The Speaker² said:

The gentleman from Tennessee [Mr. Gaines] is right in making the point that the objection can not be withdrawn, because it is effectual when it happens; therefore that matter will have to come up at some other time. * * * Objection cannot be withdrawn after we have passed to another thing. The matter may again be presented to the House, but the objection can not be withdrawn.

3060. Before the adoption of rules, and the consequent establishment of an order of business, it was held in order, without unanimous consent, to offer on the floor and consider at once a proposition relative to the transaction of business.—On December 12, 1889,³ the House had not adopted a system of rules, and business was proceeding under general parliamentary law, excepting that the Committees on Rules, Accounts, Enrolled Bills, and Mileage had been authorized by a special resolution.⁴ Mr. Nelson Dingley, Jr., of Maine, offered a series of resolutions providing for a call of the States and Territories on December 16 for the introduction of public bills and also for the presentation through the Clerk of private bills, petitions, and memorials.

The House having proceeded to the consideration of the resolutions,

Mr. Richard P. Bland, of Missouri, and Mr. Roger Q. Mills, of Texas, made the point of order that, the House having adopted a rule by which all propositions touching the rules of the House should be referred to the Committee on Rules, the said resolution must be so referred.

Mr. Charles F. Crisp, of Georgia, made the further point of order that unanimous consent was required for the introduction and consideration of the said resolutions, which had not been asked for or granted.

The Speaker² overruled the said points of order on the ground that the said resolutions related to the order of business on a given day and not to the rules, and that it was not necessary to ask unanimous consent for their introduction and consideration, as well as on the further ground that the said points of order were submitted too late.

3061. Questions relating to the priority of business are decided without debate.

Early reference to the use of debate as a method of obstruction.

Form and history of Rule XXV.

Rule XXV is as follows:

All questions relating to the priority of business shall be decided by a majority without debate.

¹Second session Fifty-fifth Congress, Record, pp. 5159, 5161.

²Thomas B. Reed, of Maine, Speaker.

³First session Fifty-first Congress, Journal, pp. 19; Record, p. 166, 167.

⁴Record, p. 84.

This rule was first adopted on February 21, 1803, and the record of debates shows that it was used on that day to stop debate where a gentleman was suspected of "a wish to procrastinate, in order to frustrate a great deal of important business, necessary to be transacted."¹ At the time of the revision of 1880² this rule, which was No. 66 in the old system, was made Rule XXV. With this change came a few unimportant changes in verbiage.

3062. A motion relating to the order of business is not debatable.—The motion to go into Committee of the Whole is not debatable.

On January 26, 1900,³ the House went into Committee of the Whole House; and thereupon Mr. Thaddeus M. Mahon, of Pennsylvania, moved that the committee take up the bill (H. R. 6909) to pay the claim of the Eastern Extension Australasia and China Telegraph Company, Limited.

Mr. George W. Ray, of New York, as a parliamentary inquiry asked if the motion was debatable.

The Chairman⁴ said:

As it relates to the order of business, it is not debatable.

3063. On February 15, 1906,⁵ Mr. Sereno E. Payne, of New York, 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. 14606) to provide for the consolidation and reorganization of customs collection districts, and for other purposes.

Mr. Charles R. Thomas, of North Carolina, asked the floor for debate on the motion.

The Speaker⁶ held that the motion was not debatable.

3064. At an extraordinary session the House sometimes adopts a rule limiting the business to be considered.—On September 11, 1837⁷ at the extra session called by proclamation of the President of the United States, Mr. Francis O. J. Smith, of Maine, offered this resolution:

Resolved, That the action of the several standing committees of this House on all matters not embraced by the message of the President of the United States to the two Houses of Congress, communicated on the second day of the current session, be suspended until the commencement of the annual session of Congress in December next; and that the consideration of all petitions on such suspended matters be also postponed to the period above specified.

Mr. James Garland, of Virginia, moved to amend by adding the words: "With the exception of private business."

This amendment was disagreed to, and then the resolution was agreed to, without division.

On September 13⁸ this rule was rescinded so far as it applied to the Elections Committee.

¹ Second session Seventh Congress, Journal, p. 358; Annals, p. 580.

² Second session Forty-sixth Congress, Record, p. 207.

³ First session Fifty-sixth Congress, Record, p. 1225.

⁴ George W. Steele, of Indiana, Chairman.

⁵ First session Fifty-ninth Congress, Record, p. 2608.

⁶ Joseph G. Cannon, of Illinois, Speaker.

⁷ First session Twenty-fifth Congress, Journal, p. 47; Globe, pp. 20, 21.

⁸ Journal, p. 52.

3065. On June 12, 1841,¹ at the special session of the Congress convened by proclamation of the President, the Committee on Rules reported and the House agreed to, yeas 105, nays 61, the following rule:

Upon the presentation of petitions and other papers, on subjects not specially referred to the consideration of the House in the message of the President at the opening of the present extra session, objection to the reception shall be considered as made, and the question of reception shall be laid on the table. This rule to be considered only in force during the present session. Petitions and other papers for or against a bankrupt law to be excepted from the operation of this rule. The action of all committees on all subjects not specially referred to the consideration of the House in the message of the President shall be suspended during the present session. This suspension not to apply to business before the Committee on Elections, on Ways and Means, on Accounts, and on Mileage, nor, if the House shall so determine, to the subject of a general bankrupt law.

3066. On July 8, 1861² the House, on motion of Mr. William S. Holman, of Indiana, agreed to the following resolution:

Resolved, That the House, during the present extraordinary session, will only consider bills and resolutions concerning the military and naval operations of the Government and the financial affairs therewith connected; and all bills and resolutions of a private character, and all other bills and resolutions not directly connected with the raising of revenue or affecting the military or naval affairs of the Government, shall be referred to the appropriate committees without debate, to be considered at the next regular session of Congress.

3067. The first session of the Fortieth Congress was convened by law on March 4, 1867,³ and by concurrent resolution stood in recess from March 30 to July 3. On the latter day, when Congress had reassembled, the House adopted a resolution that no proposition for general legislation should be entertained during the session, except reconstruction legislation.⁴

On July 5, after debate, the Senate adopted a similar but not identical resolution.

3068. At the extraordinary session, convened according to law in 1871, the Senate adopted a resolution which, in its final form as amended on March 30, 1871,⁵ was as follows:

Resolved, That the Senate will consider at the, present session no other legislative business than the deficiency appropriation bill, the concurrent resolution for a joint committee of investigation into the condition of the States lately in insurrection, and the resolution now pending instructing the Committee on the Judiciary to report a bill or bills that will enable the President and the courts of the United States to execute the laws in said States, and the report that may be made by the Committee on the Judiciary on that subject, and any bill that may be sent to the Senate from the House of Representatives on the same subject.

3069. The time occupied by a joint meeting of the two Houses is not counted in the time of the House's legislative session.—On February 11, 1885,⁶ when the session of the House was resumed after the joint session of the two Houses to count the electoral vote, the Speaker pro tempore announced the regular

¹First session Twenty-seventh Congress, Journal, p. 121; Globe, p. 49.

²First session Thirty-seventh Congress, Journal, p. 46; Globe, p. 24.

³First session Fortieth Congress, Journal, p. 162; Globe, pp. 480, 481.

⁴At the special session of the Fifty-fifth Congress the House attained the object of considering certain business only by the adoption of a standing order in accordance with which it sat only on two days of the week. (See Journal and Record, first session, Fifty-fifth Congress.)

⁵First session Forty-second Congress, Globe, pp. 154, 226, 227, 345.

⁶Second session Forty-eighth Congress, Journal, pp. 521, 522; Record, p. 1533.

order to be the further consideration of the bill (H. R. 483) for the erection of a public building at Keokuk, Iowa.

Mr. William M. Springer, of Illinois, made the point of order that the hour given to the consideration of that bill under the special rule had expired.

The Speaker pro tempore¹ overruled the point of order, on the ground that the time occupied by the two Houses of Congress under the terms of the concurrent resolution providing for counting the votes for President and Vice-President could not be counted or included as a part of said hour, the House not having been in session for legislative business during that time.

3070. Privileged questions often interrupt the regular order of business, but when they are disposed of it continues on from the point of interruption.

Business on the Speaker's table and the call of committees, although in order early in the day, may be deferred by privileged questions.

On February 5, 1885,² pending a request that a House bill with Senate amendments might be taken up, Mr. William. S. Holman, of Indiana, made the point of order that the special rule establishing a morning hour³ for consideration of bills fixed this hour at a time immediately after the approval of the Journal.

The Speaker pro tempore⁴ held:

Under the rule, the morning hour comes at a stated time in the day, yet frequently it comes twenty-four⁵ hours after the time when it would be due by the clock. This new rule, declares that immediately after the approval of the Journal an hour shall be set apart for the calling up of bills and resolutions subject to consideration under the rule. But a rule of the House, which is imperative, declares that questions of personal privilege, or privileged reports, or privileged questions, shall take precedence of all other questions, and that their consideration, and the time consumed therein, shall not to be taken account of by the Chair or by the House. The Chair has no arbitrary power to deny the right of the House to state and to be heard upon its privileged reports, its questions of privilege, and its privileged questions. The Chair therefore overrules the point of order made by the gentleman from Indiana, Mr. Holman, and holds that nothing has occurred since the reading of the Journal but the acceptance and entertaining of a privileged report, or the consideration of a question of privilege, or a privileged question.

3071. On May 2, 1896,⁶ near the close of the day's session, which had been occupied by a special order, Mr. Charles F. Crisp, of Georgia, called for the regular order.

The Speaker thereupon laid before the House business on the Speaker's table.

Mr. Crisp raised a question as to whether or not this business should not come after the reading of the Journal.

The Speaker⁷ held that, as a special order had intervened to prevent business on the Speaker's table coming after reading of the Journal, such business was in order after the execution of the special order.

¹ Joseph C. S. Blackburn, of Kentucky, Speaker pro tempore.

² Second session Forty-eighth Congress, Journal, p. 476; Record, p. 1295.

³ This was a special morning hour established temporarily in addition to the regular morning hour for the call of committees for reports. In the next Congress a similar morning hour for consideration of bills was regularly established.

⁴ Nathaniel J. Hammond, of Georgia, Speaker pro tempore.

⁵ Meaning the regular morning hour for reports of committees.

⁶ First session Fifty-fourth Congress, Record, p. 4761.

⁷ Thomas B. Reed, of Maine, Speaker.

3072. The motion to go into Committee of the Whole House on the state of the Union to consider a revenue or general appropriation bill may, when authorized by a committee, be made at any time after the Journal is read.

Form and history of section 9 of Rule XVI.

Section 9 of Rule XVI provides:

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

The necessity of giving a special privilege to the appropriation bills became evident many years ago. On December 10, 1835, Mr. John Quincy Adams, of Massachusetts, criticised at length the long delays of these bills, and at that time, with his approval, Mr. Horace Everett, of Vermont, suggested an amendment to the rules providing that “the general appropriation bill shall always be in order in preference to any other bill of a public nature.”¹

The suggestion was not adopted, however, until September, 14, 1837.² On March 11, 1844,³ on motion of Mr. Cave Johnson, of Tennessee, a rule was adopted providing that the House might at any time, by a vote of a majority of the Members present, suspend the rules⁴ and orders for the purpose of going into the Committee of the Whole House on the state of the Union.⁵ Four years later the practice under this rule compelled business on the Calendar of this committee to be taken up in order; so that, on July 28, 1848,⁶ on recommendation of the Committee on Rules, the House adopted a rule that in Committee of the Whole House on the state of the Union general appropriation bills, and, in time of war, bills for raising men and money and bills concerning a treaty of peace, should be preferred to all other bills, at the discretion of the committee; and that, when demanded by any Member, the question should be first put in regard to them.

When the revision of 1880⁷ was made the Committee on Rules in their report omitted these provisions, leaving the appropriation bills to take their chance in the rule for the order of business, which brought motions to go into Committee of the Whole House on the state of the Union in a very unfavorable place near the end of the order. To remedy this difficulty the committee offered during the debate what is now section 9 of Rule XVI. In the form then agreed to the motion was made in order after the morning hour for the call of committees; and the authorization of a committee was not required. In the revision of 1890⁸ the motion was made privileged

¹ On February 10, 1834 (First session Twenty-third Congress, Journal, p. 312) Mr. Adams had proposed a rule making it the duty of the Committee on Ways and Means to report the appropriation bills within thirty days after the beginning of the session.

² First session Twenty-fifth Congress, Journal, p. 55.

³ First session Twenty-eighth Congress, Globe, p. 367.

⁴ For ruling as to privilege of appropriation bills on a suspension day under the old system see second session Forty-fourth Congress, Journal p. 270.

⁵ Until March 4, 1828 (First session Twentieth Congress, Debates, p. 1721), the motion to go into Committee of the Whole House on the state of the Union seems to have retained an old privilege of being in order at any time.

⁶ First session Thirtieth Congress, Globe, p. 1006.

⁷ Second session Forty-sixth Congress, Record, pp. 206, 830.

⁸ See House Report No. 23, first session Fifty-first Congress.

after the reading of the Journal, and the requirement that the motion be authorized by a committee was inserted. In the Fifty-second and Fifty-third Congresses the old form was restored, but in the Fifty-fourth the form of 1890 was again adopted.

3073. A motion to go into Committee of the Whole House on the state of the Union is most highly privileged only for revenue and appropriation bills.—On May 24, 1890,¹ Mr. Thomas J. Henderson, of Illinois, 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 of the House (H. R. 9486) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. John H. Rogers, of Arkansas, made the point of order that the motion was not in order, according to section 9 of Rule XVI,² until after the morning hour.

The Speaker pro tempore³ sustained the point of order.⁴

3074. The motion to go into Committee of the Whole House on the state of the Union to consider revenue or appropriation bills may designate the particular bill to be considered.—On April 10, 1890,⁵ Mr. Charles A. Boutelle, of Maine, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill.

Mr. William D. Bynum, of Indiana, rising to a parliamentary inquiry, made the point that under section 9 of Rule XVI⁶ it was not in order to specify a particular bill, as that could only be done under section 5 of Rule XXIV.⁷ The Speaker⁸ held:

The Chair thinks that under section 9 of Rule XVI the motion may be made to go into Committee of the Whole for the purpose of considering a particular bill. The intention of the rule was, as the Chair understands, to give the Appropriations Committee and the revenue committees the right of way before and above everything else; in fact, to give them the control, so far as that is concerned.

3075. The motion to go into Committee of the Whole to consider revenue bills and the motion to do the same to consider general appropriation bills are of equal privilege.—On February 22, 1893,⁹ Mr. John S. Henderson, of North Carolina, moved that the House resolve itself into Committee of the Whole House on the state of the Union to consider general appropriation bills.

¹First session Fifty-first Congress, Journal, p. 660; Record, p. 5239.

²See section 3072. The river and harbor bill is not one of the general appropriation bills. See sections 3897–3903 of this volume.

³Bishop W. Perkins, of Kansas, Speaker pro tempore.

⁴At this time also the Speaker pro tempore entertained a motion to dispense with the morning hour, ruling that such a motion was in order. The rules of the preceding Congress had authorized such a motion; but those of the Fifty-first did not. The right of the Committee on Rivers and Harbors to report at any time carries with it the right to consider at any time; and it is probable that on this view a motion to go into Committee of the Whole to consider a river and harbor appropriation bill would be given precedence of the call of committees. But this privilege of river and harbor bills would probably not be of avail on days set apart for special business, such as Fridays and Mondays.

⁵First session Fifty-first Congress, Record, p. 3256.

⁶See section 3072 of this chapter.

⁷See section 3134 of this chapter.

⁸Thomas B. Reed, of Maine, Speaker.

⁹Second session Fifty-second Congress, Journal, p. 108.

Pending this motion, Mr. William H. Hatch, of Missouri, moved that the House resolve itself into Committee of the Whole House on the state of the Union to consider bills raising revenue.

Thereupon Mr. Hatch submitted the point that the motion just submitted by him took precedence over the motion submitted by Mr. Henderson, of North Carolina.

The Speaker¹ overruled the point of order, holding that the motion to resolve into Committee of the Whole to consider appropriation bills and the motion to resolve into Committee of the Whole to consider revenue bills were of equal privilege, and consequently that the motion first submitted should be first put.

3076. On April 8, 1902,² Mr. Sereno E. Payne, of New York, as a privileged motion, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 12765) to provide for reciprocal trade relations with Cuba.

Mr. James A. Tawney, of Minnesota, rising to a parliamentary inquiry, asked on what grounds the motion was considered privileged.

The Speaker³ said:

The Chair will call the attention of the gentleman from Minnesota to Rule XI, clause 59, which provides that the Committee on Ways and Means may report at any time on bills raising revenue; and it has been repeatedly held that that included bills affecting the revenue. So that under the decisions under that rule, the Chair is clearly of the opinion that the gentleman has a right to call up the bill.

3077. The motion to go into Committee of the Whole to consider a general appropriation bill may not be amended by a nonprivileged proposition, and the previous question may not be demanded on it.—On February 17, 1899,⁴ Mr. Charles A. Boutelle, of Maine, moved that the House resolve itself into Committee of the Whole House on the state of the Union to consider the naval appropriation bill. On this motion Mr. Boutelle demanded the previous question.

The Speaker⁵ said:

The Chair decides that the gentleman from Maine can not ask for the previous question upon the motion which he has made.

Mr. William P. Hepburn, of Iowa, as a parliamentary inquiry, asked whether or not it would be in order to amend the motion by instructing the committee to consider the bill (S. 4792) relating to the Nicaragua Canal.

The Speaker said:

It would not be in order because this is a general appropriation bill.

Mr. Hepburn then asked whether it would be in order to strike out of the motion the portion relating to the particular bill and thus leave the Committee of the Whole to take up any bill which it might choose.

The Speaker said:

The Chair thinks it would not be competent, because the gentleman from Maine makes a privileged motion, and the other is not. One can not be substituted for the other.

¹ Charles F. Crisp, of Georgia, Speaker.

² First session Fifty-seventh Congress, Record, p. 3847.

³ David B. Henderson, of Iowa, Speaker.

⁴ Third session Fifty-fifth Congress, Record, pp. 1995, 1996.

⁵ Thomas B. Reed, of Maine, Speaker.

3078. The motion to resolve into Committee of the Whole to consider a privileged bill is not amendable or debatable.—On May 22, 1906,¹ Mr. Robert Adams, jr., of Pennsylvania, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the consular and diplomatic appropriation bill, and on this motion demanded the previous question.

Pending this motion, Mr. Augustus P. Gardner, of Massachusetts, rising to a parliamentary inquiry, asked if it would be in order to move to amend the motion; and also raised the question of order that the previous question was not in order on the motion.

The Speaker² said:

This motion, the Chair finds, after consulting one who knows the precedents, is not amendable and is not debatable.

Therefore the Speaker ignored the demand for the previous question, which was not pressed.

3079. On February 15, 1901,³ Mr. Joseph G. Cannon, of Illinois, moved that the House resolve itself into Committee of the Whole House on the state of the Union, for the consideration of general appropriation bills.

Mr. John F. Fitzgerald, of Massachusetts, rising to a parliamentary inquiry, asked if the motion was debatable.

The Speaker⁴ replied that it was not.

3080. The privileged motion to go into the Committee of the Whole to consider revenue or appropriation bills may be made on a “suspension day” as on other days.—On February 16, 1891,⁵ Mr. Bishop W. Perkins, of Kansas, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of general appropriation bills.

Mr. Albert J. Hopkins, of Illinois, by way of a parliamentary inquiry, suggested the point of order that under the rules the day was set apart for motions to suspend the rules.

The Speaker⁶ thereupon made the following statement:

The Chair desires to say, with regard to this matter, in order that the House may understand it that the provision in the rule is that the rules shall be suspended at no other time than on certain Mondays and during the last six days of the Session.⁷ That is simply a permission for suspension of the rules upon those days; but it has been permissible upon proper occasions to allow the appropriation bills to be presented in order to test the sense of the House with regard to the order of business, and, in the present condition of the public business, the Chair thought that the gentleman from Kansas, Mr. Perkins, ought to be recognized to make the motion to go into Committee of the Whole House on the state of the Union for the consideration of general appropriation bills, and the Chair accordingly entertains and submits that motion, which is itself highly privileged.

¹ First session Fifty-ninth Congress, Record, p. 7248.

² Joseph G. Cannon, of Illinois, Speaker.

³ Second session Fifty-sixth Congress, Record, p. 2476.

⁴ David B. Henderson, of Iowa, Speaker.

⁵ Second session Fifty-first Congress, Journal, p. 251.

⁶ Thomas B. Reed, of Maine, Speaker.

⁷ For this rule see section 6790 of Vol. V of this work.

3081. A motion to go into Committee of the Whole to consider general appropriation bills is in order Friday as on other days.—On March 28, 1890,¹ Mr. Byron M. Cutcheon, of Michigan, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the general army appropriation bill.

Mr. Benjamin A. Enloe, of Tennessee, made the point of order that under the rule the House could only consider business on the Private Calendar on Fridays.

The Speaker² ruled that under section 9 of Rule XVI³ the motion was in order.

3082. The motion to go into Committee of the Whole to consider general appropriation bills has precedence on a Friday of a motion to go into Committee of the Whole to consider the Private Calendar.—On Friday, February 4, 1898,⁴ Mr. James A. Hemenway, of Indiana, from the Committee on Appropriations, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of general appropriation bills.

Mr. Joseph W. Bailey, of Texas, made the point that the motion to go into Committee of the Whole House to consider business on the Private Calendar was of higher privilege than the motion made by Mr. Hemenway.

The Speaker² said that it had been the invariable construction of the rule that public business had the right of way. If the House did not desire to consider appropriation bills it could vote down the motion of the gentleman from Indiana; and then the motion to go into Committee of the Whole to consider the Private Calendar⁶ would be next in order.

3083. On Friday, June 17, 1898,⁶ Mr. Joseph G. Cannon, of Illinois, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the deficiency appropriation bill.

Mr. Gevrge W. Ray, of New York, made the point of order that this day being Friday such motion was not in order.

The Speaker pro tempore⁷ overruled the point of order.

3084. On December 16, 1898,⁸ a Friday, Mr. Nelson Dingley, of Maine, moved that the House resolve itself into Committee of the Whole House on the state of the Union to consider the bill (H. R. 11191) to extend the laws relating to customs and internal revenue over the Hawaiian Islands.

Mr. C. N. Brumm, of Pennsylvania, demanded the regular order, which would be, under the rule, the consideration of the Private Calendar.

The Speaker² held that the motion to go into the Committee of the Whole House on the state of the Union to consider the revenue bill had precedence.

3085. On February 15, 1901,⁹ a Friday, Mr. Joseph G. Cannon, of Illinois, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of general appropriation bills.

¹First session Fifty-first Congress, Record, p. 2747; Journal, p. 398.

²Thomas B. Reed, of Maine, Speaker.

³See section 3072 of this chapter.

⁴Second session Fifty-fifth Congress, Record, p. 1436.

⁵See sections 3266, 3267 of this volume.

⁶Second session Fifty-fifth Congress, Record, pp. 6077, 6078.

⁷John Dalzell, of Pennsylvania, Speaker pro tempore.

⁸Third session Fifty-fifth Congress, Record, p. 266.

⁹Second session Fifty-sixth Congress, Record, p. 2476.

Mr. James D. Richardson, of Tennessee, rising to a parliamentary inquiry, asked if it was not in order, under the rules, to move to go into Committee of Whole House to consider business on the Private Calendar.

The Speaker,¹ replied that if the motion of the gentleman from Illinois should be voted down, the motion to go into Committee of the Whole House would then be in order; and the latter motion could be reached only in this way.

3086. A motion to go into Committee of the Whole to consider a specified bill is privileged when the bill has been reported by a committee under its leave to report at any time.—On February 7, 1894,² Mr. Richard P. Bland, of Missouri, presented as a matter of privilege the bill (H. R. 4956) directing the coinage of the silver bullion held in the Treasury, and for other purposes, heretofore reported from the Committee on Coinage, Weights, and Measures³ and referred to the Committee of the Whole House on the state of the Union.

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

Mr. C. W. Stone, of Pennsylvania, made the point of order that it was not in order to move to resolve into committee for the purpose of considering a particular measure.

The Speaker⁴ held that when a privileged report was presented, the consideration of which was required to be in Committee of the Whole, it was in order to move to resolve into committee to consider it, since, were it otherwise, its privileged character would be lost.

3087. A motion that the House resolve itself into Committee of the Whole, or a demand that the House return to committee, may not take precedence of a motion to reconsider.—On January 28, 1847,⁵ the Committee of the Whole House on the state of the Union, finding itself without a quorum, rose, and the Chairman reported that the committee, while considering the bill making appropriations for the naval service, had found itself without a quorum.

Mr. Seaborn Jones, of Georgia, moved that the vote whereby the House had this day agreed to the resolution terminating all debate on the said bill at 1 o'clock to-morrow be reconsidered.

A call of the House having been moved and decided in the negative, sufficient Members being recorded on the vote to make a quorum of record, Mr. George Ashmun, Of Massachusetts, moved that the House resolve itself into the Committee of the Whole House on the state of the Union.

The Speaker⁶ decided that pending a motion to reconsider a vote, that being a privileged motion, it was not in order to entertain a motion that the House resolve itself into the Committee of the Whole House on the state of the Union. The record of debates also shows that Mr. Robert C. Winthrop, of Massachusetts, made the point

¹ David B. Henderson, of Iowa, Speaker.

² Second session Fifty-third Congress, Journal, p. 145.

³ In the Fifty-third Congress this committee was included by section 57 of Rule XI, but is not so included at present.

⁴ Charles F. Crisp, of Georgia, Speaker.

⁵ Second session Twenty-ninth Congress, Journal, pp. 246–250; Globe, pp. 281, 282.

⁶ John W. Davis, of Indiana, Speaker.

that, the presence of a quorum being ascertained, it was the duty of the Chair to resign and for the House to return into the Committee of the Whole. The Speaker replied that this would be so but for the high privilege of the motion to reconsider.

The Speaker's decision was sustained on appeal.

3088. By refusing to go into Committee of the Whole to consider a bill which has been made a special order for consideration therein the House may then consider business prescribed by the regular order.—On Friday, March 7, 1902,¹ Mr. Eugene F. Loud, of California, moved that the House resolve itself into the Committee of the Whole House on the state of the Union, in accordance with the terms of the following special order:

On motion of Mr. Loud, by unanimous consent, it was ordered that the bill (H. R. 11728) "to classify the rural free delivery service and fix the compensation to employees thereof" shall be taken up on Monday next, immediately after the reading of the Journal, and shall become a continuing order until disposed of; the bill to be considered in the Committee of the Whole House on the state of the Union; the same to be subject to appropriation bills, bills raising revenue, and conference reports, and the time of debate to be equally divided between those in favor of and those opposed to said bill.

Mr. Thetus W. Sims, of Tennessee, rising to a parliamentary inquiry, asked whether, if the motion of Mr. Loud should be decided in the negative, it would be in order to make a motion to go into Committee of the Whole House for consideration of the Private Calendar.

The Speaker² replied that such a motion would be in order under those conditions.

3089. The rule governing the disposition of business on the Speaker's table.

Messages from the President and communications from the heads of Departments and from other sources are referred from the Speaker's table.

Messages, and bills from the Senate are either referred from the Speaker's table or placed before the House directly.

Form and history of section 2 of Rule XXIV.

Section 2 of Rule XXIV provides:

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

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

This rule in substantially its present form was adopted in the revision of 1890.³ In the general revision of 1880⁴ the committee had revised old rule 54, which dated

¹ First session Fifty-seventh Congress, Record, p. 2498.

² David B. Henderson, of Iowa, Speaker.

³ First session Fifty-first Congress, Congressional Record, p. 1287, and House Report No. 23, first session Fifty-first Congress.

⁴ See Record, second session Forty-sixth Congress, p. 207.

from January 5, 1832,¹ and which specified the order of taking up business on the Speaker's table.² The rule of 1880 brought the Speaker's table after the morning hour for the reports of committees and after the unfinished business. In a few years it was found difficult to reach this order and much time was consumed by requests for unanimous consent to go to the Speaker's table merely for the purpose of referring Senate bills to committees. So the Speaker's table was given the first place in the following rule, adopted in the Forty-ninth Congress:³

After the Journal is read and approved each day other than Monday the Speaker shall lay before the House, for reference, messages from the President, reports and communications from the heads of Departments and other communications addressed to the House, and also such bills, resolutions, and other messages from the Senate as may have been received on previous days.

This rule was modeled after the Senate rule and was intended to secure the prompt reference of President's messages, Executive documents, Senate bills, etc.

In 1890 the principle of saving the time of the House by having the reference of Executive documents and Senate bills made by rule under direction of the Speaker was adopted in the present form of the rule.⁴

3090. A Senate amendment being such as requires consideration in Committee of the Whole, the bill and amendment are referred directly from the Speaker's table to the appropriate standing committee.

A request for a conference before there has been actual disagreement between the Houses confers no privilege on the bill affected.

History of practice of the House as to disposition of business on the Speaker's table.

On January 26, 1889,⁵ the Speaker laid before the House the bill (H. R. 9051) to reduce taxation and simplify the laws in relation to the collection of the revenue with an amendment by the Senate in the nature of a substitute, and with a request of the Senate for a conference.

Mr. Thomas B. Reed, of Maine, proposed that the House concur in the Senate amendment, or, if the House determined to nonconcur, that a committee of conference be granted.

Mr. Roger Q. Mills, of Texas, made the point of order that the bill must first go to the Committee on Ways and Means.

¹First session Twenty-second Congress, Journal, p. 155.

²On April 21, 1836 (1st sess. 24th Cong., Journal, p. 735), we find the Clerk directed to make up a weekly printed statement of the resolutions and bills, including Senate bills, on the Speaker's table. Under the present system of rules no such list is kept, as bills on the Speaker's table are at once referred by direction of the Speaker or are acted on by the House without much delay.

³First session Forty-ninth Congress, Record, p. 171.

⁴The Speaker's table should be distinguished from "the table" of the House referred to in the motion to lay on the table. Under the usage of the House a matter laid on the table is finally disposed of adversely. There is no method of taking it from the table except by unanimous consent. In this respect the usage of the House differs from the usage of general parliamentary law. The Speaker's table, on the other hand, as the rule indicates, receives many matters from the Executive Departments and the Senate, which are distributed from it under the rule.

⁵Second session Fiftieth Congress, Journal, p. 348; Record, pp. 1216-1220.

After debate, the Speaker¹ ruled:

The Chair decided the same question now presented not only in the case of the oleomargarine bill but upon several other occasions; yet it may not be inappropriate to restate briefly the grounds of those decisions.

Prior to the beginning of the Forty-ninth Congress all bills coming from the Senate, and Senate amendments to House bills, went upon what was called the Speaker's table, which was one of the Calendars of the House. The business on the Speakers' table was reached precisely in the same way as the business upon any other calendar—by a motion to proceed to its consideration; and when that motion was agreed to by the House, the bills and amendments in their regular order were laid before the House, not for reference to a committee, but for immediate consideration, subject, of course, in the case of Senate bills or Senate amendments to House bills making appropriations or creating liabilities on the part of the Government, to the point of order that they must first have consideration in the Committee of the Whole on the state of the Union. So long as that practice continued it was in order for any gentleman, when a Senate amendment was taken up from the Speaker's table, to move to concur or nonconcur, as the case might be, subject, as the Chair has stated, to the point of order that the proposition should go to the Committee of the Whole on the state of the Union, if it was a proposition which the rules of the House required to go there.

But at the beginning of the Forty-ninth Congress the Speaker's table, as one of the calendars of the House, was abolished; and in lieu of that proceeding the House adopted a rule² which made it the duty of the Speaker every morning, immediately after the reading of the Journal, except on Monday mornings, to lay before the House for reference all bills, amendments, and other communications from the Senate and communications from the heads of Departments; and under that rule the invariable practice has been to send Senate amendments to House bills to the appropriate standing committee of the House, unless unanimous consent was given to concur or nonconcur. So the Chair thinks that under that rule this Senate amendment must go to the Committee on Ways and Means, and can not, except by unanimous consent, go to the Committee of the Whole on the state of the Union, which is one of the House calendars, until it has been reported back.

On the other point, as to the effect of a request by the Senate for the appointment of a committee of conference before there has been an actual disagreement between the two Houses, the Chair has repeatedly ruled that until there has been an actual vote of disagreement between the two Houses the privileged stage of the bill has not been reached, and it can not be taken up for consideration, under the other rule to which the Chair has referred, but must go to the committee.

The Chair has reexamined this rule, and reexamined the practice of the House, and is constrained to adhere to the rulings heretofore made, because the Chair believes it is the only proper practice under the rules which the House itself has established, and which has been the uniform practice ever since they were adopted.

3091. General discussion of rule requiring reference from the Speaker's table to a standing committee of House of bills returned with Senate amendments such as require consideration in Committee of the Whole.

Instance wherein an act performed by the Speaker under the rules was reversed by an amendment changing the Journal entry.

The Speaker held that he could not prevent a majority of the House from so amending the Journal as to undo an actual transaction.

On June 19, 1890,³ pending the question on the approval of the Journal, Mr. Roger Q. Mills, of Texas, submitted the following resolution:

Whereas the order of reference made by the Speaker referring House bill 5381, which was returned to the House yesterday with a Senate amendment, to the Committee on Coinage, Weights, and Measures was incorrect under the rules of the House and without authority under said rules: Therefore

¹ John G. Carlisle, of Kentucky, Speaker.

² For this rule see section 3089.

³ First session Fifty-first Congress, Journal, p. 758; Record, p. 6281.

Resolved, That the Journal of yesterday, Wednesday, June 18, be corrected by striking therefrom this entry, to wit:

“Under clause 2 of Rule XXIV, a House bill of the following title with Senate amendments was taken from the Speaker’s table and referred as follows:

“A bill (H. R. 5381) directing the purchase of silver bullion and the issue of Treasury notes thereon, and for other purposes—to the Committee on Coinage, Weights, and Measures.”

Mr. Joseph G. Cannon, of Illinois, made the point of order that the said resolution was not in order for the following reasons: First, it proposes to strike out an entry in the Journal that records a matter of fact. Second, it is not in order for the reason, under the rule, that if adopted it would have the effect, if it has any effect at all, to change a reference of a bill with a Senate amendment otherwise than as provided by Rule XXIV, clause 2.¹

After debate on the point of order made by Mr. Cannon, the Speaker² overruled it on the following grounds:

The Chair desires first that the House, if any Member of it has that impression, should rid itself of the idea that any unusual procedure has taken place in connection with this bill. The reference of bills of this kind and in this way has been of daily occurrence since the adoption of the present rules of the House. The Chair desires also that the House should know that this particular transaction did not take place in a corner. In the regular course of business the officer of the House to whom the Speaker had intrusted the clerical work of the reference of bills, the Journal clerk, informed the Speaker that upon his list of bills which were to be referred, under the rules, to committees of the House, in the same manner as hundreds, and possibly thousands, of bills have been referred heretofore, was the bill known as the bill for silver coinage which had come from the Senate, with amendments, and the Chair was asked if he had any particular direction to make in regard to it.

Knowing the bill to be one of grave public importance, and anxious that he might have all the light that could be thrown upon it, he consulted with two Members upon the other side on the Committee on Rules, also the gentleman who was specially in charge of the bill upon the Democratic side, the gentleman from Missouri [Mr. Bland], and with another gentleman upon the left of the Chair, not for the purpose of throwing any responsibility upon them, but for the purpose of obtaining whatever light it might be possible to obtain in that way. After listening to and conversing with those gentlemen it seemed very clear to the Speaker that the rules of the House covered the question, and that his duty was to treat this bill the same as he would treat any other. Accordingly the clerk was not directed to make any change in regard to the reference. It is due to the House, since the question has been made—and the Chair is appreciative of the courteous manner in which the question has been discussed—it is due to the House that the Chair should give the reasons which induced him to make such reference and to feel perfectly clear that that reference was in accordance with the rules of the House.

The House must bear in mind that this is not a question of politics or of currency, but a question of parliamentary law, and that upon its decision depends the carrying out of the system of rules which the House has adopted. That system of rules, like every other, is an evolution from the preceding rules. Under the former rules of the House every bill which came from the Senate had to be referred in open House to a committee. No other motion was permissible unless by unanimous consent. When the tariff bill, for instance, came over here, suggestion was made that it go at once to the Committee of the Whole House on the state of the Union, but the Speaker ruled that it should go to the Committee on Ways and Means, and it went there. The only control which the House had left to itself, under its rules, was to change the reference if it was not satisfied with the reference directed by the Speaker. Under the present system of rules the same reference is to be given to Senate bills, because the same language which applied to them then is applied to them now. The only difference is that, instead of being done in open House, it is done by the Speaker, with a right of correction which the House thought ample; because if the committee to whom the bill was wrongfully referred did not desire it, or if there was another committee that thought the bill ought rightfully be referred to them, either committee could make a motion in open House (there being a special provision to the order of business for the time of that motion) for a change of reference.

¹ See section 3089.

² Thomas B. Reed, of Maine, Speaker.

Such had been the case for a long time with petitions. Such had been the case for a considerable time with private bills, and under the new rules of the House it was made so with regard to public bills, both those sent in by Members and those which came from the Senate, but the new rules made two exceptions: First, Senate bills, the like of which had been passed upon favorably by a committee of the House, could be taken up and disposed of when that committee voted that it should be done whenever the bills came over from the Senate; second, House bills with Senate amendments which were not subject to be considered in Committee of the Whole could also be laid before the House for its disposal. The question is, Was this a House bill? Undoubtedly it was. Did it have a Senate amendment? Unquestionably. The third test is: Does it contain provisions which under our rules require it to be considered in a Committee of the Whole? There was a provision in the original House bill by which certain bullion was to be purchased, for coinage or otherwise, and certificates were to be issued.

The Senate amendment was an amendment for free coinage, or for fashioning the silver into bars without charge to those who deposited it, and for that an appropriation was made. It has been said that the House dispensed with the consideration of the original bill in Committee of the Whole. That is perfectly true, and it was perfectly competent for the House in a proper way so to do, but the fact that the House dispensed with the consideration in Committee of the Whole of a provision which it knew does not in any way indicate that it was its intention to dispose in the same way of an amendment which it did not know. This being a Senate amendment, the question is, What rule of the House is applicable to it? And the Chair desires to call the attention of the House to the very strong language of the rule, which is Rule XX.¹ It does not content itself with saying that an amendment of the Senate to a House bill shall be subject to the point of order, but it says any amendment of the Senate to any House bill shall be subject to the point of order. If there is anything clear in parliamentary law it is that this bill was one of those that would be properly considered in a Committee of the Whole and consequently was not within the exception. What, then, was the duty of the Speaker in regard to it? Obviously, to refer it in the same manner in which hundreds and thousands of bills have been referred at this session.

Some gentlemen contend, not many, but some contend, that it was not intended that bills which came from the Senate, which were subject to the point of order under Rule XX, should go to a committee at all, but must go directly to the Calendar. The Chair think that if any gentleman will carefully examine the rule he will perceive that it is impossible for the bill to go to the Calendar in that manner.

The Chair desires also to animadvert upon a decision which has been the subject of so much studied compliment on the part of the gentleman from Kentucky, a decision said to have been made with regard to a bill which came over from the Senate. The fact that that bill contained an appropriation, or required an appropriation, for a matter different from the House bill, was not in any way called to the attention of the Chair, and there are too many lawyers in this House for the House to fail to comprehend that when the matter is not brought to the attention of the presiding officer or the judge he can not be making a direct decision upon that point.

If the Chair recollects this matter correctly, the answer which was made to the inquiry of the gentleman from Arkansas [Mr. Rogers] was with reference to the request, or the Chair had in mind rather the request, for a conference on the part of the Senate. The former Speaker of the House decided both ways in regard to that question of asking for a conference, that it was to be permitted, and afterwards, upon what was perhaps maturer consideration, that it was not. The present occupant of the chair had a different opinion, and until argument convinced him to the contrary he would be disposed to regard that as a desirable thing; not meaning, however, now or at any other time, except at the proper time, to enter into the consideration of the question whether the point of order upon an appropriation bill would send it to the committee, even if the conference had been asked by the Senate.

But the particular point of order which has been presented here by the gentleman from Illinois puts the Chair in the position somewhat of embarrassment, because the proposed action of the House is the declaration that an error has been made in parliamentary law upon this subject, and it is proposed to erase from the Journal a statement of fact. While the Chair might have some doubt upon that point of order, it feels this to be a question which the House ought to determine. As to what would be the effect of overruling a statement in the Journal which was a fact would have to be a matter of after consideration, but it is a matter now for consideration on the part of the House. If the House sees fit to put anything which is or is not a fact into its Journal, the Chair has no mean of interfering and no desire to interfere, and the Chair will therefore overrule the point of order and submit the question on the motion of the gentleman from Texas.

¹ See section 4796 of this volume.

3092. On June 20, 1890,¹ Mr. Richard P. Bland, of Missouri, on the ground of its being a privileged question, submitted the following resolution:

Resolved, That the Speaker lay before the House the bill No. 5381, directing the purchase of silver bullion and the issue of Treasury notes therefor, and for other purposes, with Senate amendments, for consideration.

Mr. William McKinley, jr., of Ohio, made the point of order that the resolution was not in order for present consideration, not being a privileged question, and also being a change of the order of business.

After debate on the point of order Mr. Bland modified the resolution so as to read as follows:

Resolved, That the Speaker proceed under Rule XXIV to lay the matter on the Speaker's table under said rule, and to lay House bill 5381, directing the purchase of silver bullion and issue of Treasury notes thereon, and for other purposes, with Senate amendments, before the House for its action.

Mr. McKinley renewed the point of order made by him on the original resolution.

After further debate on the point of order the Speaker² sustained the same on the ground that the resolution proposed to change the rule relating to the order of business, and was not in order for present consideration.

From this decision of the Chair Mr. Bland appealed; and Mr. McKinley moved to lay the appeal on the table. This motion was decided in the affirmative on June 21.

3093. On June 21, 1890,³ the regular order of business being demanded, the Speaker made the following statement in regard thereto, viz:

The Chair desires the attention of the House on this matter.

The question was somewhat discussed on yesterday as to the condition of the silver-coinage bill (H. R. 5381, with Senate amendments) which had been referred by the Speaker, and the record of which in the Journal was not concurred in by the House, but was rejected, or, if it can be said to be—the Journal not having been then adopted—erased. The provision of our rules requires not only that such bills should be referred, but that a statement of the reference should be put into the Journal and also into the Record. The statement was made in the Record. It was also put into the Journal, which was submitted to the consideration of the House. The House saw fit not to permit that record to be made and to become a part of the Journal. That left a somewhat difficult question as to the status of the bill.

The opinion of the present occupant of the chair, as an individual, would be very much in accord with what was said by the gentleman from Iowa [Mr. Conger], that the refusal to record a fact did not obliterate the fact itself any more than the destruction of a deed would prevent the transfer of property which had already taken place, or the scuttling of a boat which had carried a man across a lake would reland him on the other side. Nevertheless, the action of the House may have had its origin in another motive, which was that it would not give its sanction, by recording it in the Journal, to a transaction which it desired to subvert; and while it might seem to the Chair that some definite action ought to be taken by the House, yet, as gentlemen may have noticed within the last few days, parliamentary law does not seem to be an exact science.⁴

The great object which everyone must have is in trying to arrive, in proper fashion, at a legitimate decision; and it is especially the business of the occupant of the chair to give the House, so far

¹First session Fifty-first Congress, Journal, p. 767; Record, pp. 6314, 6353.

²Thomas B. Reed, of Maine, Speaker.

³First session Fifty-first Congress, Journal, pp. 770–772; Record, pp. 6354–6364.

⁴On March 23, 1880 (second session Forty-sixth Congress, Record, pp. 1804–1807), in a case wherein a bill had been referred to the Committee on Revision of the Laws when many in the House thought that it had been wrongly, even surreptitiously, referred, Mr. James A. Garfield, of Ohio, moved to correct the fact by changing the entry in the Journal. But there was a diversity of opinion as to the proposed method, and it was abandoned.

as in him lies, all proper opportunity for the transaction of business in the manner which the House may determine upon, subject to all the rules of the House.

The Chair, therefore, in order to enable the House to pass its judgment upon this question, whether the bill should go to the Committee on Coinage, Weights, and Measures, will take action in regard to it, with an opportunity for the House to review the same, believing that that will enable the House to come quickest to its conclusion upon the subject. That conclusion, the Chair need not say, ought to be arrived at with reference to all the business of the House; and the House ought to come to its decision in some way that will not disarrange its business. As the Chair remarked the other day, this reference which was made of the bill was made in accordance with the custom which has prevailed ever since the establishment of the rules of the House.

The Chair believes, after a careful examination of the Senate amendments to the House bill, which is known as the silver bill, that it comes within the purview of Rule XX, which prescribes that any amendment made by the Senate to any House bill must be considered first in the Committee of the Whole, which would have been so liable to be considered had it originated in the House. It is not necessary to enlarge upon that point except to point out the fact that the Senate amendments to the House bill entirely strike out the first section, which contains the words of appropriation in the House bill and substitutes another section containing no words of appropriation, but embodying an altogether different line of action, to wit, the substitution of the fashioning of silver bars and the coinage of all silver which may be presented instead of the purchase by the Treasurer of a certain amount of silver and the coining of it for the use of the Government. Another section is also stricken out and a substitution made; and in that substitution is an appropriation for the purpose of carrying out, not what the House ordered, but what the Senate ordered.

This plainly is a new proposition, which requires its consideration in the Committee of the Whole House. Its consideration being required in the Committee of the Whole House—and this does not depend upon the point of order being made because it is a description of a class of bills—the Chair is of opinion that it should be referred to the committee, and the reason for the opinion that it should be referred to the committee arises from this provision in the rule, that all proposed legislation must be referred to certain committees. Legislation can be proposed to this House either by a Member of it or by the Senate. Such has always been the construction of the identical language which is used in this set of rules and in those which preceded it. Under those circumstances, and in conformity to the rules, the Chair announces to the House that in obedience to the rules the bill has been referred, is now referred, to the Committee on Coinage, Weights, and Measures. From that decision, if the House think the Chair is wrong, an appeal can be taken.

From this action and decision of the Speaker Mr. Bland appealed. and the question being put, "Shall the decision of the Chair stand as the judgment of the House?" Mr. McKinley moved to lay the appeal on the table; which was agreed to by the House.

3094. The point being made and sustained that a Senate amendment to a House bill must be considered in Committee of the Whole, the bill is referred directly from the Speaker's table to the standing committee having jurisdiction.—On September 6, 1890,¹ as part of the business on the Speaker's table, the Speaker pro tempore² laid before the House the bill of the House (H. R. 901) for the erection of a new tower near the site of the light-house on Smiths Island, Virginia, with amendments of the Senate thereto and a request for a conference with the House on the bill and amendments.

Mr. Joseph G. Cannon, of Illinois, made the point of order that the bill had no place on the Speaker's table and no right to be thus laid before the House, but that under the rules it should properly be referred either to the Committee on Commerce or the Committee on Appropriations without being laid before the House.

¹First session Fifty-first Congress, Journal, p. 1018; Record, p. 9827.

²Julius C. Burrows, of Michigan, Speaker pro tempore.

Mr. Cannon also made the further point of order that the amendments to the bill should receive their first consideration in the Committee of the Whole House on the state of the Union.

After debate on the points of order, the Speaker pro tempore sustained the point of order that the said amendments must receive their first consideration by the House in the Committee of the Whole House on the state of the Union.

Then the bill and amendments were referred to the Committee on Commerce.

3095. On March 2, 1891,¹ Mr. Byron M. Cutcheon, of Michigan, by unanimous consent, called up from the Speaker's table the bill of the House (H. R. 3865) to provide for the reorganization of the artillery force of the Army, with amendments of the Senate thereto, and a request for a conference with the House on the bill and amendments.

Mr. Clifton R. Breckinridge, of Arkansas, made the point of order that the amendments must receive their first consideration in the Committee of the Whole House on the state of the Union.

After debate on the point of order, the Speaker² sustained the same.

Mr. Cutcheon moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the said named Senate amendments; which motion was disagreed to.

Subsequently the Speaker stated that without objection the bill and amendments would be referred to the Committee on Military Affairs where they should have been referred under his ruling.

There being no objection, it was so ordered.

3096. A Senate bill, in order to be brought up directly from the Speaker's table, must have come to the House after and not before a House bill substantially the same has been placed on the House Calendar.—On June 30, 1898,³ Mr. Ebenezer J. Hill, of Connecticut, called up from the Speaker's table Senate bill No. 3414, and asked for its consideration under Rule XXIV, section 2,⁴ the bill of the House No. 10807, reported from the Committee on Banking and Currency, and substantially the same as the Senate bill, being on the House Calendar.

Mr. Joseph W. Bailey, of Texas, made the point of order that the Senate bill had been passed by that body June 17, and that the House bill had not been reported by the Committee on Banking and Currency and placed on the House Calendar until June 27. Therefore the Senate bill had been retained on the Speaker's table without warrant under the rules, and could not be called up in the regular order under the rules.

The Speaker² decided as follows:

The Chair would like to have the House understand what the course of practice was intended by the rule to be which the Chair intends to follow and has intended to follow. There is a provision that two classes of bills may be taken from the Speaker's table. One is House bills with Senate amendments which do not have to go to the Committee of the Whole, and the other is Senate bills substantially the

¹ Second session Fifty-first Congress, Journal, p. 340; Record, p. 3689.

² Thomas B. Reed, of Maine, Speaker.

³ Second session Fifty-fifth Congress, Record, p. 6552.

⁴ See section 3089 of this chapter.

same as House bills already favorably reported by committees of the House, and not required to be considered in Committee of the Whole.

Now, the reason for having those bills left upon the Speaker's table, to be disposed of by the House without reference to a committee, was that House bills with Senate amendments would not be a surprise to any Member of the House, because they had already passed through the House and been amended by the Senate, and therefore were in a favorable condition to be finished. Then, also, it was determined when the rule was adopted that whenever the Senate passed a bill which was not required to go to the Committee of the Whole, not involving an appropriation of money, that if a House committee had passed a similar bill and reported it favorably to the House, in that event, by notifying the Speaker, the Senate bill would be retained on the Speaker's table, to be acted upon whenever the matter came up in the regular order—that is, when there was not prior business superseding it.

If the House bill was not already reported, the Senate bill ought to have been referred to the Committee on Banking and Currency; and the point having been made it must be sustained. The Chair thinks the practice is a simple one. It is not a retention to oblige anybody, but simply a retention under the rules where notification has been given that a similar bill has been reported by the committee of the House.

The object of the safeguards thrown about both these classes of bills was to prevent any surprise to the House by making a bill the regular order of which the House could not be presumed to have any notice.

3097. A Senate concurrent resolution substantially the same as a House bill on the House Calendar may be taken from the Speaker's table for consideration.—On April 29, 1890,¹ the Speaker laid before the House a concurrent resolution of the Senate providing for an adjustment of certain difficulties occasioned along the Rio Grande River by changes in its channel.

Mr. Daniel Kerr, of Iowa, made the point of order that no committee had reported favorably upon this or any similar resolution.

The Speaker² overruled the point of order and held that the resolution was the substance of the bill H. R. 3924 on the House Calendar, reported by the Select Committee on Arid Lands; that the resolution was in order for present consideration under clause 2 of Rule XXIV, as stated by the Chair in laying it before the House.

3098. The three conditions needed in order that a Senate bill on the Speaker's table may be taken up for direct action by the House.—On January 16, 1897,³ Mr. William H. Doolittle, of Washington, asked that Senate bill No. 3375 be taken from the Speaker's table and put upon its passage, it being identical with House bill No. 9922, already on the House Calendar.

Mr. William L. Terry, of Arkansas, having, as a parliamentary inquiry, asked how the bill could come up under the rule, the Speaker² said:

This is a Senate bill, which does not require reference to the Committee of the Whole House on the state of the Union, a bill substantially like which, not necessarily identically the same, is on file and has been reported by a House committee. Such bills can be called up without unanimous consent by the committee. The three requisites are: First, that the bill shall not require reference to the Committee of the Whole House on the state of the Union; second, that it shall be similar, substantially the same, as one that has already received the approval of the committee having it in charge; and third, that it shall be called up at the request of the committee. There are two kinds of business which can be disposed of at once from the Speaker's table. First, House bills with Senate amendments not involving consideration by the Committee of the Whole House on the state of the Union, where the amendments do not require that; and second, this class of Senate bills.

¹First session Fifty-first Congress, Journal, p. 541; Record, p. 3977.

²Thomas B. Reed, of Maine, Speaker.

³Second session Fifty-fourth Congress, Record, p. 847.

3099. Interpretation of the words “substantially the same” as used in the rule providing for calling a Senate bill from the Speaker’s table for immediate consideration.—On May 11, 1898,¹ Mr. Lorenzo Danford, of Ohio, called up from the Speaker’s table, by direction of the Committee on Immigration, the bill (S. 112) to amend the immigration laws of the United States, and asked its consideration on the ground that it was substantially the same as a House bill already on the House Calendar.

Mr. Richard Bartholdt, of Missouri, made the point of order that the two bills were not substantially the same, but differed in several particulars, notably as regarded an exemption of all persons arriving from Cuba, and an educational requirement which specified “reading and writing” in one bill and “reading or writing” in the other.

The Speaker² held:

In this case the rule is invoked which permits a committee to call up from the Speaker’s table a measure which is “substantially” the same as one already reported by the committee. The object of the restriction is that no committee shall have it in its power to bring before the House a matter of which there has not been sufficient and reasonable notice. In other words, while it was desired under the rules to facilitate legislation, it was also desired that there should be nothing in the nature of a surprise to the House.

This bill having come over from the Senate, the question arising is, therefore, whether it shall be retained on the Speaker’s table as being substantially the same as one already reported to the House. In order that it may be so kept upon the table, the Chair must be notified that a committee has passed upon the subject and made a report to the House and asks that the bill be retained on the table for action. The next question to be considered is whether the bill upon the Speaker’s table from the Senate is “substantially” the same as the House bill which has been reported. The reason it ought to be substantially the same is that the House may be notified of the subject that is to come up, that it may have due information as to what is to be brought before it, and if it is so informed by a bill having been considered and reported by its committee, that is enough.

The rule does not say that the two measures shall be absolutely the same. It only requires that they shall be “substantially” the same. Now, as the Chair understands, the bill reported to the House provides that only certain persons shall be admitted into this country as immigrant—persons who can read and write or who can pass a certain kind of examination. That is the plan in the House bill and also the plan in the Senate bill. The only difference is that the Senate bill allows for only a limited time and to a limited portion of a foreign community the right to be admitted. It seems to the Chair that the two bills are substantially the same, if any effect is to be given to the word “substantially.”

Now, it may be that this proviso is an inopportune and unsuitable proviso, in which case the House can deal with it directly; but the Chair feels constrained to hold that the two bills are substantially the same, providing for the same examination and also for the same exclusion, the only difference being that, owing to what are thought to be peculiar circumstances, a certain set of persons only are to be admitted and for only a limited time. The Chair therefore overrules the point of order.

During the consideration of this subject, Mr. Joseph W. Bailey, of Texas, as a parliamentary inquiry, asked if the bill, which had come from the Senate some time before, should not have been referred to a committee instead of being allowed to remain on the Speaker’s table.

The Speaker replied that, as the committee had given notice that a similar House bill was on the House Calendar, the Senate bill was held until the committee should choose to call it up.

¹Second session Fifty-fifth Congress, Record, pp. 4804, 4805.

²Thomas B. Reed, of Maine, Speaker.

3100. Although a committee must authorize the calling up of a Senate bill directly from the Speaker's table, the actual motion need not be made by one of the committee.—On July 11, 1890,¹ the Speaker laid before the House the bill of the Senate (S. 1258) for the relief of Charles Murphy, on the Speaker's table, the bill being identical with House bill No. 2232, heretofore reported from the Committee on Claims.

Mr. W. C. P. Breckinridge, of Kentucky, made the point of order that the motion must now be submitted by a member of the Committee on Claims by direction of that committee, or the authority for the presentation of the bill furnished.

The Speaker² overruled the point of order on the ground that the written authority of the Committee on Claims for the presentation of the bill by the Chair to the House had been heretofore furnished the Speaker and read to the House, and that the bill was properly before the House under clause 2 of Rule XXIV.

3101. If a Senate bill be such as to require consideration in Committee of the Whole, it may not be taken from the Speaker's table for direct action of the House.

The rule providing for consideration of Senate bills on the Speaker's table applies to private as well as public bills.

Formerly a bill referring a claim to the Court of Claims did not require consideration in Committee of the Whole; but a rule has changed this practice.

On June 10, 1890,³ the Speaker laid before the House, from the Speaker's table, the bill of the Senate (S. 1205) for the relief of Hyland C. Kirk and others, assignees of Addison C. Fletcher.

Mr. Wm. M. Springer, of Illinois, made the point of order that the bill, under clause 3 of Rule XXIII,⁴ must receive its first consideration in a Committee of the Whole.

After debate, the Speaker² overruled the same on the following grounds:

The Chair desires to say that this matter is not entirely free from doubt, but the best construction that the Chair has been able to give it leads to this result. This bill is not governed by Rule XIII,⁵ for that refers exclusively to House bills. This does not go to the Committee of the Whole by virtue of Rule XIII, because it is not a House bill, and it is not a bill reported from a committee. The Chair should not use the term "House bill," but simply "a bill reported from a committee."

It is not governed by Rule XIII. It must therefore be governed by the second clause of Rule XXIV,⁶ taken in connection with the third clause of Rule XXIII,⁴ and the House will notice that the expression used in the second clause of Rule XXIV is:

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

The Chair thinks that the letter "a" was omitted in the second use of the expression "Committee of the Whole," and that it should have the same interpretation as this in the first use of the phrase "Committee of the Whole," where it is designated as "a Committee of the Whole," intended to refer

¹ First session Fifty-first Congress, Journal, pp. 849, 850; Record, p. 7161.

² Thomas B. Reed, of Maine, Speaker.

³ First session Fifty-first Congress, Journal, p. 726; Record, p. 5907.

⁴ See section 4792 of this work.

⁵ See section 3115.

⁶ See section 3089.

both to the Committee of the Whole House on the state of the Union and to the Committee of the Whole to which private bills would naturally go if reported by a committee. The question, then, is whether this is a bill which is required to be considered in Committee of the Whole; if not, being substantially the same as House bills already reported, and being brought up on a motion directed to be made by said committee, it is in condition under this rule to be considered.

The provision of the third clause of Rule XXIII,¹ with which the House is familiar, and which governs all proceedings touching appropriations of money, etc., has been repeatedly construed by previous occupants of the Chair. In the Forty-fifth Congress, third session, page 244 of the Journal, the Speaker [Mr. Randall] decided that a bill like this did not require to be considered in Committee of the Whole; and that has been sustained by other Speakers, and has already been ruled upon in this House.²

If, then, it is the same as a House bill already favorably reported by a committee of the House, and is not required to be considered in Committee of the Whole, and is brought up on motion directed to be made by the committee of the House which actually pawed upon it, it then becomes ready for the action of the House. There are three safeguards: First, that it has been favorably reported in substance by a committee of the House; second, that it is not a bill that is required under our rules to be considered in Committee of the Whole; and, third, the committee asks for its consideration at this time. That does not put the Senate in control of the rules of the House, because it is to be offered under the rules of the House itself, and thus the bill becomes ready to be acted on. The Chair therefore is obliged to overrule the point of order, inasmuch as the bill is not required by the rules to be considered in Committee of the Whole.

3102. On August 13, 1890,³ the Speaker laid before the House the bill of the Senate (S. 846) for the relief of Nathaniel McKay and the executors of Donald McKay, on the Speaker's table, it being identical with the bill of the House (H. R. 4687) reported favorably from the Committee on War Claims.

Mr. William M. Springer, of Illinois, made the point of order that the bill being a private bill was not in order for consideration under this class of business; that the bill involved an appropriation and should have its first consideration in a Committee of the Whole, and that it had not been shown that the bill, if in order under clause 2, Rule XXIV, had been called up by direction of the Committee on War Claims.

After debate on the points of order, the Speaker⁴ overruled the same on the grounds that the rule (clause 2, Rule XXIV⁵) under which this bill was retained on the Speaker's table and laid before the House made no distinction between public and private bills, and that the rule invoked—paragraph third of clause 1 of Rule XIII⁶—applied to bills “reported from committees,” as stated in the first paragraph of that rule; that the usual notice had been given by the Committee on War Claims, and that the bill pending did not involve an appropriation of money for the reason—uniformly held in such cases—that it could not be asserted with certainty that the Court of Claims would find anything due the claimant.

Mr. Springer appealed from the decision of the Chair, and the question being put, “Shall the decision of the Chair stand as the judgment of the House?” there appeared, yeas 108, nays 21.

¹ See section 4792 of this work.

² The bills in this case referred claims to the Court of Claims. In the Fifty-fourth Congress section 3 of Rule XXIII was amended to cover such cases. See section 4792 of this work.

³ First session Fifty-first Congress, Journal, p. 951; Record, p. 8527.

⁴ Thomas B. Reed, of Maine, Speaker.

⁵ See section 3089.

⁶ See section 3115.

3103. On February 13, 1891,¹ the Speaker also laid before the House, from the Speaker's table, the bill of the Senate (S. 4472) for the relief of Charles B. Stivers, the same being identical with the bill of the House (H. R. 12294) on the Private Calendar.

Mr. Benton McMillin, of Tennessee, made the point of order that the bill must receive its first consideration in the Committee of the Whole.

The Speaker² sustained the point of order, and the bill was referred to the Committee on Military Affairs.

3104. On January 19, 1893,³ the bill (H. R. 9757) to provide for the better protection of commerce and for the general welfare, for the establishment of a national quarantine, etc., was read twice.

Mr. Isidor Rayner, of Maryland, submitted a motion that the bill on the Speaker's table (S. 2707) granting additional quarantine powers, imposing additional duties upon the Marine-Hospital Service, and making an appropriation therefor, be considered in lieu of bill H. R. 9757.

Objection being made to this motion, the Speaker⁴ declined to entertain the motion of Mr. Rayner, on the ground that the Senate bill must receive its first consideration in one of the committees of the House.⁵

3105. Under the former rules, a House bill with Senate amendments requiring to be referred was referred by vote of the House.—On February 3, 1893,⁶ the House was considering the Senate amendments to the bill (S. 7845) defining "options" and "futures," imposing special taxes on dealers therein, etc.

Mr. William H. Hatch, of Missouri, moved that the bill and amendments be referred to the Committee on Agriculture.

Mr. Charles J. Boatner, of Louisiana, made the point of order that the motion of Mr. Hatch to refer was not in order, because, under the rules, the bill appropriately should be referred to the Committee on Ways and Means.⁷

Mr. C. B. Kilgore, of Texas, made the further point of order that if the proper reference was to the Committee on Agriculture, no motion to that effect was required or was in order.

The Speaker⁴ overruled both points of order.

3106. A House bill with Senate amendments requiring consideration in Committee of the Whole should be referred from the Speaker's table to the proper standing committee under the rules.—On February 9, 1905,⁸ Mr. John A. Moon, of Tennessee, rising to a parliamentary inquiry, said:

There was reported to the House to-day from the Senate a House bill to create the States of Oklahoma and Arizona, with certain amendments passed by the Senate. That bill with amendments, as I understand it, is now on the Speaker's table. The inquiry I desire to make is this, Can a motion be now made under the rules of the House to concur in the Senate amendments?

¹ Second session Fifty-first Congress, Journal, p. 241; Record, p. 2623.

² Thomas B. Reed, of Maine, Speaker.

³ Second session Fifty-second Congress, Journal, p. 52; Record, p. 717.

⁴ Charles F. Crisp, of Georgia, Speaker.

⁵ Section 2 of Rule XXIV was section 1 in the Fifty-second Congress, and so different that this precedent does not apply fully to the rule as it now is.

⁶ Second session Fifty-second Congress, Journal, pp. 68, 79; Record, p. 1150.

⁷ The rule at that time provided that House bills with Senate amendments should be laid before the House for reference. By the present rule they are referred by the Speaker.

⁸ Third session Fifty-eighth Congress, Record p. 2206.

The Speaker ¹ said:

The Chair will answer the parliamentary inquiry, first, upon the question of fact. Under the rules of the House the Chair found upon examination of the bill that one of the Senate amendments provides for an appropriation of money. That is original, and under the rule of the House the bill went to the Committee on Territories, in contemplation of the rule, at once, and the Chair directed that it go manually.

3107. On the calendar day of February 27, 1903 ² (but the legislative day of February 26), the Speaker called the House to order after a recess, and after the presence of a quorum had been ascertained, Mr. Oscar W. Underwood, of Alabama, raised the question of order that the agricultural appropriation bill, returned from the Senate with amendments, was still on the Speaker's table and should be referred.

The Speaker ³ said:

There is a certain discretion given to the Speaker, and he always has exercised it, to hold the appropriation bills for the usual custom of having them referred to a conference committee.⁴

3108. A House bill returned with Senate amendments involving a new matter of appropriation, whether with or without a request for a conference, is referred directly to a standing committee, and on being reported therefrom is referred to the Committee of the Whole.—On May 22, 1896,⁵ Mr. William R. Ellis, of Oregon, from the Committee on the Public Lands, reported the bill (H. R. 5819) to provide for the examination and classification of certain lands in the State of Florida, which, with Senate amendments, had been committed to that committee.

The Speaker stated that the bill would be referred to the Committee of the Whole.

Mr. Eugene F. Loud, of California, raised a question of order as to why the bill should have been sent to the Committee on the Public Lands.

The Speaker ⁶ said:

The Chair will state precisely how it went to the committee. Being a House bill with Senate amendments, with a request for a conference, it went to the committee. That committee had the right to report, because the Senate requested a conference. Being reported, it goes to the Committee of the Whole, because that is the rule of the House. * * * Pension bills for increases of pensions, with Senate amendments, or Senate amendments representing increases by the Senate are not within the rule of measures like this, where a new item is presented involving a new appropriation, which Rule XX of the House sends to the Committee of the Whole. The matter is very clear. That bill was submitted to the Chair, and the Chair was not aware on a cursory examination that there was a new appropriation in it; but on a careful examination it is quite evident there are expenditures not in the original bill, and relating to a new or cognate subject; that is, including another State.

3109. On September 16, 1890,⁷ Mr. Charles S. Baker, of New York, by unanimous consent, from the Committee on Commerce, to which was referred the bill of the House (H. R. 901) for the erection of a new tower near the site of the light-house

¹ Joseph G. Cannon, of Illinois, Speaker.

² Second session Fifty-seventh Congress, Record p. 2756.

³ David B. Henderson, of Iowa, Speaker.

⁴ Such reference to conference can only be effected under these circumstances by unanimous consent, suspension of the rules or by special order.

⁵ First session Fifty-fourth Congress, Record, pp. 5564, 5565.

⁶ Thomas B. Reed, of Maine, Speaker.

⁷ First session Fifty-first Congress, Journal, p. 1046; Record, p. 10111.

on Smiths Island, Virginia, with amendments of the Senate thereto, and a request for a conference with the House on the bill and amendments, reported the same with the recommendation that the House nonconcur in all of the amendments and agree to the conference asked by the Senate.

Mr. Benton McMillin, of Tennessee, made the point of order that the amendments to the bill must receive their first consideration in the Committee of the Whole House on the state of the Union, as the bill was in effect an omnibus bill including millions of dollars of appropriations.

The Speaker¹ sustained the point of order, and the bill, amendments, and report were referred to the Committee of the Whole House on the state of the Union.

3110. On February 3, 1893,² the House resumed consideration of the point of order submitted by Mr. William D. Bynum, of Indiana, against the motion of Mr. William H. Hatch, of Missouri, that the House disagree to the amendments of the Senate to the bill (S. 7845) defining “options” and “futures,” imposing special taxes on dealers therein, and requiring such dealers and persons engaged in selling certain products to obtain license, and for other purposes.

After further debate, the Speaker³ sustained the point of order, holding that since the Senate amendments provided for a new and distinct subject-matter of taxation not included in the original bill they must receive their first consideration in the Committee of the Whole, and therefore the motion to disagree to the amendment was not in order at this time.

3111. Discretion of the Speaker in referring to committees bills on the Speaker’s table.—On March 1, 1901,⁴ Mr. John Dalzell, of Pennsylvania, reported from the Committee on Rules, and the House agreed to this resolution:

Resolved, That immediately upon the adoption of this resolution it shall be in order to take from the Speaker’s table the bill (H. R. 14017) making appropriations for the Army and without intervening motion to move to concur in the Senate amendments thereto in gross; after two hours, debate (one hour on each side) the previous question shall be considered as ordered on said motion, and a vote then be had thereon without delay or intervening motion.

Mr. James D. Richardson, of Tennessee, then made the point of order that the rule was inoperative, since under the rule the bill, which on the preceding day came from the Senate, must have been referred from the Speaker’s table to the Committee on Military Affairs.

The Speaker⁵ having had read section 2 of Rule XXIV,⁶ said:

The House is well aware—and the Chair presumes no one more so than the gentleman from Tennessee, who submits this point of order—that in the rule which the Chair has had read the language is “may be referred,” not “must be referred.”

Furthermore, every Speaker since the service of the present occupant of the Chair began in this House has exercised a discretion in regard to the matter of making references of bills immediately. This bill, according to the practice for many years—the Chair does not know how long—was not referred to the Committee on Military Affairs, and is in fact upon the Speaker’s table. If the Speaker erred or departed from the rule in retaining the bill on the table, that error would not do away with the fact that here

¹Thomas B. Reed, of Maine, Speaker.

²Second session Fifty-second Congress, Journal, p. 68; Record, pp. 1150–1153.

³Charles F. Crisp, of Georgia, Speaker.

⁴Second session Fifty-sixth Congress, Journal, pp. 303–305; Record, pp. 3331–3337.

⁵David B. Henderson, of Iowa, Speaker.

⁶See section 3089 of this work.

is the bill upon his table; and that alone destroys the effect of the point of order submitted by the gentleman from Tennessee.

But the Chair believes that in this matter he has simply exercised a discretion which has usually been exercised in this House by occupants of the chair. There is scarcely a Member of this House who, when interested in a bill coming from the Senate, as this bill came, has not requested the Chair to hold the bill upon the Speaker's table until it could be disposed of by unanimous consent or otherwise.

It was just as easy to make this special rule applicable to the bill in the Committee of the Whole as on the Speaker's table. It was absolutely within the right of the Committee on Rules to provide for discharging the Committee on Military Affairs from the consideration of the bill and taking it up in the House for consideration. But the bill was not with that committee.

There is another point to which the Chair desires to invite the attention of the House. No Member of this House has lost any rights by reason of the bill remaining upon the Speaker's table. No one is injured. If it had gone to the Committee on Military Affairs the special rule would have been differently drafted. * * * The point of order is overruled, * * * because the bill is on the Speaker's table. That being the fact nothing more need have been said in deciding the point of order. Whatever else the Chair may have said in this ruling was designed to show that he has been acting in the line set by his predecessors and in accordance with the practice of this House.

Mr. Richardson having called the attention of the Chair to a decision of Mr. Speaker Reed,¹ wherein the language "should be" referred, not "may be," had been used, the Speaker said:

That is true as to ultimate action; but nowhere in the rules or the decisions can be found any notation, decision, or ruling saying just when a bill shall be referred. This course is pursued and the Chair invites the attention of the gentleman in the interest of the public business, to facilitate and expedite the work of the House. It is the course that has been repeatedly and in fact daily pursued, and the Chair thinks it has been for the good of the public service, no one being damaged.

3112. The rule governing the disposal of unfinished business.

Form and history of section 3 of Rule XXIV.

Section 3 of Rule XXIV provides:

The consideration of the unfinished business in which the House may be engaged at an adjournment, except business in the morning hour, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of, and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

This is the form adopted in the revision of 1890,² and in its general features is the form of the 1880 revision.³ But in 1880 unfinished business was placed after the morning hour for the call of committees; and when, five years later, in the Forty-ninth Congress, the second morning hour was instituted for the consideration of bills brought up by committees,⁴ the unfinished business came so late that bills on its list were reached only with great difficulty.

In 1890 the present rule restored it to a privileged position which it had occupied prior to 1880.

The early rule relating to unfinished business was framed November 13, 1794:⁵

The unfinished business in which the House was engaged at the last preceding adjournment shall have the preference in the orders of the day; and no motion on any other business shall be received, without special leave of the House, until the former is disposed of.

¹ See section 3093 of this work.

² First session Fifty-first Congress, House Report No. 23; also Record, p. 1171 and following pages.

³ Second session Forty-sixth Congress, Congressional Record, p. 207.

⁴ First session Forty-ninth Congress, Record, pp. 171, 337.

⁵ Third and Fourth Congresses, Journal, p. 228 (Gales and Seaton ed.).

The practice of the House in regard to this rule had so grown up that at the time of the revision of 1860 a bill pending at the time of adjournment, and ready to be acted on, went to the Speaker's table unless the previous question was ordered or a motion to recommit was pending. In the order of business at that time the Speaker's table was so encumbered and so far down on the list that in not one case in a thousand could an unfinished bill be reached.¹ Therefore in 1860 the House adopted a rule which contained, in somewhat different form, the principles of the present rule:

The consideration of the unfinished business in which the House may be engaged at an adjournment shall be resumed as soon as the Journal of the next day is read, and at the same time each day thereafter until disposed of; and if, from any cause, other business shall intervene, it shall be resumed as soon as such other business is disposed of. And the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

In the Fifty-second and Fifty-third Congresses the morning hour was put back again to the place it occupied in the Fiftieth Congress, prior to 1890, but unfinished business was again restored to its place of privilege in the Fifty-fourth and succeeding Congresses.

3113. A bill brought up in the morning hour and undisposed of, remains as unfinished business during call of committees only.—On March 9, 1906,² a Friday set apart under the rules for consideration of pension bills, and after the consideration of such bills had been concluded, Mr. Robert W. Bonyng, of Colorado, pursuant to an order of the House made on March 5, 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. 15442) to establish a bureau of immigration and naturalization and to provide for a uniform rule for the naturalization of aliens throughout the United States.

The order of March 5 provided that this bill should have the privilege belonging to bills reported from committees having leave to report at any time.

Mr. George W. Prince, of Illinois, called for the regular order, claiming that the bill (H. R. 15744) to abolish the office of Lieutenant-General of the Army of the United States, which had been called up under call of committees on a preceding day, and on which the House was dividing on the question of consideration at the adjournment on that day, was the regular order, as unfinished business.

The Speaker pro tempore³ held:

The Chair will state that is unfinished business, the Chair is informed, under the call of committees; and the Chair will state that the call of committees would be in order at this time were it not for the privileged motion which has been presented by the gentleman from Colorado. The gentleman from Colorado moves 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. 15442, the title of which the Clerk will read.⁴

¹ See statement of Mr. Israel Washburn, of Maine. (First session Thirty-sixth Congress, Globe, p. 1180.)

² First session Fifty-ninth Congress, Record, pp. 3639, 3640.

³ Adin B. Capron, of Rhode Island, Speaker pro tempore.

⁴ Of course the House might have controlled the matter by voting down the motion to go into Committee of the Whole.

3114. A motion relating to the order of business does not recur as unfinished business on a succeeding day, even though the yeas and nays may have been ordered on it before adjournment.—On September 15, 1893,¹ the Speaker proceeded to call the committees for reports,² whereupon Mr. Julius C. Burrows, of Michigan, made the point that when the House adjourned on the previous day the pending question was on his motion to dispense with the morning hour,³ on which question the yeas and nays had been ordered, and no quorum having voted thereon, that the business first in order to-day was the motion submitted by himself, on which the yeas and nays had been so ordered on the day before.

The Speaker⁴ overruled the point of order, holding that the motion made by Mr. Burrows on the previous day, to dispense with the morning hour, expired with the adjournment, as in case of a motion for a recess or other motions incidental to the order of business, and that the practice ordinarily prevailing where the yeas and nays have been ordered did not apply to such questions; also, that if the motion of Mr. Burrows could by any construction be considered as unfinished business it would still not be in order until after the morning hour on this day.⁵

3115. Bills reported from committees are distributed to three Calendars, there to await action by the House.

Description of the House, Union, and Private Calendars.

Form and history of section 1 of Rule XIII.

The three Calendars, on which are classified the business reported from committees, are established by section 1 of Rule XIII.

There shall be three Calendars of business reported from committees, viz:

First. A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property.

Second. A House Calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property.

Third. A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

This rule is in the form adopted in the revision of 1880.⁶ While the Calendars may be said to have been established at that time, yet two of them had existed for many years as indispensable to the orderly procedure with bills referred to the Committee of the Whole House and the Committee of the Whole House on the state of the Union. On March 25, 1820,⁷ Mr. Joseph W. Taylor, of New York, proposed a rule, which was agreed to on March 28, directing the Clerk under direction of the

¹ First session Fifty-third Congress, Journal, p. 88.

² Under the present rules committees are not called for reports.

³ Rule XXIV, section 3, of the Fifty-third Congress provided for dispensing with the morning hour by a two-thirds vote. There is no provision of this kind in the present rule. See section 3112.

⁴ Charles F. Crisp, of Georgia, Speaker.

⁵ In the Fifty-third Congress the morning hour came before unfinished business. This is not the case now. See section 3056.

⁶ Second session Forty-sixth Congress, Record, p. 205.

⁷ First session Sixteenth Congress, Journal, pp. 335, 344 (Gales and Seaton ed.); Annals, p. 1675. The above rule was temporary, and we find it proposed again at the next session. (Second session Sixteenth Congress, Journal, p. 190 (Gales and Seaton ed.); Annals, p. 1000.)

Speaker to arrange the business referred “to the Committee of the Whole House” in the following order: (1) Private Senate bills favorably reported by a House committee; (2) private House bills reported by a committee; (3) bills of a public nature; (4) Senate bills unfavorably reported by a House committee; (5) reports unfavorable to petitions. In those days nearly all business was referred to Committee of the Whole, whether it required an appropriation or not. And from that time onward there were orderly lists of business before the Committees of the Whole.¹ The old rule No. 129, dating from January 25, 1839,² referred to a Calendar of the private bills committed to the Committee of the Whole House, and old rule No. 114, dating from July 27, 1848,³ in the same way referred to a Calendar for bills sent to the Committee of the Whole House on the state of the Union. In 1880 the House Calendar was established for a class of bills which did not belong in either of the Committees of the Whole. Such bills had formerly been considered during the hour for reports of committees, thereby seriously interfering with that order of business and making it impossible to report many important measures from committees.⁴ To reform that abuse the House Calendar was created.

3116. Nonprivileged reports are delivered to the Clerk for reference to the Calendars under direction of the Speaker.

The record of reports filed with the Clerk is entered in the Journal and printed in the Record.

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

Form and history of section 2 of Rule XIII.

Section 2 of Rule XIII prescribes the method of making nonprivileged reports from committees.

Before 1890 all reports were made in open House from the floor; and the system of discriminating in favor of the more important business had been established by giving certain committees leave to report at any time. These favored committees still report from the floor; but their privilege is valuable only in that it gives their bills a privileged status for consideration. See section 4621 of this volume.

All reports of committees, except as provided in clause 61 of Rule XI, together with the views of the minority, shall be delivered to the Clerk for printing and reference to the proper Calendar under the direction of the Speaker, in accordance with the foregoing clause, and the titles or subjects thereof shall be entered on the Journal and printed in the Record.

Provided, That bills reported adversely shall be laid on the table unless the committee reporting a bill, at the time, or any Member within three days thereafter, shall request its reference to the Calendar, when it shall be referred as provided in clause 1 of this rule.

This rule dates from the revision of 1890.⁵ Previous to that time reports of committees were made in open House during what was called the morning hour for

¹On January 30, 1829 (Second session Twentieth Congress, Debates, pp. 296–298), we find complaint that adverse reports from the Committee on Claims went to the foot of the docket, and could not be reached by the House until favorable reports had been acted on. Of 2,000 committee reports in the first session of the Twentieth Congress about three-fourths were adverse.

²Third session Twenty-fifth Congress, Globe, p. 146.

³First session Thirtieth Congress, Globe, p. 1006.

⁴Second session Forty-sixth Congress, Congressional Record, p. 200.

⁵First session Fifty-first Congress, House Report No. 23; Record, pp. 1284, 1340.

reports, and were referred to the proper Calendars in accordance with the rule unless a vote should be demanded, when the House decided the reference without debate. The old rule was restored in a modified form in the Fifty-second and Fifty-third Congress, but in the Fifty-fourth the revision of 1890 was restored.

3117. A bill improperly reported from a committee is not entitled to its place on the Calendar.—On January 17, 1899,¹ Mr. James T. McCleary, of Minnesota, made the following statement:

It has been found that the vote by which the bill No. 10289 (a bill to provide for strengthening the public credit, for the relief of the United States Treasury, and for the amendment of the laws relating to national banking associations) was reported to the House from the Committee on Banking and Currency was not taken in due form. I am therefore authorized and directed by the committee to ask that the bill be recommitted.

The Speaker² said:

The Chair desires to say that if the vote in committee was improperly taken the bill would not be properly on the files of the House. The easiest way, therefore, to reach the matter would be to ask unanimous consent, which proposition the Chair will regard as agreed to if there be no objection, that the bill be recommitted. The Chair hears no objection.

On January 20, 1899,³ Mr. Marriott Brosius, of Pennsylvania, made this statement:

I have been authorized by the Committee on Reform in the Civil Service to ask to recommit to that committee the bill (S. 3256) in reference to the civil service and appointments thereunder, which was reported to the House and went upon the Calendar some time ago in an irregular manner. I ask to have it recommitted.

The bill was recommitted by unanimous consent.

3118. The rule for consideration of bills on the House Calendar on call of committees.

Form and history of section 4 of Rule XXIV.

Section 4 of Rule XXIV is the rule of the morning hour:

After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order and then select committees, and each committee when named may call up for consideration any bill reported by it on a previous day and on the House Calendar, and if the Speaker shall not complete the call of the committees before the House passes to other business he shall resume the next call where he left off, giving preference to the last bill under consideration: *Provided*, That whenever any committee shall have occupied the morning hour on two days it shall not be in order to call up any other bill until the other committees have been called in their turn.

The morning hour is one of the older institutions of the House, but its use has varied greatly. For many years, and until 1885, the morning hour meant the time during which committees were called for reports.

In 1885⁴ a second morning hour was instituted, to follow the morning hour for reports, and to be devoted to bills on the House or Union Calendars; that is, public bills called up by committees. This second morning hour was of sixty minutes, length, and whenever any bill had occupied two hours it went to the Calendar of

¹Third session Fifty-fifth Congress, Record, p. 705.

²Thomas B. Reed, of Maine, Speaker.

³Third session Fifty-fifth Congress, Record, p. 851.

⁴First session Forty-ninth Congress, Record, pp. 171, 337.

unfinished business,¹ at that time an order reached with difficulty. In 1890² the present form of rule was adopted and the first morning hour for reports of committees was abolished, reports instead being filed with the Clerk.³ This rule relates only to such bills as are on the House Calendar and the hour is not limited to sixty minutes, thus enabling a bill once taken up to be concluded, and obviating the great disadvantage of the morning hour created in 1885. Previous to the revision of 1880⁴ public bills not appropriating money were considered during the morning hour for the call of committees. As this arrangement often obstructed reports, this class of bills were given a Calendar which was in order so near the end of the day (coming after morning hour, unfinished business, and business of the Speaker's table) as to make it very difficult to reach it. So in 1885 the second morning hour was instituted for public bills of both kinds, and placed before unfinished business. In 1890, the old morning hour being abolished, the term came to mean the time for considering bills on the House Calendar. The Fifty-second and Fifty-third Congresses returned to the system of two morning hours, in use previous to 1890, but the Fifty-fourth Congress restored the rule of 1890.

3119. The call of committees in the morning hour does not necessarily end in sixty minutes.—On March 24, 1896,⁵ the House was considering in the morning hour for the call of committees the bill (S. 1179) relating to the appointment of officers in the Army and Navy.

During the consideration Mr. Albert J. Hopkins, of Illinois, made the point of order that the morning hour had expired.

The Speaker⁶ held:

Under the rules of the House any Member is at liberty to make a motion which will close the morning hour, but the morning hour does not expire of itself.

3120. A bill once brought up on call of committees continues before the House in that order of business until finally disposed of.—On July 1, 1898,⁷ while the bill (H. R. 10807) relating to the International American Bank was pending in the morning hour, a question arose as to the length of time during which the bill would be entitled to consideration.

Mr. Joseph W. Bailey, of Texas, suggested that after a bill had been considered in the morning hour during two sessions of the House it then lost its privilege.

The Speaker⁶ said that this was an error, the rule being intended to allow business to be finished. The language of the rule was intended to prevent a committee that had used the morning hour for two days from calling up any new bill until other committees had been called; but a bill once taken up might be continued in the morning hour until concluded.

¹ See Rules Fiftieth Congress, section 5 of Rule XXIV.

² Home Report No. 23, first session Fifty-first Congress.

³ See section 3166.

⁴ Second session Forty-sixth Congress, Record, p. 200.

⁵ First session Fifty-fourth Congress, Record, p. 3156.

⁶ Thomas B. Reed, of Maine, Speaker.

⁷ Second session Fifty-fifth Congress, Record, pp. 6593, 6594.

3121. Interpretation of the rule of the call of committees in the form existing prior to 1890.—On October 25, 1893,¹ the House proceeded to business in the second morning hour,² the call resting on the Committee on the Public Lands, and the question being on the point of order submitted by Mr. Albert J. Hopkins, of Illinois, on the 23d instant, to wit, that it was not in order during the consideration hour for a committee to present for consideration a proposition which had previously occupied the hour on two successive days.

The Speaker³ overruled the point of order, holding as follows:

The gentleman from Arkansas [Mr. McRae], chairman of the Committee on the Public Lands, calls up for consideration a bill (H. R. 119) which had heretofore been called up under the morning hour, and had its consideration for two hours under the rule. The question is raised against the bill that under the rule providing the second morning hour, or consideration hour, it is not the privilege of a committee to call up in this hour any bill which has been reported by the committee and which has already had the two hours' consideration specified by the rule. The Chair will read the rule:

"4. After the morning hour shall have been devoted to reports from committees (or the call completed), the Speaker shall again call the committees in regular order for one hour, upon which call each committee, on being named, shall have the right to call up for consideration any bill reported by it on a previous day. And whenever any committee shall have occupied the said hour for one day, it shall not be in order for such committee to designate any other proposition for consideration until all the other committees shall have been called in their turn; and when any proposition shall have occupied two hours on this call it shall thereafter remain on the Calendar as unfinished business and be taken up in its order."

The Chair has had some difficulty in determining exactly what was the proper construction of that rule, but, after such examination as the Chair has been able to give to it, is of opinion that the power of the committee to call up any bill reported by it on a previous day is not limited or taken away by the fact that they have once called it up and that it has had its consideration for the two hours specified in the rule. The practice, as the Chair understands it, is expressed in the Digest for the second session of the last Congress, on page 384:

"A bill having been considered in this hour on two days takes precedence on the calendars as unfinished business, according to provisions of clause 5 of Rule XXIV, or, if the committee presenting it so elect, they may again present it for consideration during the consideration hour when that committee is again called in its turn."

Now the suggestion is made that this construction of the rule may operate badly. Of course that suggestion would have force, and does have force, when a rule is subject to two constructions; and the Chair is frank to say that this rule is not perfectly clear. Yet it seems to the Chair that the practice just stated is more consistent with the language of the rule than any other; and the Chair does not see that this practice, as thus suggested, could ever interfere with the right of the committee or the orderly business of the House.

3122. A bill must be actually on the House Calendar, and properly there also, in order to be considered in the morning hour.—On December 10, 1896,⁴ during the call of committees, Mr. H. Henry Powers, of Vermont, from the Committee on Pacific Railroads, called up the bill (H. R. 6398) relating to the

¹First session Fifty-third Congress, Journal, p. 154.

²The first morning hour was for the call of committees for reports. (See sec. 3118.) This precedent has no application to the present rule of the morning hour. The present rule was adopted in 1890 and readopted in 1895. From 1892 to 1895 the old rule, which had existed before 1890, was temporarily restored.

³Charles F. Crisp, of Georgia, Speaker.

⁴Second session Fifty-fourth Congress, Record, p. 83.

Atlantic and Pacific Railroad Company, stating that the bill had inadvertently been referred to the calendar of the Committee of the Whole House on the state of the Union, but that it properly belonged on the House Calendar, as it involved no appropriation.

Mr. Thomas C. McRae, of Arkansas, made the point of order that the bill was not in order for consideration.

The Speaker¹ held:

The point of order is that the bill is not in order at the present time, because the rule expressly provides that only bills recommended by the committees, and on the House Calendar, shall be considered in this order. This bill is not on the House Calendar, but on the Union Calendar. * * * The placing of a bill on the House Calendar is intended for two purposes—first, that it shall not carry an appropriation or the equivalent of it, and that there shall be notice to the House that it is liable to be taken up. Not being on the House Calendar, even if it ought to have been, there is no notice. * * * Therefore if the point of order is insisted on it must be sustained on that ground.

3123. On January 18, 1897,² during the call of committees, Mr. Joseph A. Scranton, of Pennsylvania, called up the bill (S. 2555) to authorize the issuance of leases of certain islands in Alaska.

The bill not being on the House Calendar, the Speaker¹ said:

It must be on the Calendar to be in order under this call. * * * The idea of this committee hour, so called, is to bring up bills which are on the Calendar of the House and which do not involve an appropriation. The bill is required to be on the Calendar, so that the House may have some notice of its existence as a bill.

3124. On February 9, 1897,³ during the morning hour for the call of committees, Mr. W. C. Anderson, of Tennessee, called up the bill (H. R. 7539) to facilitate the payment of pensions, which was on the House Calendar.

Mr. Sereno E. Payne, of New York, made the point of order that the bill was improperly on the House Calendar.

The Speaker¹ ruled:

The Chair sustains the point of order. The bill has been placed on the House Calendar, but there is a rule of the House which provides that a point of order may be made as to the reference of a bill at any time before consideration; and, while the charge upon the Treasury made by the bill is a small one, nevertheless it is a charge, and the question is not one of amount, but of principle.

3125. On March 1, 1900,⁴ during the call of committees in the morning hour Mr. H. Henry Powers, of Vermont, from the Committee on Pacific Railroads, asked leave to call up the bill (H. R. 2864), which in full was as follows:

Be it enacted, etc., That the Secretary of the Treasury, the Secretary of the Interior, and the Attorney General of the United States are hereby authorized and empowered to make settlement and adjustment with the Sioux City and Pacific Railroad Company of its indebtedness to the Government of the United States, and when such settlement is approved by the President it shall become operative, and the Attorney-General shall make the necessary acquittances to said railroad company.

This bill being on the Union Calendar, Mr. Powers asked that it be transferred to the House Calendar, as properly belonging there.

¹Thomas B. Reed, of Maine, Speaker.

²Second session Fifty-fourth Congress, Record, p. 903.

³Second session Fifty-fourth Congress, Record, p. 1686.

⁴First session Fifty-sixth Congress, Record, p. 2455.

After debate the Speaker¹ said:

The Chair is of opinion, after examining the authorities, that the bill ought to be on the House Calendar, and will make the change of reference. He must state, however, that the bill can not be again called up on the same day without unanimous consent, as it is due to the House that the bill, when called up, should be on the printed Calendar, so that members shall be duly notified, shall have timely warning, that a bill is liable to be brought up on this call.

3126. On December 7, 1906,² the Committee on Insular Affairs was called on the call of committees, and Mr. Henry A. Cooper, of Wisconsin, called up the bill (H. R. 17661) providing that the inhabitants of Puerto Rico shall be citizens of the United States.

A question arising as to the position of the bill, the Speakers³ said:

The gentleman from Wisconsin seeks to call up the bill (H. R. 17661) reported from the Committee on Insular Affairs, with an amendment, providing that the inhabitants of Puerto Rico shall be citizens of the United States. This bill is on the Union Calendar and not upon the House Calendar. Being upon the Union Calendar, it is, therefore, not within the rule. The gentleman, however, makes the point that the bill should not be upon the Union Calendar, but ought to be upon the House Calendar. The Chair, upon examination of the bill, is inclined to the opinion that the bill ought to be upon the House and not upon the Union Calendar. The bill, however, is upon the Union Calendar.

The Speaker thereupon directed that the bill be transferred to the House Calendar.

Mr. Cooper thereupon proceeded to call up the bill for consideration.

A question of order having been raised by Mr. Champ. Clark, of Missouri, the Speaker held:

Now, then, upon that motion it has been held that a bill must be actually on the House Calendar, and properly so also, in order to be considered in the morning hour. The idea is, as the Chair understands the ruling and the rule, that the House should have notice of what is liable to be called upon the House Calendar in the morning hour. Now, the House did not have that notice upon the Calendar when the gentleman called the bill, and the gentleman then elected to make the point of order that the bill should be upon the House Calendar and not upon the Union Calendar. In the opinion of the Chair, as the gentleman from Missouri objects, the bill is not subject to call to-day in the morning hour.

3127. On the call of committees each bill must be called on authorization of the committee; but in case of dispute as to the authorization the Speaker can not decide as to the fact.—On December 8, 1886,⁴ in the morning hour, when the Committee on Naval Affairs had been called, Mr. Hilary A. Herbert, of Alabama, proposed to bring before the House a resolution fixing a time for the consideration of the bill (H. R. 7635) to consolidate certain bureaus of the Navy Department.

Mr. Charles A. Boutelle, of Maine, having made the point of order that the gentleman from Alabama was not authorized by the committee to bring up the proposition under the call of committees, and a difference of opinion having arisen as to whether or not the committee had given an authorization, the Speaker⁵ held:

The Chair decides that under the rule a measure must be called up by the committee having it in charge, which means that the committee must authorize it to be called up, just as a committee author

¹ David B. Henderson, of Iowa, Speaker.

² Second session Fifty-ninth Congress, Record, p. 172.

³ Joseph G. Cannon, of Illinois, Speaker.

⁴ Second session Forty-ninth Congress, Record, p. 43.

⁵ John G. Carlisle, of Kentucky, Speaker.

izes a report to be made, or as a committee is required to authorize a motion to suspend the rules when committees are called for that purpose. But whether the committee did or did not authorize its chairman to call up a particular measure is a question of fact which, of course, the Chair can not decide. * * * That is a question of fact which must be decided by the committee itself, and the Chair must depend, of course, upon the good faith of Members in regard to that matter. Where there is a difference of opinion upon a question of that sort, it is impossible for the Chair to decide it.

3128. The Speaker may, upon statements from the chairman and other members of a committee, rule that the calling up of a bill has been authorized by a committee.—On December 15, 1898,¹ Mr. Ebenezer J. Hill, of Connecticut, called up the bill (H. R. 10807) relating to the incorporation of the International American Bank, which had come over from the preceding session of Congress with a point of order pending.

This point of order was presented anew by Mr. Joseph W. Bailey, of Texas, who contended that Mr. Hill was not authorized by the Committee on Banking and Currency to call up this bill, but had in fact been authorized to call up a Senate bill relating to the same subject.

Mr. Joseph H. Walker, of Massachusetts, chairman of the committee, having been recognized, stated that the committee had authorized Mr. Hill to call up the House bill; but that by an error the records of the committee had been made up to show that the authorization was given for the Senate bill. This error the committee had corrected at its earliest opportunity, which was at its meeting of the previous day, December 14.

After further debate the Speaker² decided:

The Chair desires to say that the point of order which was made by the gentleman from Texas was amply justified by the record of the committee as it stood at that time. But the committee has since corrected the record, presumably, necessarily, and we have got to look at the point of order now in accordance with the facts which are now before us, which seem to indicate, in fact indicate absolutely, that the gentleman was authorized to bring up the bill. If that be the case, the Chair does not see how he can do anything but overrule the point of order.

3129. A bill taken up during the call of committees may be withdrawn by the committee at any time before amendment or other action which puts it into possession of the House.—On January 12, 1897,³ during the call of committees in the morning hour, Mr. James D. Richardson, of Tennessee, for the Committee on Printing, called up the bill (H. R. 9601) relating to the franking privilege.

After consideration of the bill and after an amendment had been offered, the previous question was demanded. On this question there were yeas 37, nays 73.

Mr. Richardson then proposed to withdraw the bill from consideration.

Mr. Charles A. Boutelle, of Maine, raised a question of order as to the right of the gentleman to withdraw the bill at this stage.

The Speaker,² after having raised a question as to whether or not amendments had been voted on by the House, and it having been stated that an amendment had been informally suggested and accepted without a vote on the part of the House, decided that with the authority of the committee the bill might be withdrawn.

¹Third session Fifty-fifth Congress, Record, pp. 221, 222; Journal, p. 34.

²Thomas B. Reed, of Maine, Speaker.

³Second session Fifty-fourth Congress, Record, pp. 740, 764; Journal, p. 77.

3130. The Speaker has declined to allow the call of committees to be interrupted by a request for unanimous consent.—On December 12, 1904,¹ a call for the regular order having been made, the House proceeded to the call of committees, and during that call Mr. William Richardson, of Alabama, asked unanimous consent for the present consideration of the bill (H. R. 2510) for the construction of a steam revenue cutter. This bill, being on the Union Calendar, was not in order under the call of committees, and the Speaker² said:

Under the rule, being on the Union Calendar, it cannot be considered in the morning hour. * * * I think unanimous consent is universally refused on the call. The Chair would be compelled to exercise his right as a Member if nobody else appeared to make objection. * * * The Chair will state, as the Chair's recollection, it has been the practice of the Speaker on his own motion as presiding officer not to allow this order of business to be interrupted to consider matters in the morning hour on the Union Calendar.

3131. The call of committees may be interrupted at the end of sixty minutes by a privileged report as well as by a motion to go into Committee of the Whole.

A report which is privileged to be reported at any time is also privileged for consideration at any time, irrespective of the rule for the order of business.

On August 19, 1890,³ the House was proceeding in the morning hour with the consideration of a bill (H. R. 4654) relating to alien landowners. At the expiration of sixty minutes, and while Mr. Thomas H. Carter, of Montana, had the floor, Mr. Joseph G. Cannon, of Illinois, interrupted to make a privileged report from the Committee on Rules.

Mr. W. C. P. Breckinridge, of Kentucky, made the point of order that the morning hour did not expire at the expiration of sixty minutes.

The Speaker pro tempore⁴ overruled the point of order as to the termination of the morning hour, and held that it might be terminated by the presentation of privileged reports as well as by a motion to go into the Committee of the Whole House on the state of the Union, as provided by clause 5 of Rule XXIV;⁵ and as clause 51,⁶ Rule XI, gave the Committee on Rules the right to report at any time propositions relating to the daily order of business, the right to consider such report when made followed under the established practice of the House, subject, of course, to the "question of consideration," as provided in clause 3, Rule XVI.⁷

3132. On December 17, 1902,⁸ Mr. Speaker Henderson declined to allow the call of committees to be interrupted by a privileged report from the Committee on Ways and Means before the expiration of sixty minutes.

¹Third session Fifty-eighth Congress, Record, p. 163.

²Joseph G. Cannon, of Illinois, Speaker.

³First session Fifty-first Congress, Journal, p. 969; Record, p. 8819.

⁴Lewis E. Payson, of Illinois, Speaker pro tempore.

⁵See section 3134.

⁶Now clause 61 of Rule XI.

⁷See section 4936 of Vol. V of this work.

⁸Second session Fifty-seventh Congress, Record, p. 420.

3133. The House having completed the order of business and not being ready to adjourn, the Speaker directed the call of committees to be resumed.—On February 13, 1902,¹ after the House had proceeded with the call of committees for sixty minutes, a motion was made and carried that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 88) for the relief of persons for property taken from them by military forces of the United States.

After some time the committee rose and reported the bill favorably, and it was passed by the House.

Then, a call being made for the regular order and no further motion to go into Committee of the Whole being made, the Speaker² directed that the Call of committees be resumed.³

3134. The rule for interrupting a call of committees at the end of sixty minutes.

Conditions under which motions may be made to go into Committee of the Whole House on the state of the Union to consider nonprivileged bills.

Form and history of section 5 of Rule XXIV.

Section 5 of Rule XXIV is:

After one hour shall have been devoted to the consideration of bills called up by committees, it shall be in order, pending consideration or discussion thereof, to entertain a motion to go into Committee of the Whole House on the state of the Union, or, when authorized by a committee, to go into the Committee of the Whole House on the state of the Union to consider a particular bill, to which motion one amendment only, designating another bill, may be made; and if either motion be determined in the negative, it shall not be in order to make either motion again until the disposal of the matter under consideration or discussion.

This rule dates from 1890,⁴ and has been in use in the Fifty-first, Fifty-fourth, and succeeding Congresses. It places motions to go into Committee of the Whole House on the state of the Union very nearly at the end of the order of business, which has been its position for many years. But the shortening of the order in 1890 has rendered it possible to reach this class of business early in the day if no privileged matters intervene to consume the time.⁵

3135. The motion to go into Committee of the Whole House on the state of the Union may be made after sixty minutes of morning hour, or sooner if that order fails.

An instance wherein the House, by recess, remained for two calendar days at the stage of business wherein the motion under Rule XXIV, section 5, was in order.

¹ First session Fifty-seventh Congress, Record, pp. 1716, 1719.

² David B. Henderson, of Iowa, Speaker.

³ This is a rare instance of a day wherein the House has gone entirely through with the order of business. Often privileged matters intervene to such an extent as to prevent the House from reaching even the call of committees for days at a time.

⁴ House Report No. 23, first session Fifty-first Congress.

⁵ See section 3072 for the rule which gives precedence to motions for going into Committee of the Whole to consider revenue and appropriation bills.

An instance wherein the House came to the end of its order of business.

On January 19, 1904,¹ in the regular order of business the Speaker directed the Clerk to call the committees for consideration of bills called up from the House Calendar. The call proceeding, and Mr. William P. Hepburn, of Iowa, having the floor, a question arose as to the next order of business, when the Speaker² said:

If the call of committees is proceeded with, the Chair is of opinion that at the end of sixty minutes the gentleman can be recognized to make any motion that he may desire, or if the call expires before sixty minutes, and the committees have all been called, the gentleman's motion will be in order if he desires to reach the Union Calendar. When the call of committees is completed, even though sixty minutes be not used, it would be in order, the Chair thinks, and at the end of sixty minutes whatever may be under consideration.

The call of committees proceeding and being exhausted before the end of sixty minutes, Mr. Hepburn was recognized and 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. 6295) for preventing the adulteration, misbranding, and imitation of foods, beverages, candies, drugs, and condiments in the District of Columbia and the Territories, and for regulating interstate traffic therein, and for other purposes.

This motion was agreed to, and after some time spent in Committee of the Whole, the committee rose and the Chairman reported that it had come to no resolution on the pending bill.

Then, after the transaction of sundry matters of business, the House, on motion of Mr. Hepburn, took a recess until 11:55 a. m. the next calendar day.

When the House met at 11:55 a. m. on the calendar day of January 20,³ Mr. Hepburn was at once recognized and moved that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the said bill (H. R. 6295) for preventing the adulteration of foods, etc. The motion was agreed to, and after some time the Committee of the Whole rose and reported the bill with sundry amendments and a favorable recommendation.

The amendments were voted on by the House, and the bill as amended was engrossed, read a third time, and passed.

3136. The motion to go into Committee of the Whole House on the state of the Union under section 5 of Rule XXIV may be repeated, although the committee may have risen after having considered a bill under that order of business.—On April 30, 1900,⁴ after sixty minutes under the call of committees, a motion was made under section 5 of Rule XXIV, to go into Committee of the Whole House on the state of the Union to consider the bill (H. R. 6634) to enlarge the powers of the Department of Agriculture in relation to transportation of game, etc. The committee having risen and reported this bill, and the same having been passed, the Speaker entertained another motion to go into Committee of the Whole House on the state of the Union, to consider the bill (S. 1939) authorizing the appointment of a commission to study commercial and industrial conditions in China and Japan.

¹Second session Fifty-eighth Congress, Record, pp. 877, 878, 900, 901.

²Joseph G. Cannon, of Illinois, Speaker.

³Record, pp. 924, 940.

⁴First session Fifty-sixth Congress, Record, pp. 4875, 4876; Journal, pp. 522, 524.

3137. At the end of one hour of the call of committees the House may on motion resolve itself into the Committee of the Whole House on the state of the Union one or several times.—On March 14, 1902,¹ in the regular order of business, there was a call of committees for the consideration of bills on the House Calendar. After this call had proceeded for sixty minus Mr. Llewellyn Powers, of Maine, moved, under the rule, that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 11997) granting to the Hawaii Ditch Company (Limited) right of way, etc. This motion was agreed to, and after some time the Committee of the Whole rose and the bill was reported favorably. Thereupon it was passed by the House.

Then, on motion of Mr. De Alva S. Alexander, of New York, the House resolved itself again into Committee of the Whole House (no particular bill being mentioned). In committee motions were successively made and carried to take up several bills, which were successively considered and laid aside with favorable recommendations.

Then the committee rose and reported the bills, which were acted on by the House.

3138. The motion to go into Committee of the Whole House on the state of the Union to consider a particular bill must be authorized by a committee, but the individual Member may move to go in generally.

The House, at the end of the morning hour, having gone into Committee of the Whole generally, the committee may determine the order of considering business on its Calendar.

The amendment referred to in section 5 of Rule XXIV does not refer to motions to take up bills after the House has gone into Committee of the Whole.

On December 12, 1904, after the House had spent an hour in the call of committees, Mr. Ebenezer J. Hill, of Connecticut, moved that the House resolve itself into Committee of the Whole House on the state of the Union for consideration of the bill (H. R. 4831) "to improve currency conditions,"

Mr. Charles L. Bartlett, of Georgia, after reading section 5 of Rule XXIV, called attention to the fact that Mr. Hill was not a member of the committee which had reported the bill, and questioned whether or not Mr. Hill had been "authorized by a committee" to specify this "particular bill" in his motion.

Mr. Hill being unable to show his authority when interrogated by the Speaker, the Speaker³ said:

Any Member has a right to make a motion to go into Committee of the Whole, but to designate a particular bill it seems to the Chair, the gentleman must first have the authorization of that committee.

Thereupon Mr. Hill moved that the House resolve itself into Committee of the Whole House on the state of the Union.

Mr. Bartlett, rising to a parliamentary inquiry, said:

I desire to make a parliamentary inquiry as to whether, if we go into the Committee of the Whole generally, the Union Calendar will then be taken up in the order in which we find the bills reported on the Calendar.

¹First session Fifty-seventh Congress, Record, pp. 2805, 2809, 2811, 2813.

²Third session Fifty-eighth Congress, Record, pp. 167, 168.

³Joseph G. Cannon, of Illinois, Speaker.

The Speaker said:

The Chair understands that this particular bill (meaning H. R. 4831) is upon the Calendar. * * * The Chair understands that it is quite within the power of the gentleman from Connecticut [Mr. Hill], if the House should resolve itself into the Committee of the Whole House on the state of the Union, to move to take up this particular bill. * * * It is for the committee to regulate its own order of business. The question is on the motion of the gentleman from Connecticut that the House resolve itself into the Committee of the Whole House on the state of the Union.

Mr. Bartlett having inquired if the motion was debatable, the Speaker said, "No; it is not."

Thereupon the motion was agreed to.

In the committee, Mr. John S. Williams, of Mississippi, having made an inquiry as to the order of business, the Chairman¹ said:

It is within the power of the committee to designate what bill it shall consider.

Mr. Hill having moved to take up the bill (H. R. 4831), Mr. Williams moved as a substitute to this motion "that the committee proceed to consider the bills upon the Union Calendar in the order of their priority."

Mr. Sereno E. Payne, of New York, made the point of order that Mr. Hill's motion might be amended only by a motion to take up another bill.

The Chairman said:

The gentleman from New York [Mr. Payne] has in mind another rule, which applies to a motion made before the House resolves itself into the Committee of the Whole, which is section 5 of Rule XXIV. The Chair considers that the rule applicable now is section 4 of Rule XXIII.

3139. The motion to go into Committee of the Whole to consider a particular bill after a call of committees may be amended only by substituting another bill on the Union Calendar.—On May 17, 1898,² after an hour had been consumed in the consideration of bills called up by committees, Mr. John J. Gardner, of New Jersey, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering the bill (H. R. 4073) authorizing the appointment of a nonpartisan labor commission.

Mr. William H. Moody, of Massachusetts, proposed an amendment: "And also to consider House bill No. 369," which was a private claim bill on the Calendar of the Committee of the Whole House.

Points of order having been made against this motion, the Speaker pro tempore³ held that under the rule the amendment extended only to the substitution of another bill, not to the addition of one; and that only bills on the Calendar of the Committee of the Whole House on the state of the Union were intended.⁴

3140. When, by authority of a committee, a motion is made to go into Committee of the Whole House on the state of the Union to consider a particular bill (not a revenue or appropriation bill) an amendment designating another bill may be offered by a Member individually.—On January, 6, 1891,⁵ after one hour devoted to the consideration of bills called up by commit-

¹ John Dalzell, of Pennsylvania, Chairman.

² Second session Fifty-fifth Congress, Record, p. 4988.

³ Sereno, E. Payne, of New York, Speaker pro tempore.

⁴ See section 3134 for the rule.

⁵ Second session Fifty-first Congress, Journal, p. 103: Record, p. 961.

tees, Mr. John M. Farquhar, of New York, by direction of the Committee on Merchant Marine and Fisheries, 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 of the Senate (S. 3738) to place American merchant marine engaged in the foreign trade upon an equality with that of other nations.

Mr. William M. Springer, of Illinois, moved to amend the motion, so as to provide that the said committee proceed to the consideration of the bill of the House (H. R. 5353), defining "options" and "futures" and imposing special taxes upon dealers therein, and for other purposes.

Mr. Nelson Dingley, jr., of Maine, made the point of order that Mr. Springer was not authorized by any committee to make the motion, and, therefore, the motion was not in order.

The Speaker¹ overruled the point of order.

3141. It is not in order, before the expiration of sixty minutes of the call of committees, to move to go into Committee of the Whole House on the state of the Union to consider a bill that is not privileged.—On December 19, 1906,² after the reading of the Journal and before there had been a call of committees in accordance with the rule for the order of business, Mr. Charles E. Littlefield, of Maine, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 2) requiring all corporations engaged in interstate commerce to make returns, and for other purposes.

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

The Speaker³ sustained the point of order, on the ground that the morning hour had not expired.

3142. The right of a committee to report at any time carries with it the right to have the matter reported considered.—On January 12, 1852,⁴ Mr. Willis A. Gorman, of Indiana, from the Committee on Printing, reported a resolution for the printing of copies of the Coast Survey Report. Debate having arisen thereon, Mr. Joshua R. Giddings, of Ohio, made the point of order that under the twenty-sixth rule⁵ this day was set apart for the introduction, upon a call of the States, of resolutions which should give rise to no debate, and that the pending resolution must consequently be passed over.

The Speaker⁶ decided that, inasmuch as the twenty-first joint rule permitted the Committee on Printing to report at any time, he was of the impression that the

¹ Thomas B. Reed, of Maine, Speaker.

² Second session Fifty-ninth Congress, Record, p. 555.

³ Joseph G. Cannon, of Illinois, Speaker.

⁴ First session Thirty-second Congress, Journal, p. 195; Globe, p. 253.

⁵ The twenty-sixth rule provided "All States and Territories shall be called for resolutions on each alternate Monday during each session of Congress," etc. This rule is no longer in existence.

⁶ Linn Boyd, of Kentucky, Speaker.

⁷ The twenty-first joint rule was: "It shall be in order for the Committee on Printing to report at any time." The House and Senate have not had joint rules since 1875, when the Forty-fourth Congress did not adopt them. There had been such rules from the First Congress until that time. The House rule giving the Committee on Printing leave to report at any time was not adopted until 1860.

authority to report carried with it the authority to dispose of the matter reported; he therefore overruled the point of order.

Mr. Giddings appealing, the decision of the Chair was sustained.

3143. On August 4, 1852,¹ the Speaker announced as the business first in order the bill of the House (No. 146) to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes.

Mr. Charles E. Stuart, of Michigan, made the point of order that this bill, not having been made a special order, was not entitled to precedence over bills previously reported and which had not yet been disposed of.

The Speaker² decided:

On last Monday, after a suspension of the rules by a two-thirds vote, it was ordered by the House that the Committee on the Judiciary should report this particular bill. The order having been given thus to report it, the Chair thinks it carries with it the right to consider; and that you can not separate the right to report and the right to consider when it is reported. There is difficulty about the matter, the Chair admits, but that is his opinion with regard to the point of order.

On an appeal the decision of the Chair was sustained.³

3144. On June 8, 1860,⁴ Mr. John Hickman, of Pennsylvania, called up the report of the Committee on the Judiciary on the message of the President protesting against certain proceedings of the House.

Mr. Martin J. Crawford, of Georgia, made a point of order against the consideration of the report.

The Speaker⁵ overruled the point of order on the ground that the committee had authority to report at any time, which, under the precedents, carried with it the right to consider at any time the report when made.

Mr. Crawford having appealed, the decision of the Chair was sustained.

3145. A bill reported by a committee under its right to report at any time remains privileged for consideration until disposed of.—On July 27, 1886,⁶ Mr. Lewis E. Payson, of Illinois, moved that the House proceed to the further consideration of the bill of the Senate restoring certain railroad lands, reported from the Committee on Public Lands on the preceding day with an amendment in the nature of a substitute, and pending when the House adjourned.

Mr. Horace B. Strait, of Minnesota, made the point of order that the motion was not in order at the present time, for the reason that the bill and amendment, though in order for consideration on the day reported, did not retain their privileged character beyond that day. Not being disposed of at the adjournment, the bill and amendment had gone to the Calendar of Unfinished Business, and their consideration was not now in order.

¹First session Thirty-second Congress, Journal, p. 1009; Globe, p. 2065.

²Linn Boyd, of Kentucky, Speaker.

³For similar ruling see also second session Forty-seventh Congress, Journal, pp. 162, 163; Record, p. 860.

⁴First session Thirty-sixth Congress, Journal, p. 1039; Globe, p. 2774.

⁵William Pennington, of New Jersey, Speaker.

⁶First session Forty-ninth Congress, Journal, p. 2360; Record, p. 7602.

The Speaker¹ overruled the point of order on the ground that the bill was a privileged matter, under clause 49, Rule XI,² and there being no restriction in the rule as to its privileged character, it remained a privileged matter until disposed of, subject to the question of consideration and matters of higher privilege.

3146. Bills from a committee having leave to report at any time must be reported from the floor of the House and not by filing them with the Clerk.

Although a privileged matter may lose its privilege by an informal manner of making the report, the injury may be repaired by a new report.

On March 26, 1890,³ Mr. Byron M. Cutcheon, of Michigan, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of general appropriation bills, the object being to reach the Army bill.

Mr. Mark S. Brewer, of Michigan, made the point of order that the bill was not properly referred to the Committee of the Whole, having been filed with the Clerk under clause 2, Rule XIII, instead of under clause 51, Rule XI.⁴

The Speaker⁵ sustained the point of order, but said that the report could be made to the House then.

This was done, and the bill was at once referred to the Committee of the Whole, Mr. Brewer reserving points of order.

3147. The report of a select committee appointed "to examine and report" on a certain subject is not privileged.—On February 24, 1897,⁶ Mr. William W. Grout, of Vermont, from the select committee on the investigation of the Leavenworth Soldiers' Home, submitted a report, accompanied by a bill. This committee had been authorized at the preceding session, and had been "empowered to examine and report to the House" and "recommend by bill or otherwise" such action as should seem proper.⁷

Mr. Grout, as a parliamentary inquiry, asked whether or not the report was privileged.

The Speaker⁵ said:

The Chair does not think it is privileged in such sense that the measure comes before the House for consideration. It is privileged to be reported.

3148. The highly privileged character of general appropriation bills continues at all stages, including the period after they are returned with Senate amendments.—On Friday, August 1, 1890,⁸ Mr. Benjamin A. Enloe, of

¹John G. Carlisle, of Kentucky, Speaker.

²Now section 61 of Rule XI. This rule enumerates the committees which have leave to report at any time.

³First session Fifty-first Congress, Journal, p. 392; Record, p. 2713.

⁴Now section 61 of Rule XI.

⁵Thomas B. Reed, of Maine, Speaker.

⁶Second session Fifty-fourth Congress, Record, p. 2211.

⁷First session Fifty-fourth Congress, Record, p. 5066.

⁸First session Fifty-first Congress, Journal, p. 910; Record, p. 8027.

Tennessee, moved that the House resolve itself into the Committee of the Whole House for the consideration of business on the Private Calendar.

Pending this, Mr. Joseph G. Cannon, of Illinois, as a privileged question, called up the amendments of the Senate to the bill of the House (H. R. 10884), the sundry civil appropriation bill, coming over as unfinished business from the preceding day's session.

The Speaker¹ held that the motion submitted by Mr. Cannon took precedence of the motion submitted by Mr. Enloe, for the reason that, by clause 51, Rule XI,² and clause 9, Rule XVI,³ general appropriation bills were given a highly privileged character, and that this privileged character attached to that class of bills at all subsequent stages of proceedings.⁴

3149. A bill with amendments of the other House is privileged after the stage of disagreement has been reached.—On January 29, 1901,⁵ Mr. John A. T. Hull, of Iowa, as a privileged matter, called up the bill (S. 4300) to increase the efficiency of the military establishment of the United States, which had been returned from the Senate with the announcement that the Senate had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House, had further insisted on its amendments to the amendment of the House, asked a further conference, and had appointed conferees thereto.

Mr. James D. Richardson, of Tennessee, made the point of order that the matter was not privileged.

The Speaker⁶ said:

The only question before the House is, Has the gentleman from Iowa the right to call up this bill? * * * That is the only question now before the House—whether it is privileged or not, so that he can call it up. In this case the point of disagreement has been reached, and it is back here with a message from the Senate saying that they hold to their position. Clearly after a bill has reached the point of disagreement, as it has in this case, it is certainly within the power of the gentleman in charge of the bill to call the matter up. * * * It is in the stage of disagreement, which makes it privileged to be called up. The Chair overrules the point of order.

Mr. Hull moved that the House further insist on its disagreement to the Senate amendments, and agree to the conference asked by the Senate.

Mr. Richardson made a point of order that this motion was not in order.

After debate the Speaker said:

It seems to the Chair that we have a very simple question before us. A conference report, signed by managers on the part of the two Houses, was submitted of the House. It was a complete report—a full and complete agreement. This House, having the papers, had to act first upon that conference report, and did so. The House agreed to the report. Then the papers, with the action of the House thereon, had to go to the Senate. The Senate took up the report and considered it. Had the Senate

¹Thomas B. Reed, of Maine, Speaker.

²Now section 61 of Rule XI.

³See section 3072 of this work.

⁴A general appropriation bill returned with a Senate amendment that provides a new and distinct object of expenditure of money or property is privileged, but may not be taken up directly from the Speaker's table, being subject to the requirements of section 2 of Rule XXIV. (See sec. 3089 of this work.)

⁵Second session Fifty-sixth Congress, Journal, pp. 169, 170; Record, p. 1625.

⁶David B. Henderson, of Iowa, Speaker.

also agreed to the conference report that would have ended the matter, so far as the two Houses were concerned, and the bill would have gone to the President. But what do we find? A message from the Senate, in which it is stated:

“Resolved, That the Senate further insists upon its amendments to the amendment of the House of Representatives to the bill (S. 4300) to increase the efficiency of the military establishment of the United States, and asks a further conference on the disagreeing votes of the two Houses thereon.

“Ordered, That Mr. Hawley, Mr. Proctor, and Mr. Cockrell be the conferees on the part of the Senate.”

(Duly attested by the Secretary.)

That situation brings before this House two facts: First, that the Senate did not agree to the conference report, and they have notified the House of that fact; and second, that they ask for a further conference with the House in respect to the disagreement. This is a parliamentary condition which toward the last of the session, when conference reports come in, is of almost daily occurrence; and there is but one thing for the House now to do—that is, to say whether it insists on its disagreement or agrees with the position taken by the Senate. If it will not agree to the amendments and desires to insist upon its disagreement, then it must agree to the conference. It seems to the Chair clear that the motion made by the gentleman from Iowa [Mr. Hull] is the usual motion, and the Chair is therefore constrained to overrule the point of order made by the gentleman from Tennessee.

3150. On June 20, 1902,¹ Mr. John A. T. Hull, of Iowa, called up the army appropriation bill which had been returned from the Senate with the message that they further insisted on their amendments, and asked a full and free conference.

Mr. Hull was about to ask unanimous consent to take up the bill, when the Speaker² said:

This matter does not require unanimous consent. The bill has reached the state of disagreement and is privileged. The gentleman can call it up at once.

3151. By usage of the House requests for leaves of absence and reports of the Committee on Enrolled Bills may be presented pending the announcement of the vote that the House adjourn.—On March 21, 1874,³ immediately after the reading of the Journal, Mr. Samuel J. Randall, of Pennsylvania, arose and said:

Mr. Speaker, on last evening, pending your statement of the vote of the House on the motion to adjourn, I raised a controversy as to your right to interject public business from the Speaker's table when you had knowledge of the disposition of the House as to its adjournment. I would ask the Speaker in perfect politeness by what rule he claims the right to interject business under such circumstances.

The Speaker⁴ replied:

The Chair did not interject public business. He interjected what has always been deemed to be a matter of privilege, and of very high privilege, for the convenience of Members, the asking of leave of absence. That was all he interjected. The motion to adjourn had been carried obviously by the sound, but the rules especially provide that it is not a vote until it is declared by the Chair that the motion is carried; and even upon a yea-and-nay vote, and when the Chair holds in his hand the record of the tally clerk showing it to be carried, it has always been the usage of the House, and always will be unless the present occupant of the chair shall be ordered differently by the House, to ask leave of absence for Members. If an adjournment had been carried by a yea-and-nay vote and the gentleman from Pennsylvania desired leave of absence from the House for any length of time, the Chair would recognize his right to submit that question; but it is, of course, the right of every Member to object to the leave of absence.

¹ First session Fifty-seventh Congress, Record, p. 7113.

² David B. Henderson, of Iowa, Speaker.

³ First session Forty-third Congress, Record, p. 2338.

⁴ James G. Blaine, of Maine, Speaker.

Mr. Randall made the further point that a number of enrolled bills were also presented.

The Chair denied that he had presented enrolled bills on the occasion in question, but maintained his right to do so, saying:

If enrolled bills were lying before the Chair, and were signed, and a motion to adjourn had been made and agreed to on a yea-and-nay vote, and the Chair held the record in his hand of that fact, before declaring the result of the vote the Chair would consider himself justified, not only by convenience, but also by immemorial usage of the House, to lay enrolled bills before the House.¹

¹On December 19, 1882 (second session Forty-seventh Congress, Record, p. 438), a question was raised as to the status of leaves of absence with reference to a privileged nature. Mr. Speaker Keifer ruled only so far as to express the opinion that a motion to adjourn would take precedence of them.