Chapter CXX.

THE PREVIOUS QUESTION.

1. **The rule and its development. Sections 5443–5446.**[1]
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5443. The motion for the previous question, when agreed to, has the effect of cutting off all debate (except forty minutes on questions not before debated) and of bringing the House to a vote.

The previous question may be moved on a single motion, on a series of allowable motions, on an amendment or amendments, and on a bill to its final passage or rejection.

Pending the vote on the passage of a bill under the operation of the previous question, a motion to commit to a standing or select committee, with or without instructions, is in order.

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[1] Form for putting the previous question. (Sec. 5754 (footnote) of this volume.)

[2] See, however, section 2532 of Volume III for a decision permitting debate on question of privilege arising after previous question has been ordered on another question.

[3] Not in order in Committee of the Whole. (Sec. 4716 of Vol. IV.)

In relation to the question of consideration. (Secs. 4965–4968 of this volume.)

The motion to lay on the table not in order after previous question is ordered. (Secs. 5415–5422 of this volume.)

Division of the question not in order after the previous question is ordered. (Secs. 6149, 6150 of this volume.)

Motion to recede not in order after previous question is moved on motion to adhere. Sec. 6310 of this volume.) But the motion to recede has been admitted after the demand for the previous question on the motion to insist.

[4] See also sections 5653–5663 of this volume.

The old and the present form for putting the previous question. Present form and recent history of section 1 of Rule XVII.

Section 1 of Rule XVII provides:

There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote[1] upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill[2] to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

This rule, of the greatest importance and of very frequent use in the House of Representatives, is the result of more than a century of development. In the earlier years its efficiency as a means of forwarding business was accompanied by much harshness and rigidity, which not only worked hardship on the Member, but interfered with a convenient and satisfactory disposal of business. In later years the harshness of the rule has been considerably lessened, while it has been given greater flexibility, which has enabled the House to follow its own wishes more fully in the consideration of amendments and in dealing with incidental questions.

The present form of the rule, with a few changes only, dates from the revision of 1880.[3] That form provided that the previous question might be ordered only to the engrossment and third reading, and then must be ordered again on the passage. In 1890[4] the rule was changed so that it might be ordered through to and including the passage. In 1890 also a clause allowing a motion to lay on the table on the second and third reading of a bill was dropped. In 1896[5] the words in the first clause, "being ordered by a majority of Members voting, if a quorum be present," were inserted in place of "being ordered by a majority of Members present, if a quorum," to conform to the practice of the House in regard to the presence of a quorum.[6]

In the revision of 1880[7] the rule, in taking on its present form, was broadened to apply to single motions or a series of motions as well as to amendments; and the motion to commit[8] pending the passage of the bill was authorized so as to afford "the amplest opportunity to test the sense of the House as to whether or not the bill is in the exact form it desires."

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[1] This is modified, however, by a clause of section 3 of Rule XXVIII (see sec. 6821 of this volume), which provides that there shall be forty minutes of debate after the previous question has been ordered on a question which has not been debated.

[2] The word "bill" is here used as a generic term for any legislative proposition. (See sec. 5572 of this volume.)

[3] Second session Forty-sixth Congress, Record, pp. 202, 206.

[4] First session Fifty-first Congress, Report No. 23.

[5] First session Fifty-fourth Congress, Journal, p. 107; Record, p. 586.

[6] See sections 2895–2904 of Vol. IV of this work.

[7] Second session Forty-sixth Congress, Record, p. 202.

[8] Before this it had been decided that the motion to commit was not in order after the previous question had been ordered. By Mr. Speaker Taylor, in 1827 (second session Nineteenth Congress, Debates, p. 985); Mr. Speaker Polk, in 1836 (first session Twenty-fourth Congress, Debates, p. 3329); Mr. Speaker Davis, in 1946 (first session Twenty-ninth Congress, Journal, p. 643, Globe, p. 622). Speaker pro tempore Armistead Burt, of South Carolina, in 1851 (second session Thirty-first Congress, Journal, p. 398), decided the motion in order, but was overruled by the House.

The old form, "Shall the main question be now put?" has disappeared from the practice of the House, and the Speaker now, after announcing that the Member demands the previous question, puts it: "As many as are in favor of ordering the previous question will say aye; as many as are opposed will say no."

5444. On February 5, 1902,[1] Mr. E. Stevens Henry, of Connecticut, 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 (H. R. 10847) relating to oleomargarine and other imitation dairy products.

Pending that motion, Mr. Henry moved that general debate be closed at 5 o'clock; and on this motion demanded the previous question.

Mr. John S. Williams, of Mississippi, asked recognition for debate, on the supposition that the rule allowed a certain time on each side after the previous question had been demanded.

The Speaker[2] said:

The gentleman has no right to be heard on the motion for the previous question.

5445. History of the process by which the House changed the previous question of Parliament into an instrument for closing debate and bringing a vote on the pending matter.

An early comparison of the decorum of the House of Representatives with that of the House of Commons.

History of section 1 of Rule XVII continued.

In the Parliament of England the previous question had been a device for removing from consideration a question which might seem to the majority undesirable to discuss further or act upon.[3] The Continental Congress, which used the Lex Parliamentaria for its guide, adopted this device in a rule of 1778,[4] which was amplified to this form in 1784:[5]

The previous question (which is always to be understood in this sense, that the main question be not now put) shall only be admitted when in the judgment of two Members, at least, the subject moved is in its nature, or from the circumstances of time or place, improper to be debated or decided, and shall therefore preclude all amendments and further debates on the subject until it is decided.

The object of this rule was evidently the same as that of the practice of Parliament, and there was no intention of providing thereby a means of closing debate in order to bring the pending question to an immediate vote.

The rules of the first Congress under the Constitution, which were adopted at the suggestion of Members who had seen service in the Continental Congress,[6] had this

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[1] First session Fifty-seventh Congress, Record, p. 1349.

[2] David B. Henderson, of Iowa, Speaker.

[3] See Reed's Parliamentary Rules, sections 123–125. Jefferson's Manual also refers to this use of the previous question in the early legislative history of this country. Section XXX of the Manual.

[4] Journal of Continental Congress, May 26, 1778.

[5] Journal of July 8, 1784.

[6] The members of this committee were: Nicholas Gilman, of New Hampshire; Elbridge Gerry, of Massachusetts; Jeremiah Wadsworth, of Connecticut; Elias Boudinot, of New Jersey, who had been President of Congress; Thomas Hartley, of Pennsylvania; William Smith, of Maryland; Richard Bland Lee, of Virginia; Thomas Tudor Tucker, of South Carolina; James Madison, of Virginia; Roger Sherman, of Connecticut; and Benjamin Goodhue, of Massachusetts. All but Messrs. Hartley, Lee, and Goodhue had served in the Continental Congress.

form of previous question, the formula for putting the question being reversed by the omission of the word "not."

The previous question shall be in this form: "Shall the main question be now put?" It shall only be admitted when demanded by five Members; and, until it is decided, shall preclude all amendment and further debate of the main question. On a previous question no Member shall speak more than once without leave.[1]

After the question had been called for by five Members it was debatable, but the merits of the main question might not be touched upon, and if decided in the negative the House proceeded to other business.[2] If decided in the affirmative it stopped discussion on the merits of the main question, theoretically at least;[3] but with a small body of Members the use of the rule was not frequent, and the practice does not seem to have been fixed.[4]

On December 17, 1805,[5] at the instance of Messrs. John Smilie, of Pennsylvania, and Peter Early, of Georgia, the provision that no Member should speak more than once without leave was changed by inserting "there shall be no debate." This referred only to debate on the expediency of ordering the main question.

On December 15, 1807,[6] the House came face to face with the question whether or not an affirmative vote on the previous question precluded all further debate on the main question. The Speaker[7] precipitated the matter by calling to order Mr. William Ely, of Massachusetts, who was proceeding to debate after the main question had been ordered. From this decision Mr. John Randolph, of Virginia, appealed, and a long debate ensued as to whether or not the Speaker had interpreted the rule correctly. Much diversity of opinion existed. The Speaker expressed a wish for an interpretation of the word "now" as it occurred in the form, "Shall the main question be now put." Mr. Randolph said that nothing could be plainer. It meant "at this time." It implied that the main question should be immediately put, but though the question was to be immediately put yet it was competent for any Member, as in other cases, to rise and debate the subject. The question before the House was the meaning of words; it was a question of language.[8]

The Speaker was finally overruled by the overwhelming vote of 103 nays to 14 yeas. The question arose again on December 1, 1808, and the Speaker said he was of the opinion individually that debate was inadmissible after an affirmative decision of the previous question; but as the House at the last session overruled his opinion, he felt obliged to yield and decide that debate was in order.

During the next three or four years debates were very much prolonged, the sessions sometimes lasting until morning before a vote could be obtained.[9] Finally,

[1] First session First Congress, Journal, p. 9.
[2] Second session Sixth Congress, Journal, p. 811.
[3] First session Fifth Congress, Annals, February 20, 1798, p. 1067.
[4] See remarks of Mr. Pitkin in 1811, first session Twelfth Congress, Annals, pp. 569–581.
[5] First session Ninth Congress, Annals, pp. 284, 286.
[6] First session Tenth Congress, Journal, p. 79.
[7] Joseph B. Varnum, of Massachusetts, Speaker.
[8] First session Tenth Congress, Annals, December 15, 1807, p. 1183.
[9] First session Twelfth Congress, Annals, pp. 569–581.

on February 27, 1811,[1] in the last days of the Eleventh Congress, while the majority were attempting to pass the bill to interdict commercial intercourse between the United States, Great Britain, and France, and their dependencies, the previous question was ordered. Then Mr. Barent Gardenier, of New York, who opposed the bill, took the floor. Mr. Gardenier was remarkable for his capacity to make long speeches, being able to keep the floor for days.[2] Question being raised as to the right to debate after the previous question had been ordered, the Speaker, the same who had been overruled on the subject in 1807, held that Mr. Gardenier was in order. Thereupon an appeal was taken, and the Speaker was overruled, 66 nays to 13 yeas. So it was decided finally that there could be no debate after the previous question was ordered. This decision of the House was followed by the Speaker in a ruling made March 2, 1811.[3]

At the next session of Congress, on December 23, 1811, the previous question, as revolutionized by these rulings, was the subject of animated debate; and a rule was adopted providing that one-fifth of the members present, instead of five, should be required to call for the previous question.[4]

On February 24, 1812, at the instance of Messrs. Burwell Bassett, of Virginia, and Richard Stanford, of North Carolina, and in order to make the rule more acceptable, the number required to call for the previous question was changed from one-fifth to a majority,[5] and this requirement[6] of a majority to second the motion, although denounced as a useless incumbrance by Mr. Howell Cobb, of Georgia, in 1856,[7] was not stricken out until the revision of 1880.[8] This was later called the seconding of the previous question, and remained as a requirement until the revision of 1880.

On January 19, 1816,[9] Mr. Stanford made an unsuccessful effort to abolish the previous question, and was vigorously seconded by Mr. John Randolph, of Virginia, who called it a "gag law," and by Mr. William Gaston, of North Carolina, who entered into an elaborate historical argument. Mr. Henry Clay, of Kentucky, defended the

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[1] The membership of the House at this time was 141. The increase of membership, which has an important bearing on the restriction of debate, has been constant. In 1789 it was 65; 105 in 1794; 141 from 1803 to 1813; about 185 from 1813 to 1823; 213 from 1823 to 1833; about 242 from 1833 to 1843; between 223 and 237 (a reduction) from 1843 to 1861; between 178 and 193 from 1861 to 1869 (secession period) 243 from 1869 to 1873; 293 from 1873 to 1883; 325 to 333 from 1883 to 1893; 356 to 357 from 1893 to 1903; 386 to 391 since 1903. (For political divisions see Manual and Digest (McKee), first session Fifty-fourth Congress, p. 640.

[2] Statement of John C. Calhoun, Benton's Thirty Years' View, Vol. II, p. 256.

[3] Third session Eleventh Congress, Journal, p. 611.

[4] First session Twelfth Congress, Journal, pp. 88, 92 (Gales & Seaton ed.); Annals, pp. 569–581.

[5] First session Twelfth Congress, Journal, pp. 402, 406 (old edition) 195, 197 (Gales & Seaton ed.); Annals, Part I, p. 1086.

[6] Shortly before this, on January 16, 1810 (second session Eleventh Congress, Journal, p. 175, Annals, pp. 1207–1215) the Committee on Rules (Nathaniel Macon, of North Carolina, Chairman) had reported a rule that on an affirmative vote on the previous question, the main question should be instantly put without amendment or further debate; but strenuous objection to this restriction of debate caused the proposed rule to be abandoned.

[7] First session Thirty-fourth Congress, Journal, p. 1014; Globe, p. 1271.

[8] First session Forty-sixth Congress, Journal, p. 633; second session, Journal, p. 1546.

[9] First session Fourteenth Congress, Annals, pp. 696–718.

rule,[1] saying that it had not been resorted to until the abuses of debate rendered it expedient, reminding the House of the remarkable circumstance of a certain gentleman having, for the purposes of delay, spoken four and twenty hours without stopping. No comparison could be made with the British House of Commons, for under all considerations there was the superior freedom in our House. In the Commons there was no protracting a debate beyond the rising of the House, and they often stopped a Member speaking by making noises to drown his voice. In manners in debate, especially in the use of personal invective, the comparison was also much in favor of the American House.

5446. The development through which the previous question has become a flexible, reasonable, and efficient instrumentality for restricting debate and forwarding business.

History of section 1 of Rule XVII continued.

Although the previous question survived the efforts made against it in 1816, it was in its early form a clumsy device, if comparison be made with the present perfected form of the rule. Two difficulties attended its use: The first relating to the results of an affirmative decision of the motion for the previous question and the second relating to the results of a negative decision.

1. The motion for the previous question might only be applied to the main question, Mr. Speaker Varnum having ruled on December 4, 1807,[2] that it could not be demanded on an amendment, a decision which the House sustained, yeas 111, nays 16. In 1812[3] Mr. Speaker Clay held, when a motion was pending to postpone a bill with Senate amendments, that the effect of the previous question if ordered would be to bring a vote, not on the motion to postpone, but on concurring in the amendments. And the next Congress, in 1813,[4] the same Speaker decided that the effect of ordering the previous question was to cut off pending amendments and bring a vote on the engrossment of the pending bill. And this continued to be the practice, Mr. Speaker Stevenson, on March 1, 1830,[5] holding that even in a case where the Committee of the Whole had reported a bill with an amendment striking out the enacting clause, the effect of ordering the previous question would be to cut off that amendment.

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[1] Mr. Benton intimates that Mr. Clay was instrumental in establishing the previous question in the House as a method of closure, although he was in 1811 a Member of the Senate.—Thirty Years' View, Vol. II, p. 257. The Senate, which for a time had the old previous question with its ancient function only, has declined to adopt for its ordinary business this or any other method of closure for debate. A notable attempt was made by Mr. Stephen A. Douglas, of Illinois, on August 28, 1850 (first session Thirty-first Congress, Globe, p. 1688), to introduce the previous question, but it was defeated. On February 18, 1903 (second session Fifty-seventh Congress, Record, pp. 2336–2341), the propriety of a previous question was debated in the Senate. On the same day in the House, Mr. Joseph G. Cannon, of Illinois, said: "In this body, close to the people, we proceed under rules. In another body—and I think I can say it within parliamentary lines—legislation is by unanimous consent. And when I say that, gentlemen understand what it means." (Record, p. 2347.)

[2] First session Tenth Congress, Journal, p. 61; Annals, pp. 1048, 1049.

[3] First session Twelfth Congress, Journal, p. 533.

[4] First session Thirteenth Congress, Journal, pp. 75, 76, 156; Annals, p. 398. Ex-Speaker Macon made a similar decision December 27, 1814. (Third session Thirteenth Congress, Journal, p. 622; Annals, p. 995.)

[5] First session Twenty-first Congress, Journal, p. 987.

This situation prompted Messrs. Charles F. Mercer, of Virginia, and George McDuffie, of South Carolina, to propose on June 30, 1832,[1] a rule as follows:

Resolved, That the previous question may be moved on any amendment, or amendment of any amendment, of any bill, resolution, or motion depending before the House; that when so expressly moved and seconded by a majority of the House its effect, if sustained by a majority, shall be simply to terminate debate on the amendment, or the amendment of the amendment, to which it applied, and to cause the question thereon to be immediately put: *Provided,* That if the previous question on the bill, resolution, or motion be, at the same time, moved and seconded by a majority of the House it shall have priority.

The House rejected the rule by a vote of 89 to 82, the inconvenience of the situation being admitted, but being regarded as not of sufficient magnitude to justify a change of rule. But on February 12, 1833,[2] a tariff bill had been reported from the Committee of the Whole with amendments, and a motion was made to recommit with instructions. For the purpose of getting a vote on the motion to recommit, the previous question was moved; but Mr. Speaker Stevenson informed the House that the effect of the previous question, if ordered, would be to set aside the motion to recommit and also all the amendments reported by the Committee of the Whole and bring the House to a vote on the bill only. On January 5, 1836,[3] the Committee on Rules[4] reported a rule providing that after the ordering of the previous question "the question shall be taken on the amendments, in order, if amendments be pending, and then on the main question."

The House did not agree to the rule, however, and a little later, on May 25, 1836,[5] when the pending question was a motion to print and recommit a report on the abolition of slavery in the District of Columbia, Mr. Speaker Polk, sustained by the House, overruled the contention of Mr. John Quincy Adams, of Massachusetts, that the effect of ordering the previous question would be to bring a vote on the motion to print, and held that the effect would be to cause a vote on the resolutions accompanying the report. The next year, in 1837,[6] the Committee on Rules renewed the recommendation of the year before, but the House decided against it, yeas 106, nays 102; but on January 14, 1840,[7] Mr. Adams prevailed on the House to adopt the rule, defining the effect of an affirmative vote on the motion for the previous question:

* * * Its effects shall be to put an end to debate, and bring the House to a direct vote upon amendments reported by a committee, if any, upon pending amendments, and then upon the main question.

On December 16, 1845,[8] after the joint resolution for the admission of Texas had been passed to be engrossed and read a third time, a motion was made to recommit with instructions to report it with a proviso prohibiting slavery. The previous

[1] First session Twenty-second Congress, Journal, pp. 1042, 1064, 1158; Debates, pp. 3832, 3839, 3850.

[2] Second session Twenty-second Congress, Debates, p. 1701.

[3] First session Twenty-fourth Congress, Report No. 83.

[4] This committee included Messrs. Abijah Mann, jr., of New York, John Quincy Adams, of Massachusetts, Lewis Williams, of North Carolina, and Edward Everett, of Massachusetts.

[5] First session Twenty-fourth Congress, Journal, p. 874; Debates, p. 4029.

[6] First session Twenty-fifth Congress, Journal, p. 56.

[7] First session Twenty-sixth Congress, Globe, p. 121.

[8] First session Twenty-ninth Congress, Journal, pp. 111–113; Globe, p. 64.

question being ordered, Mr. Speaker Davis held that the question should be taken on the motion to recommit, but the House overruled him and decided that the motion to recommit was removed.

Probably as a result of this decision the rule adopted in 1840 was amended on August 5, 1848,[1] by inserting after the words "direct vote "the following: "upon a motion to commit, if such motion shall have been made; and if this motion does not prevail, then"

By these changes the operation of the rule was much improved, but the House still found itself in difficulties occasionally. If the motion to postpone the bill should be offered the previous question would cut it off[2] and bring the House to a direct vote on the amendments and the bill. Thus if the motion to postpone was made when the bill was presented, the House either must hear an interminable debate on the subject of postponement, or order a direct vote on the bill, which had not been debated at all.[3]

Finally, on February 27, 1852,[4] Mr. Speaker Boyd ruled that the ordering of the previous question did not out off the motion to postpone, and this decision was sustained by the House. In the revision of 1860,[5] the principle was established in the rules.

There was also another difficulty traceable to the amendment of 1840. An amendment might be offered to the first section of a bill, and an amendment to that amendment. On these a long debate might spring up, which could be stopped only by the previous question. But that precluded all further amendment, although there might be several sections untouched. Therefore, in 1860,[6] at the suggestion of Mr. John S. Millson, of Virginia, a provision was adopted enabling the House to order the previous question on a pending amendment, or an amendment thereto, without precluding further debate or amendment of the bill, and giving the same facility of amendment that was enjoyed in Committee of the Whole.

2. As to the effect of a negative decision of the motion for the previous question, the House labored under a difficulty for many years.

On March 15, 1792,[7] a motion relating to evidence in the election case of Jackson *v.* Wayne was before the House, and the Journal has this entry:

> On which motion, the previous question being called for by five Members, to wit: "Shall the main question to agree to the said motion be now put?" it was passed in the negative. And so the said motion was lost.

The Journal shows that the effect of this was to remove the pending question from before the House, and while the main issue of the election case was passed on, this question as to evidence did not again come up.

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[1] First session Thirtieth Congress, Journal, p. 1164; Globe, p. 1039.

[2] Mr. Speaker Polk had so held in 1837 (second session Twenty-fourth Congress, Debates, p. 1350), and Mr. Speaker Stevenson in 1833 (second session Twenty-second Congress, Debates, p. 1757).

[3] Remarks of Mr. Washburn, Congressional Globe, first session Thirty-sixth Congress, March 15, 1860, p. 1209.

[4] First session Thirty-second Congress, Journal, pp. 401, 402; Globe, p. 648.

[5] First session Thirty-sixth Congress, Journal, p. 530.

[6] First session Thirty-sixth Congress, Globe, p. 1209.

[7] First session Second Congress, Journal, p. 536.

On March 18, 1802,[1] Mr. Speaker Macon held, after a negative decision on a motion for the previous question, that it would not be in order to put the question on an amendment to or on the engrossment of the pending bill during the day. In 1810[2] a rule was proposed that after a negative decision on the previous question business should proceed as if the previous question had not been moved, but the House did not agree to it. And in 1812[3] Mr. Speaker Clay, and in 1828[4] and 1830[5] Mr. Speaker Stevenson continued to hold that after a negative decision of the previous question the consideration of the pending bill would go over to the next day. In 1832,[6] when an attempt was made to remedy another difficulty arising from the existing rule, this provision was proposed:

> * * * and provided also that a determination against the previous question, or any amendment, or on any amendment of an amendment, in the original bill, resolution, or motion shall not have the effect of postponing to another day the amendment, bill, resolution, or motion, but the same shall remain before the House in the same state as if the previous question had not been moved.

The House, largely because of provisions in other portions of the proposed rule, declined to agree to it, and the old practice continued,[7] Mr. Speaker Cobb ruling in 1851[8] as Mr. Clay had ruled in 1812. In 1858[9] the Committee on Rules proposed a provision that a negative decision of the previous question should leave the pending main question in the same status it would have been in had the previous question not been demanded; but it was not until the revision of 1860[10] that such an amendment was actually adopted.

5447. A call of the House is not in order after the previous question is ordered unless it appears on an actual count by the Speaker that a quorum is not present.

Present form, and history of section 2 of Rule XVII.

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[1] First session Seventh Congress, Journal, pp. 147, 148; Annals, pp. 1045–1047.

[2] Second session Eleventh Congress, Journal, p. 175; Annals, pp. 1207–1215.

[3] First session Twelfth Congress, Journal, pp. 193, 533; Annals, p. 1082.

[4] First session Twentieth Congress, Journal, p. 1042; Debates, p. 2613.

[5] First session Twenty-first Congress, Journal, pp. 468, 722, 988.

[6] First session Twenty-second Congress, Annals, pp. 3832, 3840, 3850.

[7] In 1842 occurs an interesting illustration of the former practice whereby a negative decision of the previous question removed the main question from before the House for that day. On December 6 the House was considering Mr. John Quincy Adams's motion to rescind the famous twenty-first rule of the House forbidding the reception of antislavery petitions. The previous question was moved and the vote being taken, there appeared yeas 84, nays 99. Therefore the subject was removed from before the House for one day. On the next day the motion was again considered, and the previous question being again moved, there were yeas 91, nays, 93. And the subject was removed from before the House for a day. On December 8 the motion again was considered and again was removed from before the House by a negative decision of the previous question. Finally, on December 12, the motion was laid on the table. (Third session Twenty-seventh Congress, Journal, pp. 8, 10, 11, 13, 32, 37; Globe, pp. 31, 37.) On July 30, 1788, in the constitutional convention of North Carolina, the previous question was moved, evidently with the intention of avoiding a decision on the main question. The motion was debated after it was made, and, being carried, evidently removed the main question. (Elliot's Debates, vol. 4, pp. 217–222 (edition of 1836).)

[8] Second session Thirty-first Congress, Globe, p. 367.

[9] Second session Thirty-fifth Congress, Report No. 1.

[10] First session Thirty-sixth Congress, Journal, p. 530.

Section 2 of Rule XVII provides:

A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count [1] by the Speaker that a quorum is not present.

The Committee on Rules proposed this rule in 1858,[2] but it was actually adopted on March 16, 1860.[3] The object of the rule was to allow a call of the House to be ordered under such circumstances only when necessary. The form of 1860 made the call not in order after the previous question was seconded. The second was dropped in the revision of 1880,[4] so the phraseology was modified to correspond.

5448. After the motion is made for the previous question all incidental questions of order, whether on appeal or otherwise, are decided without debate.

Present form and history of section 3 of Rule XVII.

Section 3 of Rule XVII provides:

All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

This rule dates from September 15, 1837,[5] and was intended to prevent long debates on points of order after the previous question had been moved. It merely put in form as a rule the substance of a decision made on March 29, 1836 [6] by Mr. Speaker Polk, and sustained by the House.

5449. On May 23, 1900,[7] the bill (H. R. 11719) amending section 5270 of the Revised Statutes of the United States, had been engrossed and read a third time under the operation of the previous question, when Mr. D. A. De Armond, of Missouri, moved to recommit the bill with instructions.

Mr. George W. Ray, of New York, having made the point of order that the instructions were not germane, Mr. De Armond proposed to debate the point of order.

The Speaker pro tempore [8] held that debate was in order only by unanimous consent, under section 3 of Rule XVII.

5450. Before the adoption of rules, while the House proceeds under general parliamentary law, the motion for the previous question is admissible.

Before the adoption of rules, and consequently before there is a rule prescribing an order of business, a Member may offer for immediate consideration a special order.

On August 29, 1893,[9] the House, before the adoption of rules, had proceeded to the consideration of the proposed rules of the House, when Mr. Thomas C. Catchings, of Mississippi, submitted the following resolution:

Resolved, That the House proceed to the consideration of the report of the Committee on Rules; that the rules proposed by the committee shall be read by paragraphs; that any Member shall be allowed

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[1] See Section 2909 of Vol. IV.

[2] Second session Thirty-fifth Congress, Report No. 1.

[3] First session Thirty-sixth Congress, Globe, pp. 1180, 1205.

[4] Second session Forty-sixth Congress, Record, p. 206.

[5] First session Twenty-fifth Congress, Globe, pp. 31–34. (See also sec. 5443 of this chapter.)

[6] First session Twenty-fourth Congress, Journal, p. 588; Debates, p. 3008.

[7] First session Fifty-sixth Congress, Record, p. 5922,

[8] Charles H. Grosvenor, of Ohio, Speaker pro tempore.

[9] First session Fifty-third Congress, Journal, p. 23; Record, p. 1027.

five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon.

Mr. Catchings demanded the previous question.

Mr. Thomas B. Reed, of Maine, made the point of order that the demand for the previous question on the proposed resolution was not in order, as the resolution was in effect a mere incidental motion and had to be decided without debate of itself.

The Speaker[1] held that the demand for the previous question was in order.

5451. Before the adoption of rules the previous question has been admitted, although in the earlier practice it was conceived to differ somewhat from the previous question of the rules.—On December 19, 1839,[2] the Speaker having been elected, and most of the Members having been sworn in, the previous question was moved on a resolution relating to the administration of the oath to certain Members from New Jersey, whose seats were contested.

Mr. William Cost Johnson, of Maryland, made the point of order that the previous question was not in order until the rules of the House were adopted, and when there were Members present and desiring to be sworn in.

The Speaker[3] decided that, according to the parliamentary law, a previous question was in order before the adoption of particular rules for the government of the proceedings of the House.[4]

5452. On December 6, 1841,[5] the House was considering a motion for the adoption of rules,[6] when the previous question was moved.

Mr. John Quincy Adams, of Massachusetts, objected on the ground that, in the absence of rules, the previous question could not be recognized or moved.

The Speaker[7] stated that, in the absence of written rules, it had, in all cases, been the practice of the House of Representatives to be governed by the Lex Parliamentaria, in which the previous question was recognized; that, in cases precisely analogous to the present, the previous question had been moved, recognized, and put in the House, and that he therefore should receive the motion for the previous question.

Mr. Adams having appealed, and the appeal having been sustained, yeas 147, nays 17, the Speaker notified the House that, according to the Lex Parliamentaria, an amendment of the main question being first moved, and afterwards the previous question, the question of amendment must be first put.

5453. On December 26, 1855,[8] before the election of a Speaker or the adoption of rules the House was considering a resolution in relation to the procedure in voting for Speaker.

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[1] Charles F. Crisp, of Georgia, Speaker.

[2] First session Twenty-sixth Congress, Journal, p. 88.

[3] Robert M. T. Hunter, of Virginia, Speaker.

[4] The Globe (p. 64) quotes the Speaker as saying also that the previous question under the general law was a different thing from the previous question under the rules of the last House.

[5] Second session Twenty-seventh Congress, Journal, pp. 7, 9.

[6] At the first session rules had been adopted only for that session. The difficulty in adopting permanent rules was occasioned by differences of opinion in regard to the rule prohibiting the reception of petitions for the abolition of slavery.

[7] John White, of Kentucky, Speaker.

[8] First session Thirty-fourth Congress, Globe, p. 82.

Mr. Israel Washburn, jr., of Maine, moved the previous question on the resolution. Mr. James L. Orr, of South Carolina, raised the question of order as to the applicability of the previous question to the body in its deliberations.

The Clerk [1] held that it did apply, referring in support of this ruling to a precedent of the Thirty-first Congress.

5454. On June 3, 1841,[2] the House was considering a resolution to adopt the rules of the last House as the rules of the present, when Mr. George W. Hopkins, of Virginia, moved the previous question, which motion was seconded by a Member.

Here the Speaker [3] stated that as the House, in the absence of written rules, was governed by the common parliamentary law, it did not, under that law, require a majority of the Members present to demand the previous question,[4] but that it could be put upon the demand of one Member, seconded by another Member.

The previous question being put, was decided in the negative, and the subject was thereby postponed until the next day.

5455. On December 24, 1849,[5] before the adoption of rules, Mr. Speaker Cobb held that under the parliamentary law the previous question itself was debatable but not the main question.

5456. The only motion used for closing debate in the House (as distinguished from the Committee of the Whole) is the motion for the previous question.—On February 13, 1882,[6] the House was considering the bill (H. R. 3550) making apportionment of Representatives in Congress among the several States under the Tenth Census.

Mr. Horace F. Page, of California, moved that general debate be closed at 3 o'clock on the succeeding day, and that one hour be given for the consideration, as in Committee of the Whole, of amendments under the five-minute debate.

Mr. J. Proctor Knott, of Kentucky, made the point of order that debate on a proposition could not be limited by motion, and that under the rules and practice of the House debate could only be closed by the previous question.

The Speaker [7] sustained the point of order, and held that the motion could only be entertained by unanimous consent.

5457. The motion for the previous question may not include a provision that it shall take effect at a certain time.—On May 13, 1896,[8] during consideration of the Illinois contested election case of Rinaker v. Downing, Mr. William H. Moody, of Massachusetts, moved "that the previous question be considered as ordered at quarter past 5 o'clock."

Mr. Joseph G. Cannon, of Illinois, made a point of order against the motion.

The Speaker [9] said:

The gentleman can not make that motion. It can only be done by consent of the House. If the gentleman is desirous of submitting the request for unanimous consent, the Chair will put it to the House.

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[1] John W. Forney, Clerk.

[2] First session Twenty-seventh Congress, Journal, p. 36; Globe, p. 18.

[3] John White, of Kentucky, Speaker.

[4] The rules of the House no longer make this requirement.

[5] First session Thirty-first Congress, Globe, p. 68.

[6] First session Forty-seventh Congress, Journal, p. 564; Record, pp. 1096, 1097.

[7] J. Warren Keifer, of Ohio, Speaker.

[8] First session Fifty-fourth Congress, Record, p. 5200.

[9] Thomas B. Reed, of Maine, Speaker.

5458. Less than a quorum may order the previous question on a motion incident to a call of the House.—On April 12, 1894,[1] during a call of the House, Mr. T. C. Catchings, of Mississippi, offered a resolution revoking leaves of absence, directing the Sergeant-at-Arms to notify absent Members that their attendance was required, and providing that further proceedings under the call be dispensed with.

The previous question having been demanded, the vote was taken by yeas and nays, and there were—yeas 123, nays 3, not voting 227.

Mr. Thomas B. Reed, of Maine, made the point of order that no quorum had voted and that a quorum was required.

The Speaker pro tempore[2] overruled the point of order, holding that this being a proceeding to secure the attendance of absentees a quorum was not required.

5459. The previous question may be moved on a proposition to censure a Member, although the effect of it might be to prevent him from making explanation or defense.—On May 6, 1844,[3] Mr. Romulus M. Saunders, of North Carolina, as a matter of privilege, from the select committee appointed on the 23d day of April last to inquire into the circumstances of the rencounter on the floor of the House between Mr. Rathbun and Mr. White, and into the expediency of reporting a bill or resolution providing for the exemplary punishment of any offenses within the walls of the Capitol or on the public grounds, and also to inquire into the assault made upon one of the police of the Capitol by William S. Moore during the rencounter, made a report in part thereon, accompanied by the following resolution:

Resolved, That it is not expedient to have any further proceedings in the case of William S. Moore for an assault upon the person of John L. Wirt, one of the police of the Capitol, and that he be discharged and left to the judicial authorities of the District of Columbia.

Mr. White moved that the first branch of the report be recommitted to the select committee. Alter debate a motion was made by Mr. John P. Hale, of New Hampshire, to amend the motion made by Mr. White by adding thereto the following:

With instructions to report a resolution declaring that, in view of the facts disclosed by them, in their report, Messrs. White and Rathbun did fight willingly on this floor—a public place. That in doing so they have violated the order of the House, have been guilty of an affray, and deserve, therefore, the censure of this House. And that John White, a Member of this House from the State of Kentucky, in applying to George Rathbun, a Member of this House from the State of New York, language imputing falsehood to said Rathbun while the House was in session in Committee of the Whole, merits and should receive the severest censure of the House.

Mr. Hale moved the previous question thereon.

Mr. Robert C. Schenck, of Ohio, raised the following question of order:

That the instructions to the committee being imperative, if they are agreed to by the House, the committee must, in compliance therewith, report resolutions of censure. And if the previous question is now admitted, the Member thus censured will be precluded from any defense. Therefore the previous question is not now in order.

The Speaker[4] decided against the point of order raised by Mr. Schenck, and on an appeal was sustained by the House.[5]

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[1] Second session Fifty-third Congress, Journal, p. 3301; Record, pp. 3705, 3716.

[2] James D. Richardson, of Tennessee, Speaker pro tempore.

[3] First session Twenty-eighth Congress, Journal, p. 882; Globe, pp. 579, 609.

[4] John W. Jones, of Virginia, Speaker.

[5] See section 1256 of Volume II of this work for a similar ruling.

5460. The previous question applies to a question of privilege as to any other question.—On December 13, 1904,[1] the House was considering this resolution:

Resolved, That Charles Swayne, judge of the district court of the United States in and for the northern district of Florida, be impeached of high crimes and misdemeanors.

Mr. Henry W. Palmer, of Pennsylvania, having proposed to move the previous question, Mr. Richard Wayne Parker, of New Jersey, raised the point of order that the previous question might not be ordered on a question of privilege like the pending question.

The Speaker[2] said:

The Chair sees no reason, even without the precedents, why the House can not, if the majority desires, by vote order the previous question; but the Chair is informed that the precedents are numerous upon this subject. The previous question is in order.

5461. A single motion for the previous question may be applied only to one bill, and only by unanimous consent may the previous question be moved on several bills at one motion.—On June 23, 1898,[3] the regular order presented to the House was the consideration of a number of pension bills which had come over from the Friday evening session with the previous question ordered on them.

Mr. Eugene F. Loud, of California, having raised a question of order as to the regularity of this procedure, the Speaker[4] said:

The Chair desires to say, before the matter passes from the House, that the proceeding is entirely in accordance with the language of the rules. It is not in regard to pension cases only, but in regard to all others—that when the previous question had been ordered upon a bill to the passage it then becomes the order of the House, and supersedes almost everything. But of course, the rule actually contemplated that this should be done in regard to a single bill. Now, it seems to have been done with regard to seventy in a lump. The only way in which that could have been done was by the unanimous consent of all the Members present, and there was no way by which this business could have been brought before the House at this time if a single man had objected. * * * Nevertheless, the practice is not by any means a desirable one. The business of the House ought not to be forestalled by consent given in that way. The Chair knows no way to prevent it, except by some Member being present and insisting upon a proper course of action. If the proper course of action had been taken, there could have been but a single bill with the previous question ordered beforehand.

As to this matter not having been taken up before, the Chair can only say that he was not aware that these bills were in this condition until now. * * * It is the first time in this Congress that the previous question has been ordered in this way. They would come up as unfinished business if the previous question was not ordered; but whenever the previous question is ordered it is equivalent to a direction to lay aside all business and proceed to the consideration of these special bills.

5462. On the legislative day of December 18, 1900,[5] but the calendar day of December 19, the Committee of the Whole House on the state of the Union rose and reported through its Chairman two bills (S. 1929 and S. 2329) relating to grade crossings on railroads in the District of Columbia, with amendments to each and the recommendation that each bill as amended do pass.

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[1] Third session Fifty-eighth Congress, Record, p. 248.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Fifty-fifth Congress, Record, p. 6289.

[4] Thomas B. Reed, of Maine, Speaker.

[5] Second session Fifty-sixth Congress, Record, p. 454.

The report having been received, Mr. Joseph W. Babcock moved "the previous question on the pending bills and amendments to their final passage."

The Speaker[1] said:

The Chair is of the opinion that each bill should have a separate motion.

Thereupon the previous question was asked and ordered on the bill S. 1929, and it was put on its passage.

Then in the same way the previous question was ordered on S. 2329.

5463. On January 30, 1903,[2] the Committee of the Whole House rose and the Chairman reported a series of bills relating to the payment of private claims.

Thereupon Mr. Joseph V. Graff, of Illinois, rising to a parliamentary inquiry, asked if it would be in order to move the previous question on all the bills to their passage.

The Speaker pro tempore[3] replied that it would not be in order.

5464. On June 2, 1860,[4] Speaker pro tempore John S. Phelps, of Missouri, held that the House could by unanimous consent order the previous question on several bills at the same time. On appeal this decision was sustained.

5465. A single motion for the previous question may not apply to a motion to agree to a conference report and also to a motion to ask a further conference on amendments not included in the report.—On March 2, 1891,[5] the House was considering the report of the committee of conference on the bill (H. R. 10881) relating to copyrights, which report included agreements as to all the amendments of the Senate, except those numbered 5 and 6.

Mr. William E. Simonds, of Connecticut, moved the previous question on agreeing to the report and for a conference with the Senate on the amendments to the bill numbered 5 and 6.

Mr. William M. Springer, of Illinois, made the point of order that the latter part of the motion was not in order until the first motion was disposed of.

The Speaker[6] held that the previous question was in order only on the question of agreeing to the conference report.

5466. The previous question may be moved on both the motion to refer and on the pending resolution.—On December 10, 1903,[7] the House was considering a resolution relating to the proposed impeachment of Judge Charles Swayne.

Mr. John F. Lacey, of Iowa, moved to refer the resolution to the Committee on the Judiciary.

After debate Mr. Lacey moved the previous question on both the motion to refer and on the resolution itself.

The Speaker[8] entertained the motion and the previous question was ordered as moved.

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[1] David B. Henderson, of Iowa, Speaker.

[2] Second session Fifty-seventh Congress, Record, p. 1492.

[3] John Dalzell, of Pennsylvania, Speaker pro tempore.

[4] First session Thirty-sixth Congress, Journal, pp. 986, 987; Globe, p. 2581.

[5] Second session Fifty-first Congress, Journal, p. 346; Record, p. 3711.

[6] Thomas B. Reed, of Maine, Speaker.

[7] Second session Fifty-eighth Congress, Record, p. 103.

[8] Joseph G. Cannon, of Illinois, Speaker.

5467. The previous question covers the main question, but does not apply to incidental questions arising therefrom.—On May 26, 1836,[1] the House, under the operation of the previous question, agreed to certain resolutions relating to the agitation for the abolition of slavery in the District of Columbia. During the voting on these resolutions several Members declined to respond or asked to be excused from voting when their names were called. The Speaker had determined that the settlement of the questions arising out of these occurrences should take place after the voting on the resolutions had been concluded.

Accordingly, after the vote on the last resolution, the question recurred on the request of Mr. Thomas Glascock, of Georgia, that he be excused from voting. As Mr. Glascock was addressing the House he was called to order by Mr. Albert G. Hawes, of Kentucky, who reduced his call to writing, as follows:

Mr. Hawes calls the gentleman from Georgia to order because the question before the House is not debatable, the previous question having been demanded upon the resolutions under which the matter before the House arose.

The Speaker[2] decided that, as the resolutions which constituted the main question upon which the previous question had been ordered, had been acted on by the House, the previous question had had its full operation; and that the question which had arisen, and was now under consideration, did not come within the operation of the previous question, which, by the rules of the House, precludes debate.

Mr. Lewis Williams, of North Carolina, having taken an appeal, the appeal was laid on the table.

6468. The previous question may be moved on a series of resolutions; but after it is ordered a separate vote may be had on each resolution.— On July 5, 1848,[3] the previous question was moved on a series of five resolutions, including a proposed amendment to one of these resolutions. The previous question was ordered on all these at one vote, but after the vote on the amendment had been agreed to, a division of the question was demanded, and the question was taken separately on each resolution.

5469. An early decision, since reversed, held that the previous question, when ordered on a resolution with a preamble, did not apply to the preamble (footnote).—On July 15, 1856,[4] the House was considering the resolutions relating to the assault on Senator Charles Sumner on May 22, 1856, by Representative Preston S. Brooks. The resolutions having been voted on under the operation of the previous question, the Speaker stated the question to be upon agreeing to the preamble.

An amendment was then offered to the preamble, whereupon Mr. George W. Jones, of Tennessee, raised the question of order that the main question having been ordered upon the preamble and resolutions, the previous question was not yet exhausted, and that the amendment was consequently out of order.

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[1] First session Twenty-fourth Congress, Journal, p. 885.

[2] James K. Polk, of Tennessee, Speaker.

[3] First session Thirtieth Congress, Journal, pp. 983–986.

[4] First session Thirty-fourth Congress, Journal, p. 1217; Globe, p. 1642.

The Speaker[1] overruled the question of order, on the ground that the previous question only covered the resolutions, and that the preamble (like the title to a bill) being the last thing to be considered, was now open to amendment.[2]

On an appeal the decision of the Chair was sustained.

5470. On February 28, 1900,[3] the House was considering the Porto Rican tariff bill (H. R. 8245), and the previous question was ordered on the bill and amendments to the passage. The amendments to the text of the bill were agreed to, and the bill was ordered to be engrossed and read a third time.

At this point, before the bill had been read a third time, the Speaker[4] called attention to the preamble which it was proposed to insert after the title, and which had been offered and agreed to in Committee of the Whole.

On motion of Mr. Sereno E. Payne, of New York, the previous question was ordered on the preamble, and it was agreed to.

The bill was then read a third time.

Then, a motion to recommit having been decided in the negative, the bill was passed.

5471. The ordering of the previous question to the final passage of a bill was held to exclude a motion to strike out the title.—On May 18, 1906,[5] the House was considering the bill (H. R. 850) for the relief of the estate of Samuel Lee, on which the previous question had been ordered to the final passage.

The bill having been passed, an amendment to the title was agreed to.

Thereupon Mr. John S. Williams, of Mississippi, rising for a parliamentary inquiry, asked if it would be in order to move to strike out the title.

The Speaker[6] said:

It seems to the Chair not. In the opinion of the Chair, while the question has not arisen for decision, it would not be in order, the previous question having been ordered and operating.

On May 19,[7] the succeeding day, when a motion was entered to reconsider the vote by which the bill was passed, Mr. John S. Williams, of Mississippi, asked:

Would it be in order, the title of the bill having been perfected, to move to strike out the title?

The Speaker said:

The Chair thinks not.

5472. Instance wherein a substitute amendment was offered to a bill reported from the Committee of the Whole with amendments, and the previous question was ordered on all the amendments and the bill to a final passage.—On April 29, 1898,[8] the House was considering the bill (H. R. 10100) to provide ways and means for war expenditures under the terms of a special

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[1] Nathaniel P. Banks, of Massachusetts, Speaker.

[2] The Globe shows that the Speaker based his decision on Jefferson's Manual. On August 10, 1876, Speaker pro tempore Milton Sayler, of Ohio, held that the previous question when ordered on a resolution with a preamble applied to the preamble. (First session Forty-fourth Congress, Journal, p. 1419.)

[3] First session Fifty-sixth Congress, Record, p. 2429.

[4] David B. Henderson, of Iowa, Speaker.

[5] First session Fifty-ninth Congress, Record, p. 7102.

[6] Joseph G. Cannon, of Illinois, Speaker.

[7] Record, p. 7105.

[8] Second session Fifty-fifth Congress, Record, p. 4451.

order which provided the Committee of the Whole should report the bill to the House at 4 p. m. that day with all amendments, and that a vote should then be taken.

The Committee accordingly rose at the hour named, and the Chairman reported the bill to the House with one amendment.

This report having been made, Mr. Nelson Dingley, of Maine, said:

I desire, on behalf of the Committee on Ways and Means, before moving the previous question, to offer an amendment in the nature of a substitute for the entire bill, but making no changes in the bill except certain amendments which have been agreed to by the majority of the Ways and Means Committee.

Mr. James D. Richardson, of Tennessee, reserved a point of order; and Mr. Joseph W. Bailey, of Texas, asked of the Chair if the substitute was in order.

The Speaker,[1] gave his opinion that it was in order.

5473. The previous question may be applied to the nondebatable motion to limit general debate in Committee of the Whole, in order to prevent amendment.—On May 26, 1906,[2] 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 consideration of the consular and diplomatic appropriation bill, and, pending that motion, moved that the time of general debate be limited to a specified time. On this motion Mr. Adams proposed the previous question.

Question arising as to a demand for recognition for debate, the Speaker[3] said:

The motion to go into the Committee of the Whole is not debatable or amendable, but the motion to limit the time of general debate is amendable, in the opinion of the Chair. The gentleman from Pennsylvania moves the previous question upon the motion.

5474. A Member who, having the floor, moved the previous question, was permitted to resume the floor on withdrawing the motion.—On September 4, 1850,[4] the House took up the bill of the Senate (No. 307) proposing to the State of Texas the establishment of her northern and western boundaries, etc., the pending question being on the motion of Mr. Robert M. McLane, of Maryland, to commit the bill and pending amendments to the Committee of the Whole House on the state of the Union, and print, upon which he had moved the previous question.

Mr. McLane withdrew his demand for the previous question, and was proceeding to debate, when Mr. Joseph M. Root, of Ohio, made the point of order that the gentleman from Maryland, having made a speech on the preceding day, and concluded by moving the previous question, it was not competent for him under the rule (notwithstanding his withdrawal of the previous question) to address the House while any other gentleman who had not spoken desired the floor.

The Speaker[5] stated that a Member who had moved the previous question had an undoubted right, at any time before it was seconded, to withdraw his motion, and, having withdrawn it, he was clearly of the opinion that it was

[1] Thomas B. Reed, of Maine, Speaker.

[2] First session Fifty-ninth Congress, Record, p. 7473.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] First session Thirty-first Congress, Journal, pp. 1367, 1368; Globe, pp. 1746, 1747.

[5] Howell Cobb, of Georgia, Speaker.

competent for him to retain the floor and speak out his hour. He therefore overruled the point of order.

Mr. Root having appealed, the appeal was laid on the table.

5475. If, after debate, the Member in charge of a measure does not move the previous question, another Member, having the floor, may do so.—On May 13, 1896,[1] the House was considering the contested election case of Rinaker *v.* Downing, which had been called up on the preceding day by Mr. Edward D. Cooke, of Illinois, and had been under consideration until near the close of the session on May 13.

Then Mr. William H. Moody, of Massachusetts, who represented the minority of the committee which had reported on the case, asked for the previous question, after having attempted to arrange with those representing the majority of the committee a time at which to take a vote.

Mr. Joseph G. Cannon, of Illinois, made the point of order that it was not in order for the gentleman from Massachusetts to move the previous question, as it was the unbroken practice of the House for years that the gentleman in charge of the measure should always be recognized at the close of the debate to move the previous question.[2]

The Speaker[3] ruled:

> The Chair does not remember any case where the right to move the previous question has been refused to a member. The remedy seems to be very simple. If the House does not desire the previous question ordered, it can vote the motion down. The gentleman in charge of the bill was recognized originally and was in charge of it. He has not seen fit to move the previous question, but if some one else moves it and the House does not desire to have it ordered, it can vote down the motion.

5476. A Member opposed to a bill, having the floor, may make a motion for the previous question, although the effect of the motion may be to deprive the Member in charge of his control of the bill.—On April 30, 1900,[4] the House was considering the joint resolution (H. J. Res. 1) proposing amendments to the Constitution in relation to polygamy, called up under the call of committees by Mr. John B. Corliss, of Michigan, Chairman of the Committee on the Election of President, Vice-President, and Representatives in Congress.

Both Mr. Corliss and Mr. C. E. Snodgrass, of Tennessee, spoke for the bill, and then surrendered the floor, reserving their time.

Mr. William H. King, of Utah, was then recognized in opposition to the bill. Having spoken, Mr. King yielded time to Mr. George W. Ray, of New York, who in turn yielded to Mr. Samuel W. T. Lanham, of Texas. Mr. Lanham, with the assent of Messrs. Ray and King, moved that the bill be committed to the Committee on the Judiciary, claiming that the jurisdiction rightly belonged to that committee. On the motion to commit Mr. Lanham demanded the previous question.

Messrs. Corliss and Snodgrass raised the question that an opponent of the bill might not thus deprive them of the control of the floor and the bill.

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[1] Cong. Record, First session Fifty-fourth Congress, Record, p. 5203; Journal, p. 484.

[2] It is very rare that a representative of the minority desires to stop debate. Usually the majority are the movers of the previous question, while the minority resist. In this case the conditions were reversed, as the House seemed likely, as it finally did, to favor the minority views.

[3] Thomas B. Reed, of Maine, Speaker.

[4] First session Fifty-sixth Congress, Record, p. 4864.

The Speaker pro tempore[1] held that Mr. Lanham having the floor for motions as well as for debate might take the action which he proposed.

The previous question was ordered and the bill was committed to the Committee on the Judiciary.

5477. It is in order for a Member to make a motion and thereupon to demand the previous question on the motion.—On July 9, 1838,[2] Mr. Henry A. Wise, of Virginia, moved that the House reconsider its vote whereby it had agreed to the following resolution:

Resolved, That the sixteen Members reported by the Sergeant-at-Arms be called on, when they next appear in this Hall, to render a reason why they disobeyed the order of this House.

Mr. Wise moved the previous question.

Mr. Charles F. Mercer, of Virginia, rose to a point of order, which he reduced to writing in the words following:

Mr. Wise, of Virginia, moved to reconsider a resolution of the House adopted at its last session, and at the same time, and in the same sentence, the previous question; and the Speaker, on exception being taken thereto, pronounced the motion of Mr. Wise in order. Upon which Mr. Mercer appealed from the judgment of the Chair on the ground that the two motions could not be entertained at the same time.

The Speaker[3] decided that the motion to reconsider having been made, and being in possession of the House, it was in order for Mr. Wise, who had possession of the floor, to move the previous question.

The question being taken on the appeal of Mr. Mercer, the decision of the Chair was sustained.

5478. On June 1, 1840,[4] Mr. F. O. J. Smith, of Maine, offered a resolution to modify one of the rules of the House so that a majority might suspend the rules to enable the House to go into Committee of the Whole House on the state of the Union.

Having offered this resolution, Mr. Smith moved the previous question on it.

Mr. John Bell, of Tennessee, submitted the following question of order:

The gentleman from Maine offered a resolution; and, before it was read or stated from the Chair, moved the previous question. The point of order was that it was not in order to offer a resolution and move the previous question before it was read or stated from the Chair.

The Speaker[5] stated that it was in conformity with the former decision and practice of the House to move the previous question when the resolution was moved; for the reason that the Member who offered the resolution was entitled to the floor on it before any other could claim it; and therefore it saved time, without violating the rights of any other Member, to enable him to move the resolution and call the previous question at the same instant, without going through the form of announcing the proposition, before the floor was given him to demand the previous question upon it.

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[1] Sereno E. Payne, of New York, Speaker pro tempore.

[2] Second session Twenty-fifth Congress, Journal, p. 1303; Globe, p. 505.

[3] James K. Polk, of Tennessee, Speaker.

[4] First session Twenty-sixth Congress, Journal, pp. 1064–1067; Globe, p. 432.

[5] Robert M. T. Hunter, of Virginia, Speaker.

An appeal being taken, the decision of the Chair was sustained, yeas 118, nays 85.

Mr. Bell demanded the question of consideration, and the Speaker decided that the call for the previous question did not deprive the Member of his right to demand the question of consideration.

5479. On March 11, 1844,[1] Mr. Cave Johnson, of Tennessee, moved a resolution relating to the rules of the House and immediately demanded the previous question thereon.

Mr. Robert C. Schenck, of Ohio, raised the question of order that it was not in order for a Member to offer a resolution and at the same time move the previous question thereon.

The Speaker[2] decided that, in accordance with numerous decisions and the common practice of the House, the motion for the previous question was in order.

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

5480. The Member in charge of the bill and having the floor may demand the previous question, although another Member may propose to offer a motion of higher privilege; but the motion of higher privilege must be put before the previous question.—On July 12,1892,[3] Mr. J. Logan Chipman, of Michigan, called up for consideration a joint resolution (H. J. Res. 90) relating to election of Senators by the people.

And after debate thereon, Mr. Chipman demanded the previous question on the joint resolution to its engrossment and third reading.

Mr. Thomas B. Reed, of Maine, made the point of order that he, having risen to move for a recess, the Speaker should have entertained his motion before entertaining the demand for the previous question.

The Speaker[4] overruled the point of order, holding that Mr. Chipman, having the floor, had the right to demand the previous question before relinquishing; but that a motion for a recess, though made after the demand for the previous question, would take precedence over the question on ordering the previous question.[5]

5481. After the previous question is moved, there may be no further debate, not even the asking of a question.—On June 4, 1844,[6] the previous question having been moved on a resolution for closing all debate in Committee of the Whole House on the state of the Union on the civil and diplomatic appropriation bill Mr. Daniel D. Barnard, of New York, rose and commenced putting an interrogatory to the chairman of the Committee on Ways and Means, when he was called to order by Mr. John B. Weller, of Ohio.

The Speaker[2] decided that, the previous question having been moved, no debate was in order.

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[1] First session Twenty-eighth Congress, Journal, p. 558; Globe, p. 376.

[2] John W. Jones, of Virginia, Speaker.

[3] First session Fifty-second Congress, Journal, p. 288; Record, pp. 6061, 6080.

[4] Charles F. Crisp, of Georgia, Speaker.

[5] The motion for a recess was then privileged. The rule is somewhat different now.

[6] First session Twenty-eighth Congress, Journal, p. 1003.

From this decision Mr. Barnard appealed on the ground that the mere asking a question was not debate, and that under the practice of the House he had a right, notwithstanding the pendency of the previous question, to put a question to the mover of the resolution.

The decision of the Speaker was sustained.

5482. After the previous question is ordered on a pending proposition, modifications or amendments may be made only by unanimous consent.— On April 17, 1844,[1] the House was considering the bill (H. R. 126) making appropriations for the improvement of certain harbors and rivers, the question being upon agreeing to the amendments to the bill reported from Committee of the Whole House on the state of the Union.

After debate a motion was made by Mr. Andrew Kennedy, of Indiana, to amend the bill by striking out all after the enacting clause and inserting a new bill.

The previous question was then ordered, and the amendments reported from committee were disposed of first.

Then the question was put on Mr. Kennedy's amendment, and Mr. Kennedy proposed to modify it.

The Speaker pro tempore[2] decided that it was not in order at this stage of the proceedings for Mr. Kennedy to modify his amendment.

Mr. Kennedy then stated that the amendment was proposed by him under circumstances which rendered it impossible for the moment for him to examine it; and that it contained matter which he should not have offered if he had read it. He therefore proposed to correct the amendment proposed by him to correspond with what he supposed it was when he offered it.

Objection being made,

The Speaker pro tempore decided that, the previous question having been moved and seconded,[3] the amendment could not be modified, corrected, or changed, except by the unanimous consent of the House.

On appeal, the Chair was sustained.

5483. On May 3, 1842,[4] the House was considering the bill (H. R. 73) for the apportionment of Representatives under the Sixth Census, when Mr. Richard W. Thompson, of Indiana, moved to amend by inserting a different ratio. The previous question was then demanded, put, and carried.

Thereupon Mr. Thompson proposed to modify his amendment.

The Speaker[5] decided that the amendment could not be modified at this stage of the proceeding, the previous question having been ordered thereon.

Mr. Edward Everett, of Massachusetts, having appealed, the appeal was laid on the table.

5484. On January 4, 1848,[6] the House was considering a resolution offered by Mr. William L. Goggin, of Virginia, requesting the President to communicate to

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[1] First session Twenty-eighth Congress, Journal, p. 811; Globe, p. 530.

[2] George W. Hopkins, of Virginia, Speaker pro tempore.

[3] The previous question is no longer seconded.

[4] Second session Twenty-seventh Congress, Journal, p. 776.

[5] John White, of Kentucky, Speaker.

[6] First session Thirtieth Congress, Journal, pp. 193–197; Globe, p. 104.

the House any instructions that might have been given to army or navy officers in regard to the return of Gen. Santa Anna to Mexico, etc.

Mr. Robert M. McLane, of Maryland, proposed to amend by adding:

Provided, That said orders, instructions, and correspondence, have not heretofore been furnished to Congress by the President.

Mr. Goggin moved the previous question, which was seconded,[1] and the previous question was stated, "Shall the main question be now put?"

This motion was decided in the affirmative, and the main question was put first on the motion of Mr. McLane.

Thereupon Mr. McLane proposed to modify the amendment by adding thereto the following:

and that the same is not incompatible with the public interest.

A question was raised as to whether any modification of the amendment was in order at this stage of the proceeding.

The Speaker[2] stated that he was not aware of anything in the rules or orders of the House which prevented a Member from withdrawing or modifying his own proposition at any time before a decision or amendment. The rule to this effect was express as to the power of withdrawing, and he had always regarded the right to modify as an incident to the right to withdraw. He therefore decided the proposed modification would be in order.

Mr. Robert Toombs, of Georgia, having appealed, the decision of the Chair was reversed, yeas 51, nays, 105.

5485. On September 5, 1850,[3] the House was considering a motion of Mr. John Wentworth, of Illinois, to recommit with instructions the bill of the Senate (No. 307) proposing to the State of Texas the establishment of the northern and eastern boundary.

The previous question having been ordered on this motion, Mr. Wentworth asked leave to modify his motion by withdrawing a part of the instructions.

The Speaker[4] decided that it was not competent, unless by unanimous consent, for a Member to modify his motion, the previous question having been ordered since the motion was made. The Speaker referred to a previous case in which this decision had been made.

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

5486. After the previous question has been moved or ordered on a bill and pending amendments, further amendments may not be offered.—On December 17, 1890,[5] the House was considering the apportionment bill (H. R. 12500), and the question was on agreeing to an amendment which had been submitted by Mr. Roswell P. Flower, of New York.

Mr. Joseph E. Washington, of Tennessee, claimed the right to submit a substitute therefor.

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[1] The second for the previous question is no longer required.

[2] Robert C. Winthrop, of Massachusetts, Speaker.

[3] First session Thirty-first Congress, Journal, pp. 1396, 1397; Globe, p. 1756.

[4] Howell Cobb, of Georgia, Speaker.

[5] Second session Fifty-first Congress, Journal, p. 63; Record, p. 606.

Mr. Thomas M. Bayne, of Pennsylvania, made the point of order that the previous question having been ordered on the previous day on the bill and pending amendments after two hours' debate on this day (which time had been occupied), no further amendment was in order except by unanimous consent.

After debate, the Speaker pro tempore [1] sustained the point of order, on the ground that no exception being made as to further amendments being offered the effect of the previous question was to include only pending amendments and exclude further amendments.

5487. On August 8, 1893,[2] Mr. Charles T. O'Ferrall, of Virginia, called up the resolution submitted by him on the preceding day:

Resolved, That George F. Richardson be now sworn in as a Representative in this Congress from the Fifth district of the State of Michigan.

On which, and upon the substitute submitted therefor by Mr. Julius C. Burrows, of Michigan, Mr. O'Ferrall had demanded the previous question, and upon which, by unanimous consent, debate for two hours was permitted.

After debate, Mr. William C. Oates, of Alabama, submitted as a substitute for the pending resolution and the amendment thereto submitted by Mr. Burrows the following:

That the question of the prima facie right to a seat in the House, for the Fifth district of Michigan, and all papers relating thereto, be committed to the Committee on Elections, when appointed, with instructions to report thereon at the earliest day practicable.

Mr. O'Ferrall submitted the point of order that the amendment in the nature of a substitute proposed by Mr. Oates was not in order, for the reason that his demand for the previous question was pending upon the original resolution and the amendment thereto offered by Mr. Burrows.

The Speaker [3] sustained the point of order.

5488. The previous question being demanded or ordered on a motion to concur in a Senate amendment, a motion to amend is not in order.— On March 2, 1907,[4] the Speaker laid before the House from the Speaker's table the bill (H. R. 13566) relating to the currency, with Senate amendments thereto.

The amendments having been read, Mr. Charles N. Fowler, of New Jersey, moved to concur in the Senate amendments, and on that demanded the previous question.

Mr. Ollie M. James, of Kentucky, rising to a parliamentary inquiry, asked if a motion to concur with an amendment would not have precedence of the motion to concur.

The Speaker [5] said:

It would if the gentleman from New Jersey had not demanded the previous question.

The previous question was then ordered, yeas, 164; nays, 84.

Mr. James then proposed to offer an amendment to the Senate amendment.

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[1] Edward P. Allen, of Michigan, Speaker pro tempore.

[2] First session Fifty-third Congress, Journal, pp. 8 and 9.

[3] Charles F. Crisp, of Georgia, Speaker.

[4] Second session Fifty-ninth Congress, Record, pp. 4511–4513.

[5] Joseph G. Cannon, of Illinois, Speaker.

Mr. James E. Watson, of Indiana, made a point of order against the motion. The Speaker held:

The gentleman from Kentucky proposes to offer an amendment after the previous question has been ordered on a motion to concur in the Senate amendments, and the point of order is made that it is not in order to offer an amendment after the previous question is ordered. Under the present conditions the Chair sustains the point of order.

Mr. James having appealed from the decision, the appeal, or motion of Mr. James R. Mann, of Illinois, was laid on the table, yeas, 159; nays, 167.

5489. The previous question having been demanded on a motion to recommit, it was held to be not in order to withdraw the latter motion.— On May 28, 1852,[1] the House proceeded to the consideration of the bill (S. 43) relating to the Missouri bill, which was in this situation: On a previous day Mr. Willard P. Hall, of Missouri, had moved to recommit the bill, and had then moved the previous question.

On this day, the bill having come before the House, Mr. Hall announced his intention to withdraw the motion to recommit.

Mr. Harry Hibbard, of New Hampshire, raised the question of order that the gentleman from Missouri could not withdraw the motion to recommit without previously withdrawing the motion for the previous question.

The Speaker[2] sustained the point of order, saying that a motion to recommit could not be made after the previous question had been moved,[3] and so it was evident that the motion to recommit, once made, could not be withdrawn until the motion for the previous question had been withdrawn.

5490. In order to prevent amendments the previous question is sometimes ordered on undebatable motions.—On December 18, 1900,[4] Mr. Joseph W. Babcock, of Wisconsin, moved that the House take a recess until 10 o'clock tomorrow, and on that motion demanded the previous question.

The Speaker[5] said:

The Chair is of the opinion, without examination, that the motion for the previous question is not necessary on this motion.

Thereupon Mr. James D. Richardson, of Tennessee, moved to amend the motion by inserting five minutes to 12 o'clock instead of 11 o'clock.

The Speaker then said:

The Chair will put the motion for the previous question. It will be in order to obviate the very purpose that is manifested by the supplemental motion.

5491. When a vote taken under the operation of the previous question is reconsidered the main question stands divested of the previous question, and may be debated and amended without reconsideration of

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[1] First session Thirty-second Congress, Globe, pp. 1504, 1505.

[2] Linn Boyd, of Kentucky, Speaker.

[3] This was before the motion to recommit had been given a special privilege in connection with the motion for the previous question.

[4] Second session Fifty-sixth Congress, Record, p. 411.

[5] David B. Henderson, of Iowa, Speaker.

the motion for the previous question. (Speaker overruled.)—On June 7, 1841,[1] the House had adopted this resolution:

Resolved, That a committee of nine members be appointed to revise, amend, and report rules for the government of this House; and that until such committee make report, and the same be finally acted upon, the rules and orders of the last House of Representatives, except the twenty-first,[2] shall be considered as the rules and orders of this House.

On June 8 Mr. Joseph Fornance, of Pennsylvania, moved to reconsider the vote whereby the resolution had been adopted, and on June 12 the motion to reconsider passed by a vote of 106 yeas to 104 nays.

The question then recurring on the resolution, Mr. Kenneth Rayner, of North Carolina, proposed to amend by a substitute adopting all the rules of the last House. This amendment was objected to as not in order, and on June 15 Mr. Daniel D. Barnard, of New York, submitted a question of order, as follows:

The House had passed a resolution adopting certain rules and orders for its own government. This resolution was passed under the operation of the previous question, by which the House determined that the question on the resolution should be taken without further debate. Yesterday the House determined to reconsider the vote adopting the said resolution. This restored the question on that resolution to the position in which it stood at the moment of taking the first vote thereon. The previous question still applies, and the question must now be taken without debate or amendment.

The Speaker[3] decided that, the House having reconsidered the vote adopting the resolution, the proceeding was restored to the precise point at which it was when the question to agree to the resolution was put; that the question, "Will the House agree to the resolution?" immediately recurred upon the passing of the vote to reconsider, and it was the question now before the House; that, as that question had been decided on the 8th instant under the operation of the previous question, the previous question now operated upon it, and consequently it was not open to debate or amendment.

From this decision Mr. Henry A. Wise, of Virginia, appealed, on the ground that a previous question expended itself when once put and decided; that, having been put on the 8th instant and decided, it could no longer be applied to the present proceeding unless renewed, and, consequently, that the proposition before the House was open both to amendment and debate.

On the question, "Shall the decision of the Chair stand as the judgment of the House?" the yeas were 105 and the nays were 112.

So the decision of the Chair was reversed, and it was decided that the previous question when once put no longer operated, notwithstanding a reconsideration of the question to which it may have been applied.

5492. On February 17, 1857,[4] Mr. Abraham Wakeman, of New York, called up, and the House agreed to, a motion to reconsider the vote by which the bill of the Senate (S. 493) entitled "An act to expedite telegraphic communication for the uses of the Government in its foreign intercourse," was referred to the Committee on the Post-Office and Post-Roads.[5]

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[1] First session Twenty-seventh Congress, Journal, pp. 47, 61, 128, 129; Globe, p. 53.

[2] This twenty-first rule was that which forbade the introduction of petitions for the abolition of slavery. It had been made an exception in the resolution on motion of Mr. John Quincy Adams, and by a vote of 112 to 104. (Journal, p. 42.)

[3] John White, of Kentucky, Speaker.

[4] Third session Thirty-fourth Congress, Journal, p. 452; Globe, p. 729.

[5] Section 2 of Rule XVIII now forbids bringing a bill back in this way.

The question then recurring on the motion to refer to the Committee on the Post-Office and Post-Roads,

Mr. George W. Jones, of Tennessee, made the point of order that the previous question, under which the bill was referred to the Committee on the Post-Office and Post-Roads at a former day, was still operating.

The Speaker[1] decided that the previous question was exhausted by the former reference, and that the question now recurred upon the motion to refer, divested of the previous question.

5493. When the previous question has been ordered on a series of motions and its force has not been exhausted, the reconsideration of the vote on one of the motions does not throw it open to debate or amendment.—On April 8, 1896,[2] the House was considering the bill (H. R. 7251) relating to the metric system, and the bill was passed to be engrossed and read a third time under the operation of the previous question, which had been ordered only to the engrossment and third reading, and not to the passage.

Then the vote whereby the bill was ordered to be engrossed and read a third time was reconsidered, and the Chair announced that the question was on the engrossment and third reading of the bill, which was open to debate and amendment.

Mr. Charles H. Grosvenor, of Ohio, made the point that as the vote had not been taken on the passage, the previous question was not exhausted.

The Speaker pro tempore[3] said:

The Chair will read a paragraph from the Digest which bears directly upon the point:

"When a vote, taken under the operation of the previous question, is reconsidered, the question is then divested of the operation of the previous question and is open for debate and amendment. * * * These decisions apply only to cases where the previous question was fully exhausted by votes taken on all the questions covered by it before the motion to reconsider was made. In any other case the pendency of the previous question would preclude debate."

If the previous question had been ordered on the passage of the bill, then the position taken by the Chair would, unquestionably, be wrong. The Chair was informed that the previous question was ordered on the engrossment and third reading of the bill, and upon that ground the Chair sees no reason for changing his ruling. * * * The Chair has examined the Journal, and it does not show that the previous question was ordered on the passage of the bill. It speaks of the state which the bill had reached and says, "The previous question was then ordered," and stops there. The Chair thinks the previous question only extended to the third reading of the bill, as that was the only question then before the House. The Chair still adheres to the ruling made.

5494. The previous question is exhausted by the vote on the motion on which it is ordered, and consequently a motion to reconsider the vote on the main question is debatable.[4]—On December 21, 1853,[5] the House adopted, under the operation of the previous question, a resolution instructing the Committee on Commerce[6] to inquire in relation to certain river and harbor works.

Mr. Cyrus L. Dunham, of Indiana, moved that the vote be reconsidered.

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[1] Nathaniel P. Banks, of Massachusetts, Speaker.

[2] First session Fifty-fourth Congress, Record, p. 37–22.

[3] William W. Grout, of Vermont, Speaker pro tempore.

[4] See, however, sections 5700, 5701 of this volume.

[5] First session Thirty-third Congress, Journal, p. 127.

[6] This committee formerly had jurisdiction of subjects relating to the improvement of rivers and harbors.

Mr. Thomas L. Clingman, of North Carolina, rose to a question of order, as to the right of a Member to debate the motion to reconsider, the vote upon the resolution having been taken under the operation of the previous question.

The Speaker[1] decided that the previous question had exhausted itself by the vote upon the resolution, and that consequently the motion to reconsider was debatable.

In this decision of the Chair the House acquiesced.

Subsequently, after debate upon the motion to reconsider, the Speaker stated that after more reflection upon the question of debating the present motion, he was of opinion that, under the rule which prohibits debate upon resolutions "on the very day of their being presented," he should not have permitted the debate to progress. Hereafter, in similar cases, he should so hold; but otherwise (as in his decision when the question of order was raised) in the case of motions to reconsider generally.[2]

5495. When the previous question is ordered "on any proposition on which there has been no debate" forty minutes are to be divided in debate.—Section 3 of Rule XXVIII,[3] which is classified under "suspension of the rules" but which applies also to the previous question, provides:

> When a motion to suspend the rules has been seconded, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of and one-half to debate in opposition to such proposition; and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

5496. The forty minutes of debate allowed in certain cases after the previous question is ordered should be demanded before division on the main question has begun.—On July 1, 1902,[4] Mr. Sereno E. Payne, of New York, from the Committee on Ways and Means, reported with an amendment a concurrent resolution fixing the time of adjournment of Congress, and immediately demanded the previous question, which was ordered.

The amendment was then agreed to; and pending the question on agreeing to the resolution, Mr. William Sulzer, of New York, moved to recommit with instructions. This motion was disagreed to.

The question being on agreeing to the resolution, the yeas and nays were ordered on the demand of Mr. Sulzer.

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[1] Linn Boyd, of Kentucky, Speaker.

[2] The Congressional Globe (first session Thirty-third Congress, p. 78) shows that the explanation by the Speaker was prompted by conditions no longer existing. The twenty-fifth rule then provided for the introduction of resolutions on call by States, with the further provision that such as occasioned debate should go over. This resolution was introduced, the previous question demanded upon it, and sustained by the House, which cut off debate, and brought the House to action upon the resolution. It was passed through the House without debate; for if debate had arisen upon its introduction, it must have gone over. Upon reconsideration this resolution gives rise to debate, and thus the question arises whether it shall go over by the twenty-fifth rule. The Chair concluded, in view of the twenty-fifth rule, that the motion to reconsider should have been taken without debate. Thus it will be seen that in this view the question of the previous question does not enter.

[3] For history of this rule see section 6820 of this volume.

[4] First session Fifty-seventh Congress, Record, p. 7777.

Thereupon Mr. Claude A. Swanson, of Virginia, raised the question of order that there should be forty minutes of debate on the resolution, since there had been no debate before the previous question was ordered.

The Speaker[1] said:

Demand was made for the yeas and nays, and the yeas and nays have been ordered. No debate was demanded until after the division began, and the Chair thinks it is too late now. * * * The point of order is not without some difficulty, but the Chair thinks it comes now too late. The question on the amendment and the motion to recommit have been considered, and the House is dividing, and the Chair thinks it comes too late. While it is not without difficulty, the Chair thinks it is now too late.

5497. The word "proposition" in the rule providing as to debate after the previous question is ordered, means the main question and does not refer to incidental motions.—On February 5, 1896,[2] the House decided in the negative the question on the passage of the District of Columbia appropriation bill.

The vote having been reconsidered, and the question recurring on the passage, Mr. Charles H. Grosvenor, of Ohio, moved to recommit the bill to the Committee on Appropriations with certain instructions, and on that motion demanded the previous question, which was ordered.

Mr. Charles F. Crisp, of Georgia, made the point of order that there should be forty minutes of debate on the motion to recommit.

After debate the decision of the point of order was deferred.

On May 23, 1896,[3] the previous question having been ordered on the conference report on the Indian appropriation bill, Mr. John F. Fitzgerald, of Massachusetts, raised a question as to whether or not debate was allowable.

The Speaker[4] said:

In regard to the suggestion or inquiry which was made a while ago by the gentleman from Massachusetts [Mr. Fitzgerald] in regard to the right to speak after the ordering of the previous question, on the ground that there has been no debate upon the pending proposition, the Chair desires to state that this question was raised on the 5th of February last by the gentleman from Georgia [Mr. Crisp], and the Chair had occasion then to consider the right of debate under such circumstances. Under the rules, the right of debate for a limited time is given after the ordering of the previous question wherever the proposition has not been debated. Of course, if that word "proposition" referred to all motions or to any action of the House whatever, debate would have to be granted upon every motion on which the House might be called upon to act, so that it would be impossible to escape a great amount of debate.

The object of the previous question is to bring the House to a vote without debate or without further debate whenever the House sees fit to insist upon a vote. But of course it was very undesirable that any proposition should be sprung upon the House, and, without a word of explanation, forced through under the previous question. Hence an ameliorating clause was introduced into the rule providing that no proposition should go entirely undebated; that is, if it were a new proposition which had not been debated, that it should have the benefit of the provision for limited debate after the ordering of the previous question. But the word "proposition" as embodied in the rule means the main question, as Members of the House will see upon examining the language and reflecting upon what the practical working of the rule has always been. For example, debate in Committee of the Whole has always been held to satisfy this clause. So, also, wherever a question has been debated in the slightest manner—

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[1] David B. Henderson, of Iowa, Speaker.

[2] First session Fifty-fourth Congress, Record, p. 1342; Journal, p. 535.

[3] Record, p. 5649.

[4] Thomas B. Reed, of Maine, Speaker.

where merely a sentence or two have been uttered by the mover explanatory of the measure—such limited debate has been held to satisfy the requirement of the rule.

Now, propositions which come up in the House in connection with the reports of conference committees are all of them propositions which have been debated, and it does not matter that any particular item of the main question or proposition submitted to the House has not been debated. If the subject has had debate, and thereby the House has had some information upon it, the rule allowing debate after the ordering of the previous question does not operate. The Chair thinks the matter is very clear, but as some gentlemen seem to have had some doubt about it, although the question has arisen more than once heretofore, the Chair thought he ought to make this statement.

5498. On January 5, 1904,[1] the House had ordered the previous question on a resolution relating to alleged improper conduct of Members in connection with irregularities in the Post-Office Department.

Thereupon Mr. Sereno E. Payne, of New York, moved to refer the resolution to the Committee on the Post-Office and Post-Roads.

Mr. Oscar W. Underwood, of Alabama, rising to a parliamentary inquiry, asked if debate was in order.

The Speaker[2] replied:

On page 438 of the Manual it says: "The word 'proposition' in the rule providing for forty minutes of debate after the previous question is ordered means the main question and does not refer to incidental motions."

Now, the main question has already been debated. This is an incidental motion to dispose of the resolution, namely, to refer it to a committee. The Chair thinks that debate has already been had under the rule and that further debate is not in order. The question is now on the motion of the gentleman from New York to refer the resolution to the Committee on the Post-Office and Post-Roads.

5499. If there has been debate, even though brief, before the previous question is ordered, the forty minutes of debate provided for in Rule XXVIII is precluded.—On May 1, 1890,[3] Mr. William McKinley, jr., of Ohio, presented from the Committee on Rules a resolution providing for the consideration of certain bills.

Retaining the floor Mr. McKinley yielded to Mr. John G. Carlisle, of Kentucky, for a brief statement on the subject, and after this had been made, replied to an inquiry which Mr. William M. Springer, of Illinois, made concerning the terms of the resolution. Then the previous question was ordered.

The question recurring on agreeing to the resolution, Mr. James B. McCreary, of Kentucky, made the point of order that debate was in order on the pending question, as authorized by clause 3 of Rule XXVIII.

The Speaker[4] overruled the point of order on the ground that there had been debate on the said proposition before the previous question was ordered.

5500. On January 24, 1891,[5] the Journal was read, and the question recurred on its approval.

Mr. William McKinley, jr., of Ohio, having been recognized, yielded to Mr. C. R. Breckinridge, of Arkansas, who commented briefly upon certain alleged inaccuracies

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[1] Second session Fifty-eighth Congress, Record, p. 476.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Fifty-first Congress, Journal, p. 555; Record, p. 4086.

[4] Thomas B. Reed, of Maine, Speaker.

[5] Second session Fifty-first Congress, Journal, p. 178; Record, pp. 1809, 1810.

in the Journal. Mr. McKinley having replied, the previous question was ordered by the House.

Under the operation thereof, the question recurred on the approval of the Journal as read.

Mr. Breckinridge, of Arkansas, having submitted to the Speaker a question as to whether or not debate had been had on the said question that would cut off the forty minutes allowed under the rule,

The Speaker[1] ruled that such debate had been had.

5501. On January 26, 1891,[2] the question was upon the approval of the Journal, and Mr. William McKinley, jr., of Ohio, being recognized, said that there was a manifest intention on the part of gentlemen on the floor to delay proceedings, and that therefore he should, before demanding the previous question, make such remarks as would constitute "debate." Having spoken for a brief time, during which he yielded for questions, Mr. McKinley demanded the previous question, which was ordered.

Thereupon Mr. James H. Blount, of Georgia, made the point of order that under the rule forty minutes' debate could be now had, the remarks of Mr. McKinley before demanding the previous question not being "debate" within the meaning of the rule.

The Speaker[1] overruled the point of order in accordance with the ground heretofore taken by him, that debate being had before ordering the previous question precluded debate thereafter on the pending question.

Mr. Blount appealed from the said decision of the Chair, and the Speaker declined to entertain the appeal, on the ground that it was dilatory.

5502. The debate which justifies a refusal of the right to the forty minutes after the previous question is ordered should be on the merits.—On January 26, 1904[3] Mr. Jesse Overstreet, of Indiana, from the Committee on the Post Office and Post-Roads, submitted a resolution of inquiry relating to the use of horses, carriages, and other vehicles by the Post-Office Department. The resolution having been read, the following occurred, as shown by the Record:

Mr. HITCHCOCK. Mr. Speaker——

The SPEAKER. Does the gentleman from Indiana yield to the gentleman from Nebraska?

Mr. OVERSTREET. Yes, sir.

Mr. HITCHCOCK. I should like to ask the chairman of the committee whether he will accept an amendment to specify the time upon which payment of wages has been asked?

Mr. OVERSTREET. I do not feel free to accept any amendment, Mr. Speaker, as I have been directed by the committee to report this substitute.

Mr. HITCHCOCK. I understand the committee desires to obtain information sufficient to guide the House, and as the matter now stands the information obtained is likely to be almost worthless.

Mr. OVERSTREET. I move the previous question.

The previous question was ordered, whereupon Mr. G. M. Hitchcock, of Nebraska, claimed the floor for debate.

Mr. Overstreet made the point of order that, as there had been debate before the previous question was ordered, no further debate was in order.

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[1] Thomas B. Reed, of Maine, Speaker.

[2] Second session Fifty-first Congress, Journal, p. 182; Record, pp. 1831–1833.

[3] Second session Fifty-eighth Congress, Record, pp. 1199, 1200.

The Speaker[1] said:

Under some circumstances the Chair thinks he might well hold that there had been debate, where it was evidently for obstruction or dilatory purposes; but it seems to the Chair that a fair construction of the rule under existing conditions would not authorize the Chair to say that such debate had been had as to preclude debate at this time. Therefore the Chair recognizes the gentleman from Indiana.

5503. The rule permitting forty minutes of debate was held to apply to an amendment on which the previous question had been ordered before there had been debate either in the House or in Committee of the Whole.— On January 31, 1889,[2] the House was considering the Oklahoma bill, and a motion was made to reconsider the vote whereby the House had adopted an amendment relating to the rights of honorably discharged Union soldiers and sailors to make homes on the public lands.

The House having voted to reconsider, the Speaker announced that the question was on agreeing to the amendment.

On motion of Mr. William M. Springer, of Illinois, the previous question was ordered.

Then, on the demand of Mr. Daniel Kerr, of Iowa, the amendment was divided. The first portion having been agreed to, the Speaker stated that the question was next upon agreeing to the remainder of the amendment.

Mr. Lewis E. Payson, of Illinois, made the point that the amendment might be debated thirty minutes.[3]

The Speaker[4] said:

The Chair is very much inclined to think that where it is necessary to order the previous question upon a proposition which has not been debated the rule allowing thirty minutes for debate would apply. This proposition has not been debated in the House * * * nor in its present form, and therefore the Chair would be inclined to think that in the interest of careful legislation there should be thirty minutes allowed for debate on a proposition which has not been before debated either in the House or in the Committee of the Whole on the state of the Union.

5504. The rule for the forty minutes of debate does not apply to an amendment on which there has been no debate in a case wherein the motion for the previous question covers both the amendment and the original proposition, which has been debated.—On April 7, 1892,[5] Mr. Edward H. Funston, of Kansas, as a matter of privilege, sent to the Clerk's desk and had read an article in a weekly paper commenting on himself and others. Mr. Funston denounced the statement contained in the paper as false.

Mr. William H. Hatch, of Missouri, as a matter of privilege, moved that so much of the article read at the desk as referred to others than Mr. Funston be omitted from the Record.

After debate Mr. Julius C. Burrows, of Michigan, moved to amend the motion of Mr. Hatch by substituting therefor that the entire article be omitted from the Record.

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[1] Joseph G. Cannon, of Illinois, Chairman.

[2] Second session Fiftieth Congress, Record, p. 1381; Journal, p. 384.

[3] Prior to the Fifty-first Congress the time was thirty minutes instead of forty.

[4] John G. Carlisle, of Kentucky, Speaker.

[5] First session Fifty-second Congress, Journal, p. 136; Record, p. 3059.

Mr. Burrows demanded the previous question on his amendment and on agreeing to the motion.

The previous question was ordered, and then Mr. Funston claimed the right to debate the amendment submitted by Mr. Burrows upon the ground that, there having been no debate on the amendment, under clause 3, Rule XXVIII, there should be allowed thirty minutes I for debate on the amendment submitted by Mr. Burrows.

The Speaker[2] held that there having been debate on the original motion debate was not now in order.

5505. When the previous question is ordered on a proposition which has been debated in Committee of the Whole, the rule permitting forty minutes of debate does not apply.—On May 4, 1892,[3] the Speaker announced that the business regularly in order was the consideration of the bills on the passage of which the previous question had been ordered at the evening session last Friday.

Mr. Joseph W. Bailey, of Texas, submitted the question of order whether, there having been no debate on the bills in the House, but only in Committee of the Whole, there should not be allowed thirty minutes' debate on each bill, pursuant to the provision of Rule XXVIII, clause 1.

The Speaker[2] held that debate on the bills in Committee of the Whole was such debate as was contemplated by the rule and that the previous question precluded further debate.

5506. When the previous question is ordered on a conference report which has not been debated, the forty minutes of debate is not allowed if the subject-matter of the report was debated before being sent to conference.—On April 18, 1898,[4] the previous question had been ordered on the conference report on the joint resolution (H. Res. 233) authorizing and directing the President of the United States to intervene and stop the war in Cuba, which the Senate had amended with a substitute.

Mr. Robert Adams, jr., of Pennsylvania, having demanded the previous question, Messrs. Joseph W. Bailey, of Texas, and Henry U. Johnson, of Indiana, asked, as parliamentary inquiries, "ether or not there would be forty minutes of debate after the previous question was ordered.

The Speaker[5] decided that there would not be, saying:

> The object of that rule was to prevent a proposition being presented without any debate; but these propositions have had such debate as the House saw fit to give them. * * * When a matter has been discussed in Committee of the Whole, that is regarded as debate, and such has been the rule in all these matters. It was an extension of the privilege under a demand for the previous question, and had that intention, and that only. * * * The Chair has considered the question, and after consideration it seems very clear to the Chair that the proposed debate is not possible under the rules of the House.

5507. On February 22, 1899,[6] Mr. J. A. Hemenway, of Indiana, presented the conference report on the disagreeing votes of the two Houses on the legislative, executive, and judicial appropriation bill.

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[1] The rule at present allows forty minutes.

[2] Charles F. Crisp, of Georgia, Speaker.

[3] First session Fifty-second Congress, Journal, p. 173; Record, p. 3930.

[4] Second session Fifty-fifth Congress, Record, p. 4062.

[5] Thomas B. Reed, of Maine, Speaker.

[6] Third session Fifty-fifth Congress, Record, p. 2188.

The report having been read, Mr. Hemenway asked for the previous question.

Mr. Levin I. Handy, of Delaware, rising to a parliamentary inquiry, asked whether or not, the previous question having been ordered, there would be forty minutes of debate.

The Speaker [1] said:

It will not. The question has been debated already. * * * The object of the rule giving twenty minutes' debate on each side after the ordering of the previous question was that no subject which was entirely new should be presented to the House without an opportunity for some discussion upon it. Where a bill has been debated in Committee of the Whole, no debate is allowed in the House after the previous question is ordered; and where a bill has reached the stage of a conference report, no debate is allowed under the rules if the previous question is ordered.

5508. The previous question having been ordered on a resolution to correct an enrolled bill, the forty minutes of debate was not allowed.—On March 3, 1903 [2] (legislative day of February 26), the previous question was ordered on the motion to agree to the following resolution:

Resolved by the Senate (the House of Representatives concurring), That the Committee on Enrolled Bills, in the enrollment of the bill (H. R. 12199) to regulate the immigration of aliens into the United States, are hereby authorized and directed to correct the cross references by sections in said bill, made necessary by the changed numbering of the sections thereof, namely:

Page 3, lines 2 and 3, strike out thirty-three "and insert "thirty-two."

Page 6, line 23, strike out "five" and insert "four," etc.

Mr. James D. Richardson, of Tennessee, made the point of order that forty minutes of debate should be allowed.

The Speaker pro tempore [3] held:

It is perfectly clear to the Chair that this is a proposition which has been debated. The present proposition is merely the correction of a clerical error in the conference report; it is not a new subject, but is a subject which has been debated. The Chair therefore overrules the point of order made by the gentleman from Tennessee. * * * The Chair desires to call the attention of the gentleman from Tennessee to a ruling made in the first session of the Fifty-fourth Congress, wherein it was held that "debate meant debate upon the main proposition and not upon anything incidentally connected therewith."

5509. Before the adoption of rules the previous question of general parliamentary law does not permit forty minutes of debate on questions on which there has been no debate.

Before the adoption of rules, while the House is proceeding under general parliamentary law, the provisions of the House's accustomed rules are not necessarily followed.

On March 15, 1897,[4] Mr. David B. Henderson, of Iowa, presented this resolution:

Resolved, That until further notice the rules of the House of Representatives of the Fifty-fourth Congress be adopted as the rules of the House of Representatives of the Fifty-fifth Congress.

The previous question having been ordered on the resolution, Mr. William P. Hepburn, of Iowa, as a parliamentary inquiry, asked whether there would be twenty minutes' debate, on a side as provided in section 3 of Rule XXVIII.

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[1] Thomas B. Reed, of Maine, Speaker.

[2] Second session Fifty-seventh Congress, Record, p. 3019.

[3] James S. Sherman, of New York, Speaker pro tempore.

[4] First session Fifty-fifth Congress, Record, p. 17.

The Speaker[1] said:

There are rules and rules. There was a rule for the previous question in the Fifty-second, Fifty-third, and Fifty-fourth Congresses, and also a rule for the previous question in general parliamentary law. In the House of Representatives heretofore the rule has allowed twenty minutes for debate, but that is not the rule under which we are now acting; and, perhaps the Chair ought to observe, there has been debate enough to cut off that twenty minutes before the previous question was ordered.

5510. When the House adjourns before voting on a proposition on which the previous question has been ordered, the question comes up the next day immediately after the reading of the Journal, superseding the order of business.—On July 19, 1886,[2] Mr. Nelson Dingley, jr., of Maine, rising to a question of order, called attention to the fact that at a preceding session the House had ordered the previous question on a resolution providing for the printing of the third annual report of the Civil Service Commission.

The Speaker,[3] having examined the Journal, said:

The Journal shows that the resolution was passed over for the present, the previous question having been ordered upon it. The Chair supposes that under the practice of the House that would bring this resolution up for consideration this morning.[4]

5511. On January 31, 1889,[5] the regular order having been demanded, Mr. Charles H. Grosvenor, of Ohio, made the point of order that the Oklahoma bill, which had been considered the previous day under a special order, would not be the regular order on this day, for although the previous question had been ordered, the special order had evidently contemplated that only one day should be occupied by the bill.

After debate, the Speaker[3] ruled:

In the present case the rules were suspended and the special order to which the gentleman from Ohio [Mr. Grosvenor] and the gentleman from Mississippi [Mr. Hooker] refer was made; and by the terms of that order, at 4 o'clock, on whatever day this matter should come up for consideration, the previous question was to be considered as ordered on all pending amendments, on ordering the bill to be engrossed and read a third time, and on its passage. Yesterday the House, having voted on some of the amendments, and while others were still pending, adjourned; so that the question this morning is simply whether or not the action of the House in ordering the previous question, not only on the amendments, but on ordering the bill to be engrossed and read a third time and on its passage, brings the bill within the practice which for a number of years has prevailed in the House. That practice, as stated in the Digest, is as follows:

"Under the established practice of the House the effect of the previous question ordered before an adjournment is to bring the proposition up for consideration immediately after the reading of the Journal the following morning, even on Friday, though it be a public bill."

Various decisions are cited, some of which were made by the present occupant of the chair.

In the case of pension bills, for instance, which are taken up under a rule of the House setting apart Friday evening for their consideration, several instances have occurred, and some are now on the Calendar, upon which the House at those evening sessions has, by agreement, ordered the previous question on the third reading and on their passage; and the Chair has ruled in every such case that

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[1] Thomas B. Reed, of Maine, Speaker.

[2] First session Forty-ninth Congress, Record, pp. 7154, 7155; Journal, p. 2259.

[3] John G. Carlisle, of Kentucky, Speaker.

[4] Speaker pro tempore Blackburn made a similar ruling in the preceding Congress. Second session Forty-eighth Congress, Journal, p. 409; Record, p. 1122.

[5] Second session Fiftieth Congress, Record, pp. 1378, 1379; Journal, pp. 381, 384.

those bills would come up the next morning immediately after the reading of the Journal, though a public bill day, and only a few mornings since the gentleman from Indiana called up one, and it was considered by the House.

Unless the Chair has been wrong in its rulings on all those pension bills, it is constrained to hold in this instance that the action of the House in ordering the previous question on the passage of the bill places it in that condition in which it may be called up the next morning after the adjournment; and the Chair thinks the clause in the special order providing the previous question should be considered as ordered on the passage of the bill was inserted for the express purpose of bringing up the bill the next morning in case the vote could not be completed on the first day. The Committee of the Whole on the state of the Union might have reported so many amendments to this bill that it would have required the House a week to dispose of them, and it could not be supposed the House could be compelled to remain in session until all such amendments were disposed of in order to preserve the special order and continue the operation of the previous question.

The Chair overrules the point of order, and holds the bill can be called up under the practice.

5512. On August 26, 1890,[1] Mr. Charles S. Baker, of New York, called up the bill of the Senate (S. 4278) authorizing the construction of a bridge over the Tennessee River at or near Knoxville, Tenn.

Mr. Marriott Brosius, of Pennsylvania, made the point of order against the consideration of the bill on the ground that the pending order of business was the bill of the House (H. R. 11568) defining "lard," etc., coming over as unfinished business from last Saturday's session, on the passage of which the previous question and yeas and nays had been ordered, and on which no quorum voted on the roll call then taken.

After debate on the point of order, the Speaker[2] sustained the same on the following ground:

The House will have seen by the discussion that this and similar questions have had a considerable variety of decision, and it would not be possible to reconcile with each other all the rulings and decisions which have been made. The Chair thinks, however, that the decision which was cited by the gentleman from Missouri [Mr. Hatch] governs this case.[3]

At the adjournment on Saturday the previous question had been ordered in accordance with the rule; the yeas and nays also had been ordered. The taking of the yeas and nays had been interrupted by the absence of a quorum. Thereupon the gentleman in charge of the bill [Mr. Brosius] asked if this matter would come up on Monday or Tuesday; the Chair replied that he thought it would; and that statement was received without dissent on the part of the House. While the Chair does not think that this would be a controlling matter, nevertheless it appears to the Chair a proper element in the decision, since the House may have acted on the intimation. In the light of the decisions made in the previous Congress, and in view of the intimation which was given by the Chair, the Chair thinks that the House ought to have an opportunity to pass upon the question.

The Chair deems it frank to say that as the result of this discussion there is very grave doubt in his mind as to whether the decision with relation to the copyright bill was a correct one. It was in accordance with a decision made in the Forty-eighth Congress, that whenever a committee had had a day assigned for its business, and its work was not done within the time prescribed, its special privilege ceased. The attention of the Chair had-not been called to the decision cited by the gentleman from Missouri. It might be said, also, that the language of the ruling at this session excepted a case like this, where another day has actually been given to the committee, and it is proper that this statement should be made in connection with the doubt expressed by the Chair. * * * The Chair, in view of all the circumstances, thinks that the question now before the House is the roll call on the passage of the bill.

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[1] First session Fifty-first Congress, Journal, p. 989; Record, pp. 9181, 9277.

[2] Thomas B. Reed, of Maine, Speaker.

[3] See section 5511 of this volume.

Mr. William E. Mason, of Illinois, appealed from the said decision of the Chair, and the Chair was sustained, yeas 130, nays 46.

5513. On April 16, 1892,[1] the regular order of business being demanded, the Speaker[2] announced that the first business in order, according to the practice of the House, was the consideration of bills on the passage of which the previous question had been ordered at the preceding session of the House.

5514. On Friday, May 27, 1898,[3] immediately after the reading of the Journal, the Speaker announced as the regular order the bill (H. R. 10253) to amend the internal-revenue laws relating to distilled spirits, on which the yeas and nays had been ordered on the day before.

Mr. C. N. Brumm, of Pennsylvania, made the point of order that the Private Calendar was the regular order.

The Speaker[4] overruled the point of order, saying:

> The regular order, after the previous question is ordered, is to put the question to a vote.

5515. On February 8, 1899,[5] the House was considering certain bills for the erection of public buildings under the terms of a special order[6] which devoted two days, February 7 and 8, to these bills. The previous question had been ordered on the bill (S. 1273) for a public building at Altoona, Pa., when Mr. Alexander M. Dockery, of Missouri, rising to a parliamentary inquiry asked what would be the status of the bill if the House (on this the last day of the special order) should now adjourn.

The Speaker[4] replied that, the previous question having been ordered, the bill would go over until the next day.

5516. On February 3, 1845,[7] the Speaker[8] announced as the business first in order the bill (No. 439) to organize a Territorial government in the Oregon Territory; the main question having been ordered to be now put, on Saturday last, and pending when the House adjourned.

5517. On December 16, 1851,[9] the Speaker announced that the first business in order would be the unfinished business of the preceding day, the bill to refund to the State of California certain moneys collected in her ports.

Mr. William A. Richardson raised a question in the debate on which the twenty-third and twenty-seventh rules were quoted, with their provisions that after the reading of the Journal the Speaker should call the States for petitions, and that, after the hour for the reports of committees and resolutions, a motion to proceed to business on the Speaker's table; and also the fifty-eighth rule which gave unfinished business priority only over the orders of the day.[10]

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[1] First session Fifty-second Congress, Journal, p. 149; Record, p. 3359.

[2] Charles F. Crisp, of Georgia, Speaker.

[3] Second session Fifty-fifth Congress, Record, p. 5294.

[4] Thomas B. Reed, of Maine, Speaker.

[5] Third session Fifty-fifth Congress, Record, p. 1635.

[6] For form of this special order see Record, February 6, 1899, p. 1503.

[7] Second session Twenty-eighth Congress, Journal, p. 310.

[8] John W. Jones, of Virginia, Speaker.

[9] First session Thirty-second Congress, Globe. p. 107.

[10] These rules have since then been changed.

The Speaker[1] said:

But for the fact that the previous question had been seconded[2] and the main question ordered to be put, the rules referred to would have required this bill to go over and take its place on the Calendar of the House. But the House ordered the main question to be put, and thus gives this bill, or the unfinished business, preference over all others. The main question must therefore be now put. By reference to the Journal of the Twenty-eighth Congress, the gentleman will find a decision directly in point.

The Speaker asked if there was an appeal, but no appeal was taken.

5518. When several bills come over from a previous day with the previous question ordered, they have precedence in the order in which the several motions for the previous question were made.—On Saturday, July 30, 1892,[3] the House resumed the consideration of the Senate amendments to the bill (H. R. 7520) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1892, and for other purposes.

Mr. Augustus N. Martin, of Indiana, submitted the question of order, whether the first business in order should not be the consideration of bills reported from the Committee of the Whole House upon which the previous question had been ordered to the passage thereof at the session of the House Friday evening, pending the vote whereon the House had adjourned.

The Speaker[4] held that, the previous question having been ordered on the pending amendments of the Senate which were under consideration before the order of Friday evening was made, the consideration of the amendments to the bill (H. R. 7520) had preference over other unfinished business.

5519. The precedence which belongs to a bill coming over from a previous day with the previous question ordered is not destroyed by the fact that the allowable motion to commit may be pending with amendments thereto.—On January 18, 1893,[5] the Speaker announced that the business in order was the consideration of the bill (H. R. 10010) to establish a court of appeals for the District of Columbia, and for other purposes, on the passage of which the previous question had been ordered and which was pending when the House adjourned on the preceding day.

Mr. Joseph W. Bailey, of Texas, made the point of order that, pending the question on the passage of the bill, the motion to recommit having been made and an amendment submitted thereto, the question on which amendment was pending when the House adjourned, the consideration of the bill did not take precedence over other unfinished business.

The Speaker[4] overruled the point of order, holding that when an adjournment takes place, after the previous question has been ordered on the passage of a bill and before the vote is taken on the passage, it brings the question up the next morning, immediately after reading of the Journal, and with it any collateral questions which, under the rules, might be submitted. A motion to commit is a motion of that character, and comes over with the bill under the order for the previous question.

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[1] Linn Boyd, of Kentucky, Speaker.

[2] The second is no longer required for the previous question.

[3] First session Fifty-second Congress, Journal, p. 347; Record, p. 6964.

[4] Charles F. Crisp, of Georgia, Speaker.

[5] Second session Fifty-second Congress, Journal., p. 49; Record, p. 664.

5520. A bill on which the previous question has been ordered takes precedence of a special order although the latter may provide for immediate consideration.—On May 30, 1900,[1] a demand being made for the regular order, the Speaker announced that there were two matters of unfinished business:

1. The bill (S. 1939) "authorizing the President of the United States to appoint a commission to study and make full report upon the commercial and industrial conditions of China and Japan," etc. This bill had been reported from the Committee of the Whole House on the state of the Union with the recommendation that the enacting, clause be stricken out, and on April 30, 1900, the previous question had been ordered on the motion to concur in this recommendation.

2. Sundry pension bills in order under this special order:

Resolved, That immediately after the passage of this resolution all private bills considered in Committee of the Whole House on Friday, May 25, and reported to the House, shall be in order as unfinished business, the previous question to be considered as ordered on each bill and all amendments thereto to their final passage, and each to be disposed of without intervening motion.

Mr. James D. Richardson, of Tennessee, rising to a parliamentary inquiry, asked which would come up first on a demand for the regular order.

The Speaker[2] said:

The Chair stated that there are two matters of unfinished business before the House. The order adopted yesterday morning made the pension bills in order now; but the Chair is of the opinion that the higher claim to the regular order would be the Japan and China commission bill, upon which the previous question had been ordered.

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[1] First session Fifty-sixth Congress, Record, p. 6249.

[2] David B. Henderson, of Iowa, Speaker.