

*U.S. Senate*  
A COMPILATION

OF

QUESTIONS OF ORDER

AND

DECISIONS THEREON.

PREPARED BY

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(LATE CHIEF CLERK OF THE UNITED STATES SENATE.)

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# QUESTIONS OF ORDER

AND

## DECISIONS THEREON.

### ABSENT SENATORS.

At the first session First Congress the attendance of absent Senators was requested by a circular letter signed by the Senators present and addressed to each of the absentees.

A motion to direct the Sergeant-at-Arms to send for absent Senators, ruled by Chair (Mr. Ferry) not debatable—appeal taken—yeas 24, nays 3; Chair sustained, but *no quorum*. (Senate Journal, second session Forty-third Congress, 341.)

### ABSENT SENATORS, ATTENDANCE OF.

The Senate, in the absence of a quorum, cannot *compel* but only *request* the attendance of absent Senators. (Senate Journal, second session Forty-second Congress, April 20, 1872, 581, 582.)

### ADJOURN.

A motion that when the Senate adjourn it be *to two o'clock to-morrow* being made *pending another subject*, ruled (Mr. Foot in the chair) in order. (Senate Journal, first session Thirty-sixth Congress, 469.)

A motion made *in the morning hour* to adjourn over to Monday (Vice-President Breckenridge) not in order. (Senate Journal, second session Thirty-fifth Congress, 136.)

A motion to adjourn over to Monday cannot be made while another matter is pending; decided by the Senate on an appeal. (Senate Journal, second session Thirty-fifth Congress, 145, 146.)

### AMENDMENT

Made in Committee of the Whole not susceptible of a *division* when the bill comes into the Senate. (Senate Journal, second session Forty-first Congress, 716.)

The tax-bill under consideration; an amendment was proposed by Mr. Conkling; Mr. Howe raised a question of order, viz., that the proposed amendment being inconsistent with certain provisions in the bill already determined by the Senate to remain as part of it, was therefore not in order. The President *pro tem.* submitted the question of order to the Senate, and the Senate decided the amendment in order; yeas, 27; nays, 21. (Senate Journal, second session Forty-first Congress, 970.)

## AMENDMENT.

A motion to proceed to the consideration of a subject not open to amendment; decided on appeal.—*See* MOTION. (Senate Journal, third session Fortieth Congress, 125.)

A motion to strike out and insert, being by a rule of the Senate indivisible, is not susceptible of division in any of its parts. *Decided by the Senate*, on a call by a Senator for a division of the part proposed to be inserted, on a motion to strike out and insert. (Senate Journal, third session Fortieth Congress, 53.)

On the question to recede from amendments made by the Senate to a bill of the House. It was decided upon a question of order that the amendments were divisible; and, being divided—

On the question to recede from the first branch of the amendment, determined in negative.

On the question to recede from second branch, determined in negative.

The question was then put upon *insisting* upon each division of the amendment separately, and each branch was insisted upon by a separate vote. (Senate Journal, first session Sixteenth Congress, 185, 189, 190.)

An amendment reported by a committee cannot, under the Thirtieth Rule, be amended by increasing the appropriation contained in the amendment of the committee. (Senate Journal, second session Thirty-fifth Congress, 388, 389; Senate Journal, first session Thirty-fifth Congress, 570.)

A bill which, as a separate measure, may be passed by a majority vote, shall not, when moved as an amendment to a *disability bill*, be ruled out of order for incongruity, inconsistency, or on account of not being *germane*. Decided by the Senate on an appeal from the decision of the Chair. (Senate Journal, second session Forty-second Congress, December 21, 1871, 80, and May 8, 1872, 687, 688.)

A motion is made to *strike out and insert*: A motion is then made to amend the proposed amendment by striking out a part of the words proposed by the first amendment to be stricken out; while this latter motion is pending a motion is made to amend the words embraced in the last motion to strike out. (Senate Journal, first session Forty-third Congress, 390.) Held to be a motion to amend in the third degree, and not in order (Mr. Carpenter in the chair). (Senate Journal, first session Forty-third Congress, 395.) An appeal taken but not decided—the questionable amendment being withdrawn by the mover.

NOTE.—The ground of the above ruling was this: A motion to *strike out and insert* is by Rule 12 of the Senate *one amendment* and cannot be divided; any amendment to either part of that amendment, whether to the words proposed to be *stricken out* or to those to be *inserted* is an amendment to an amendment which

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*is made by the Twelfth Rule one indivisible proposition, and is in the second degree—* Thus: it is proposed to strike out several sections of a bill, and insert other sections in their place. This is *the first* amendment, or proposition; it is then moved to amend this amendment or proposition by striking out one of the sections covered by the amendment to strike out and insert; this is an amendment to the amendment, and it may, if adopted, so change its character as to insure its rejection. Any proposition to amend this last motion which is to amend an amendment by leaving out certain words embraced in it, whether by striking out or inserting is an amendment to an amendment to an amendment and is in the third degree, and therefore inadmissible.

The same question recurring in the further progress on the bill, the Chair (Mr. Carpenter) submitted it to the decision of the Senate (Senate Journal, first session Forty-third Congress, 398), when, by unanimous consent, it was settled by the adoption of the following resolution:

*Resolved*, That Rule 12 be so amended, that pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall be each regarded, for the purpose of amendment, as a question, and motions to amend the part to be stricken out shall have precedence. (Senate Journal, second session Forty-third Congress, 401.)

AMENDMENT BETWEEN THE HOUSES.

The Senate passes a bill of the House (relating to public credit) *with an amendment*. The House agrees to the amendment of the Senate with an amendment. The Senate disagrees to the amendment of the House, and then recedes from its original amendment.\* (Senate Journal, March 2, 1795, vol. 2, p. 177.)

AMENDMENT TO AN APPROPRIATION BILL.

An amendment *to an amendment* may be laid on the table, without carrying the amendment first proposed. (Senate Journal, second session Forty-third Congress, 321. Ingalls in chair, decided on appeal, yeas 42, nays 11.)

An amendment proposing to strike out a clause may be laid on the table, in which case the clause remains in the bill. (Senate Journal, second session Forty-third Congress, 317; also Congressional Record, second session Forty-third Congress, 1572, 1573.)

\* But this, according to Jefferson's Manual (Sec. xlv, P. iii) they had no right to do, for he says they cannot amend their amendment, because by inserting it they have made it the text of the bill. How then can they recede from it without a previous absolute disagreement by the House? The House had agreed to the amendment with an amendment, and the question before the Senate was that amendment of the House—they could amend that or disagree to it—but being a part of the text of the bill by their own act and by the conditional agreement of the House, the Senate had lost jurisdiction of it.—McD.

## ANNOUNCEMENT OF THE VOTE.

No motion is in order until the announcement of the vote by the Chair. (Senate Journal, third session Forty-first Congress, 355.)

## APPEALS

From the decision of the Chair on questions of order may be laid on the table. (*Idem*, 449, 457, 478.)

## CALENDAR.

When taken up under an order of the Senate, is to be resumed on a subsequent day at the point reached when last up. (Senate Journal, second session Forty-first Congress, 785.)

Friday having been set apart for the private calendar, during the morning hour a Senator offered to present a petition, when a question of order was raised, viz: Whether under the order setting apart Friday of each week for the bills on the private calendar those bills should not be called by the Chair immediately after the reading of the Journal. The Vice-President (Breckenridge) decided that the private calendar should be treated as *other special orders* and not be called until after the expiration of the morning hour. This decision was appealed from, and sustained by the Senate. (Senate Journal, first session Thirty-sixth Congress, 233; Senate Journal, second session Thirty-fifth Congress, 308.)

## COMMITTEE OF INVESTIGATION AND RETRENCHMENT.

*Resolved*, That a standing committee of seven, to be known as the Committee of Investigation and Retrenchment, be created to investigate and report on such subjects as may be committed to it by the Senate. (Senate Journal, second session Forty-second Congress, December 14, 1871, 51.)

## CONCURRENT RESOLUTION.

Resolution that does not require the approval of the President, does not require three readings. (Senate Journal, second session Nineteenth Congress, 28.)

If its consideration on the same day on which it is received from the House of Representatives be objected to, it must lie over one day, under the Twenty-sixth Rule. (Senate Journal, first session Forty-third Congress, December 19.)

## CONFERENCE.

Asked by the House *after adherence* by Senate and *refused* by Senate. (First session Nineteenth Congress, 317.) *Bill lost*.

NOTE.—The ground of refusal here was that the *unanimity* of the Senate upon the amendment to which the House had disagreed would render a conference a useless waste of time, and could not be granted without waiving its adherence.

Question of granting may be referred to a committee. (First session Nineteenth Congress, 302; first session Twenty-third Congress, 312; also Senate Journal, vol. 5, p. 651.)

## CONFERENCE.

Granted by Senate *after adherence*, but the right to refuse not denied.

First session Twenty-third Congress, 112; see also Senate Journal, vol. 2, pp. 70, 71; also Senate Journal, vol. 5, pp. 657, 661.)

The report of the committee of conference on the legislative, executive, and judicial appropriation bill is under consideration. A motion is made to *recommit* the report to the committee of conference *with instructions* to strike out certain parts of the report. Mr. Trumbull raises a question of order, viz: "That the province of the committee of conference being to confer freely and fully upon the subject of the disagreeing votes of the two houses committed to it, it was not competent to limit such conference by instructing the committee in any manner in respect to its action at the conference." The Presiding Officer (Mr. Edmunds) overruled the point of order, and decided that the motion to recommit the report with instructions was in order. From this decision Mr. Trumbull appealed, and the decision of the Chair *was reversed*; yeas 11, nays 47. (Senate Journal, third session Forty-second Congress, March 3, 1873, 556.

NOTE.—In regard to the foregoing question and the decision of the Senate reversing the ruling of the Chair thereon, I would remark :

All the *written law* there is on the subject of conferences between the two houses is to be found in their *First Joint Rule*. The importance of providing for the settlement of disagreements between them caused them at a very early period to adopt this rule, the object of which was *to facilitate* and *to expedite* legislation; and no mere *parliamentary* law, however well approved, can stand against this *written law* if in conflict with it. The concluding sentence of this rule says that the conferees "shall meet in the conference chamber and state to each other, verbally or in writing, as either shall choose, *the reasons of their respective houses* for and against the amendment, *and confer freely thereon.*" *And confer freely thereon*; that is to say, all conferences between the two houses under this rule shall be *free conferences*. Not merely that there shall be free discussion in the conference chamber, but that the *result* of the conference shall be the *free judgment* of the conferees, and not one prescribed in advance, or in any way anticipated or shaped by the separate action of either house, beyond what might be inferred from its votes and discussions upon the questions at issue between them, which votes and discussions are "*the reasons of their respective houses,*" which the conferees of each house are to carry with them into the conference chamber as their *instructions*, to be stated to each other verbally or in writing, as either shall choose, *and confer freely thereon.*

Were this otherwise, either House might, at its sole will and pleasure, by a simple motion or order of its own, such, for instance, as this motion to recommit with instructions, abrogate, in effect, this rule; and so change and pervert its plainest and most clearly expressed purpose and meaning.

But is there anything in "instructions" inconsistent with a *free conference*? There is no further inconsistency than will be found in sending men to a free debate or discussion with their hands bound and tied to a foregone conclusion, which they are at perfect liberty to discuss, but not to depart from. What freedom is that? Certainly not that contemplated in this joint rule, nor by those who made it. They intended it as a means of expediting, not of obstructing, legislation; as a means of reconciling and adjusting disagreements between this case, have, and properly, too, ruled and determined.—McD.

## CONFERENCE.

the Houses, and not of bringing them, through their appointed agents, to terms of defiance. Accordingly, they provided that all conferences between them upon disputed questions should be absolutely *free* and to that end made this *Joint Rule*, which cannot be changed by the action of one House without the concurrence of the other; and any motion that would lead to that result is a motion not in order under this rule, and so the Senate, in its decision in

Report of committee of conference agreed to by Senate, second session Forty-first Congress, 1083. House disagrees to report, 1085. Senate reconsidered its agreement to the report of committee of conference, and recommitted the report. (Senate Journal, second session Forty-first Congress, 1086; also second session Forty-second Congress, 600.)

May report agreement to some, and inability to agree on other amendments in disagreement. (Senate Journal, first session Twenty-ninth Congress, 523, 524; Senate Journal, second session Twenty-fourth Congress, 829, 848, 849, 875, 876.)

Both Houses are to concur in the recommitment of a report of committee of conference. (Second session Forty-second Congress, 629.)

## DEBATE.

A motion to rescind an order for a recess is not debatable where the motion for the recess is to be decided without debate. (Decided on appeal, Mr. Edmunds in the chair.) (Senate Journal, second session Forty-second Congress, 954.)

A Senator cannot be called to order for irrelevancy in debate. (Vice-President Colfax.) (Senate Journal, second session Forty-second Congress, 303.)

NOTE.—This question was decided by the Senate on an appeal from the decision of the chair.

A motion to direct the Sergeant-at-Arms to request the attendance of absent Senators, ruled by the Chair (Mr. Ferry) not debatable; appeal taken; Chair sustained, yeas 24, nays 3; *no quorum qu: de hoc*. (Senate Journal, second session Forty-third Congress, 341).

## DISCHARGE A COMMITTEE.

A motion to discharge a committee from the consideration of a subject must be treated as a resolution under the Twenty-sixth Rule, and lie one day for consideration. (Senate Journal, third session Forty-second Congress, December 20, 1872; yeas 22, nays 23; p. 98.)

When a committee is discharged by a vote of the Senate from the consideration of a bill, the bill is thereby brought directly before the Senate, and may be proceeded with. (Senate Journal, second session Forty-first Congress, 425.)



DIVISION OF A QUESTION.

An amendment to a bill agreed to in Committee of the Whole. Bill reported to Senate. On concurring in the amendment (compensation to female clerks) it was amended, and *on concurring as amended*, Mr. Hamlin asked for a division. The Vice-President (Mr. Colfax) was of opinion that the amendment having been agreed to in Committee of the Whole, was not susceptible of division in the Senate, and submitted the question to the Senate. Senate determined it in the negative. (Senate Journal, second session Forty-first Congress, 716, 717.)

On a proposition to strike out and insert, it is not in order to call for a division of the part proposed to be inserted. The motion to strike out and insert, by a rule of the Senate being one proposition and indivisible, is not subject to division in any of its parts. Question was submitted to, and decided by, the Senate. (Senate Journal, third session Fortieth Congress, 53.)

A motion is made to commit with certain instructions; a division of the question is demanded, and being put on the first branch, which was simply to commit, was rejected. Held that the second branch of the motion fell with the rejection of the first. (Senate Journal, second session Thirty-fifth Congress, 316.)

On a motion to simply insert words, a division may be called. (Senate Journal, second session, Thirty-fifth Congress, 455.)

A resolution to admit two Senators elect (George Goldthwaite and Foster Blodgett) from the State of Georgia, with instructions to the committee to make further inquiry into their rights to their seats respectively, Mr. Thurman calls for a division of the question, so that the vote be taken separately upon each claimant. The Chair (Colfax) rules that the division of the question called for could only be allowed by an order or vote of the Senate; that the resolution, containing two distinct propositions: *first*, to admit the claimants; *second*, to instruct the committee, could only be divided under the rule as to one or the other of these, either of which would, upon the rejection of the other, stand alone; and that the object of the proposed division could only be reached by way of an amendment. (Congressional Globe, first session Forty-second Congress, part 1, pp. 494, 495.)

The question of third reading or passage of a bill having a preamble, may be divided so as to take either question first on the *third reading* of the bill, and then on the third reading of the *preamble*, and the same on the *passage* of the bill. (Senate Journal, first session Forty-fourth Congress, 102.)

The Senate makes amendments to a bill of the House; the House disagrees; a motion is made in Senate to recede. Decided upon a *question of order* that the amendments are *divisible*. Question put upon each amendment, and determined in negative. Question then

## DIVISION OF A QUESTION.

put upon *insisting* upon each amendment separately, and determined in the affirmative. (Senate Journal, first session Sixteenth Congress, 185, 189, 190.)

A *series* of resolutions is offered; a division of the question is called for; the question is put upon each resolution separately and all agreed to, except the last of the series, which is laid on the table. (Senate Journal, second session Twenty-fifth Congress, pp. 83, 106, 136.) See also where a motion to *postpone indefinitely* the *third* of a series of resolutions after agreement to *two* of them, and the *fourth* unacted upon, was not questioned as affecting either the resolutions agreed to or the one yet to be disposed of. (Senate Journal, first session Forty-fourth Congress, 91-99.)

Two resolutions are reported from a committee, a division is called for and agreed to by separate votes. (Senate Journal, second session Twenty-fourth Congress, 204.)

While the Chair is counting the Senate on a call for a division, no motion is in order. (Senate Journal, first session Forty-fourth Congress, 817.)

## ENROLLED BILLS, THE COMMITTEE ON.

Authorized in examining an enrolled bill (apportionment bill) to correct a "clerical error," discovered in a bill after it had passed both houses and before enrollment. This was done by a *concurrent resolution* of the two houses. (Senate Journal, second session Forty-second Congress, February 1, 1872.)

## EXECUTIVE OR CALLED SESSION OF THE SENATE.

Legislative business not in order at a special or called session. (Senate Journal, third session Forty-second Congress, 612, 614, 617.)

## GERMANE—AMENDMENT.

A bill to remove disabilities, which requires a vote of *two-thirds* to pass it, is up. A bill known as the "Civil Rights bill" is proposed as an amendment. Mr. Thurman raised a question of order, viz: That the amendment being a measure which, if it stood by itself, could be passed by a majority vote of the Senate, is not an amendment that is germane to the bill, and cannot, therefore, be attached to it—the bill itself requiring a vote of two-thirds of the Senate to pass it. The Chair (Mr. Anthony) overruled the point of order raised by Mr. Thurman. Mr. Thurman appealed, and after a lengthy debate the decision of the Chair was sustained by the Senate by yeas and nays—yeas 28, nays 26. (Senate Journal, second session Forty-second Congress, page 80, December 21, 1871, and Senate Journal, second session Forty-second Congress, 687, 688.)

NOTE.—In the ruling on pp. 637, 688 an appeal was taken from the decision of the Chair (Colfax) and laid on the table.

INCONGRUOUS—INCONSISTENT AMENDMENT.

A bill to remove disabilities, which requires a vote of *two-thirds* to pass it, is up. A bill known as the "Civil Rights" bill is proposed as an amendment. Mr. Thurman raised a question of order, viz: That the amendment being a measure which, if it stood by itself, could be passed by a *majority* vote of the Senate, is not an amendment that is germane to the bill and could not be attached to it, the bill itself requiring a vote of *two-thirds* of the Senate to pass it. The Chair (Mr. Anthony) overruled the point of order raised by Mr. Thurman. Mr. Thurman appealed, and after a lengthy debate the Senate sustained the decision of the Chair; yeas 28, nays 26. (Senate Journal, second session Forty-second Congress, p. 80, December 21, 1871.)

INVESTIGATION AND RETRENCHMENT,

A standing Committee of Investigation and Retrenchment of seven Senators. (Senate Journal, second session Forty-Second Congress, December 14, 1871, 51.) Abolished March —, 1873.

IRRELEVANCY IN DEBATE.

A Senator cannot be called to order for irrelevancy in debate. Decided on an appeal from the Chair (Colfax), yeas 28 nays 18. (Senate Journal, second session Forty-second Congress, 303.)

LAY ON THE TABLE.

A motion to postpone prior orders and take up a bill may be laid on the table. (Senate Journal, second session Thirty-fifth Congress, 383, 384.)

A motion to reconsider may be laid on the table. (Senate Journal, first session Thirty-fifth Congress, 224.)

A motion to direct the Sergeant-at-Arms to request the attendance of absent Senators may be laid on the table. (Senate Journal, first session Thirty-fifth Congress, 258, 259.)

NOTE.—This order was made however by a *quorum*.

The preamble to a resolution where a separate vote has been called on it on the demand for a division, and when the resolution has been agreed to, may be laid on the table. (Senate Journal, second session Forty-second Congress, 303.)

A motion to reconsider a vote on the passage of a bill may be laid on the table without carrying the bill. (Senate Journal, second session Forty-second Congress, 809, 974.)

A motion is made to proceed to the consideration of a resolution. A motion is made to lay that motion on the table. A question of order is raised: Is the motion to lay on the table in order. The Chair (Mr. Anthony) submitted the question to the Senate—motion decided *not in order*; yeas 25, nays 29. (Senate Journal, second session Forty-third Congress, February 15, 1875, 270, 271.)

## LAY ON THE TABLE.

An amendment to an appropriation bill is pending—an amendment to the amendment is offered; a motion is made to lay the amendment to the amendment on the table under the 30th rule. A question of order is raised, viz: Will not the motion to lay the amendment to the amendment on the table carry with it the original amendment? The Chair (Mr. Ingalls) ruled that it would not. From the decision of the Chair an appeal was taken, and Chair sustained by yeas and nays; yeas 42, nays 11. (Senate Journal, second session Forty-third Congress, February 22, 1875, 321.)

Pending the reading of a paper a motion to lay a bill on the table entertained. (Senate Journal, second session Thirty-first Congress 249.)

The question of granting leave to withdraw a motion to reconsider may be laid on the table without carrying the motion to reconsider with it. (Senate Journal, first session Forty-fourth Congress February 23, 1876, 228.)

A motion to reconsider the vote on agreeing to a report of a committee of conference may be laid on the table without carrying the report. (Senate Journal, first session Forty-fourth Congress, February 24, 1876, 234.)

## LEAVE TO INTRODUCE A BILL OR RESOLUTION WITHOUT PREVIOUS NOTICE.

Objection to granting leave may be made after reading it by its title and after reading at length for information. (Senate Journal first session Thirty-eighth Congress, 537, 538.) In this case the resolution was not received.

Refused to Mr. Benton (*after notice*) to bring in a joint resolution against renewing the charter of the United States Bank. (Senate Journal, second session Twenty-first Congress, 125.) Leave refused by yeas and nays.

Refused to Mr. Benton (*after notice*) to bring in a bill to abolish the duty on alum salt. (Senate Journal, second session Twenty-first Congress, 142.) Leave refused by yeas and nays.

Refused to Mr. Benton (*after notice*) to bring in a joint resolution relative to charter of the United States Bank. (Senate Journal, first session Twenty-second Congress, 91.) Leave refused by yeas and nays.

Refused to Mr. Benton (*after notice*) to bring in a bill to make good to Missouri proceeds of public lands, &c. (Senate Journal, second session Thirty-first Congress, 179.) Leave refused by yeas and nays.

Not debatable beyond a statement of the provisions. A motion for leave to give reasons, entertained, amended and agreed to. (Senate Journal, second session Thirty-first Congress, 178, 179.)

MINORITY CANNOT MAKE A REPORT.

A committee reports by its chairman that they could not agree upon a report upon a subject referred to them, and asked to be discharged from its consideration. A member of the committee offered to submit a bill embracing the subject referred. A question of order was raised, that a minority of a committee had no power to originate or bring in a bill. The Vice-President (Breckinridge) ruled that a minority may be allowed to submit its views. (Senate Journal, first session Thirty-fifth Congress, May 5, 1858, 418.)

MORNING HOUR.

The Chair having called for the presentation of petitions, a motion was made to take up a bill. The Vice-President (Breckinridge) decided that the motion to take up a bill required unanimous consent. (Senate Journal, second session Thirty-fifth Congress, 319.)

A motion to adjourn over to Monday not in order during the. (Vice-President Breckinridge.) (Senate Journal, second session Thirty-fifth Congress, 136.)

A motion to postpone *previous orders* and take up a bill, decided by the Senate, on an appeal, to be in order in the. (Senate Journal, second session Thirty-fifth Congress, 323.)

MOTION TO TAKE UP A SUBJECT.

Cannot be amended by substituting another. Mr. Pomeroy moved to take up a bill (S. 256). Mr. Edmunds moved to amend by striking out S. 256 and inserting Resolution S. 66. Mr. Howard raised a question of order, that the motion, being a simple proposition to take up a subject, was not open to amendment. The Chair (Mr. Wade) sustained the point of order raised by Mr. Howard. Mr. Edmunds appealed, and the Senate sustained the Chair.

NOTE.—The ground of this ruling was, that the motion to take up belonged to that class of motions "first made first put," and until decided by the Senate there could be no amendment to the subject of the motion; when, being up, it could be again removed by a motion to postpone. The motion to amend might be a *reason* for rejecting the motion to take up, and the fate of the proposed amendment was involved in the decision of that motion; for, if it was agreed to, the Senate had decided upon the question as to what *business* it would consider, and, if rejected, the alternative proposition might then be made. (See debate, Congressional Globe, January 20, 1869, 467, 468, 469; Senate Journal, third session Fortieth Congress, 125.)

ONE DAY FOR CONSIDERATION.

A motion to discharge a committee from a subject is to be treated as a resolution, and, if objected to, lie over one day. (Senate Journal, third session Forty-second Congress, by yeas and nays, 98.)

## ORDER.

A motion to proceed to the consideration of a subject not open to amendment (*on appeal*). (Senate Journal, third session Fortieth Congress, 125.)

A motion was made to strike out and insert. A division of the question was called for on the part proposed to be *inserted*. A question of order was raised on this call. The question was submitted to the Senate, and it was decided that a proposition to strike out and insert, being by a rule of the Senate indivisible, was not susceptible of division in any of its parts. (Senate Journal, third session Fortieth Congress, 53.)

A motion to proceed to the consideration of executive business before the announcement of the result of a vote by yeas and nays on a pending question, decided by the Senate, on an appeal from the decision of the Chair, to be *not in order*. (Senate Journal, second session Fortieth Congress, 767.)

A letter or paper upon a subject not before the Senate for legislation cannot be received. Decided by the Senate. (Senate Journal, second session Fortieth Congress, 214.)

An amendment is proposed upon which the yeas and nays are ordered. The roll is called, and before the result is declared a question of order is raised as to the right of a Senator to vote upon the amendment in which his *personal interests* are involved. A debate ensued, pending which a motion is made to proceed to the consideration of *executive business*. Upon this motion a question of order is raised, and it is sustained by the Senate on an appeal from the decision of the Chair. The question then recurred upon the question of order raised upon the right of a Senator to vote upon a question in which he was *personally interested*, when a demand was made by a Senator that the result of the vote upon the amendment be declared, and the Secretary being directed by the Chair to call over the roll, it was then announced. The question of order was then laid on the table.

NOTE.—The effect of this ruling was to settle the point that neither a question of order nor a motion for executive business can be entertained after the roll is called *until the result is declared by the Chair*. (Senate Journal, second session Fortieth Congress, 766, 767.)

## ORDER OF THE SENATE.

A call for the execution of an existing order of the Senate held to be a privileged motion and to supersede a special order. (Senate Journal, first session Thirty-fifth Congress, 320.)

## ORDER IN DEBATE.

A Senator (Mr. Saulsbury, January 27, 1863) was called to order by the Chair and required to sit down, but refusing to take his seat as required, the Chair directed the Sergeant-at Arms to take him in custody for disorderly conduct. (Senate Journal, third session Thirty-seventh Congress, 158.)

ORDER, QUESTIONS OF.

The Senate organized at the commencement of the session; the House of Representatives on the 1st of February, 1860. In the mean time, January 19, a motion is made to refer a bill to a committee. Upon this motion a question of order is raised by Mr. Mason, of Virginia, viz: In the present condition of the two houses is that motion in order? And being submitted to the Senate, it was, by the yeas and nays, decided in the affirmative. (Senate Journal, first session Thirty-sixth Congress, 90.)

NOTE.—In raising the question of order the ground taken was that no legislative business could be entered upon by either house while the other was unorganized. This was the session of 1859-'60, when Mr. Pennington, of New Jersey, was chosen Speaker on the 1st of February, 1860.

PAIRED OFF.

A Senator may refuse to answer to his name when called to vote, when he has paired off with another Senator. (Senate Journal, first session Thirty-sixth Congress, 720.)

PERSONAL EXPLANATION.

Cannot be made except by unanimous consent (Vice-President Breckenridge). (Senate Journal, second session Thirty-fifth Congress, 492, 493.)

PETITIONS.

Mr. Sprague presented a paper, purporting to be resolutions of the Board of Trade of Providence, R. I., but addressed to *him*, and not to *the Senate*, and asked that it be read. Upon the reading, Mr. Hamlin objected to its reception, for the reason that it was a private communication to a Senator, and not addressed to the Senate. Mr. Sprague thereupon withdrew the paper. (Congressional Globe, third session Forty-second Congress, January 8, 1873.)

PETITIONS OF CITIZENS OF A FOREIGN GOVERNMENT NOT RECEIVED.

Mr. Smith presented the petition of Robert Holl, a British subject. Objected to, and ordered to lie on the table. (Senate Journal, first session Twentieth Congress, 38.)

Vice-President presented the memorial of John A. Barry, a British subject, and submitted the question of its reception to the Senate. Ordered to lie on the table. (Senate Journal, second session Twenty-ninth Congress, 198, 222.)

Mr. Foster presented papers signed by British subjects. Ruled not in order to present communications emanating from citizens of a foreign government. (Senate Journal, third session Thirty-seventh Congress, 148.)

Mr. Johnson presented the petition of E. P. Salas, a Spanish subject. Chair ruled that, being an alien subject, the petition could not be received by the Senate. (Senate Journal, first session Thirty-ninth Congress, 470.)

PETITIONS MUST BE SIGNED BY THE PETITIONERS.

Mr. Chambers presented a memorial of the American Colonization Society. Reception objected to, on the ground that it was not signed; objection sustained, and memorial not received. (Senate Journal, second session Nineteenth Congress, 158.)

POST-ROADS.

Amendments to post-route bills proposing new routes required to be referred to the Committee on Post-Offices and Post-Roads before offered to any bill. (February 13, 1874, Senate Journal, first session Forty-third Congress, 247.)

POSTPONEMENT (INDEFINITE) OF A BILL.

A House bill for the relief of William McGarrahan had been postponed indefinitely at a previous session of the Senate, and following immemorial usage, notice thereof had been sent to the House, in which it originated. At the next session, a motion was made by Mr. Morton to proceed again to its consideration. The President *pro tem.* (Mr. Wade), after recapitulating the facts of the case, and the usage of the Senate in cases of the indefinite postponement of bills of the House of Representatives, the effect of which had always been held equivalent to their *rejection*, submitted it as a question of order to the Senate: Is the motion to take up a bill that has been indefinitely postponed by a vote of the Senate at a previous session of Congress, in order? After a discussion, the Senate decided that the motion of Mr. Morton was in order, by a vote of yeas, 27; nays, 18. (Senate Journal, third session Fortieth Congress, 142, 146, 151, 157.)

NOTE.—This decision changed the immemorial practice of the Senate in respect to the effect of the indefinite postponement of a bill; which had been always regarded and treated as its rejection; and as this decision is without limit, except that it be a "previous session" of the same Congress (it may be the first, second, or third), under it a bill may be postponed indefinitely at the *first* session, and again called up for consideration at the *third* session of a Congress. The *Rule* on this subject adopted by the House of Representatives is more *explicit*, more *defined*, more *limited*.

PREAMBLE.

Leave is asked by the mover of a resolution to withdraw the *preamble* after the resolution had been amended. The Vice-President (Colfax) decided that the preamble, being *part of the resolution*, and the resolution having been amended, the mover had no longer control over it, under the Tenth Rule of the Senate, and it therefore could not be withdrawn. (Senate Journal, February 21, second session Forty-second Congress, 270.)

When a division has been demanded on the preamble to a resolution and the resolution has been agreed to, the preamble may be laid on the table without carrying the resolution (Vice-President Col-



**PREAMBLE.**

fax). Mr. Edmunds appealed; appeal laid on the table; Chair sustained. (Senate Journal, second session Forty-second Congress, 303, 304.)

**PREAMBLE TO A BILL.**

A separate vote may be had on the question of the third reading of a bill, upon the third reading of the preamble also. On the question of the passage of a bill, a division of the question, as to the preamble, may be called for, and the question put upon the passage of the preamble. (Senate Journal, first session Forty-fourth Congress, 192.)

**PREAMBLE TO A RESOLUTION.**

May be laid on the table after the resolution has been agreed to, without prejudice to the resolution. (Senate Journal, first session Forty-fourth Congress, January 24.)

**PRIVILEGE.**

It is a breach of privilege for the head of a department, when called upon by a resolution of the Senate for information, to communicate *irrelevant matter* not embraced in the resolution. (Senate Journal, second session Thirty-eighth Congress, 300-312.)

**PRIVILEGED QUESTION.**

The report of a committee relating to the Senators from the State of Indiana being under consideration, pending debate (Mr. Seward on the floor), the morning hour expired, when a Senator called for the *special order of the day*. The Vice-President (Mr. Breckenridge) ruled that Mr. Seward was still entitled to the floor on a *privileged question*. (Senate Journal, second session Thirty-fifth Congress, 305.)

The presentation of credentials and papers involving the right of a State to representation in the Senate, held to be. (Senate Journal, first session Thirty-fifth Congress, 215, 216.)

The call of a Senator for the execution of an existing order of the Senate held to be a. (Senate Journal, first session Thirty-fifth Congress, 320.)

A Senator cannot be taken off the floor by a privileged question. (Senate Journal, second session Fortieth Congress, 217.)

**PRIVILEGE OF SENATORS.**

The House of Representatives requests the attendance of two Senators to appear and testify before one of its committees. The Senate, by resolution, granted permission for their attendance. (Senate Journal, second session Fifteenth Congress, 195.)

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## QUORUM.

In the absence of a quorum, the Senators present may *request*, but cannot *compel*, the attendance of absent Senators. (Senate Journal, second session Forty-second Congress, April 20, 1872, 581, 582.)

## READING A PAPER.

While Mr. Sumner was reading a paper (being then engaged in debate) he was called to order by Mr. Davis, who objected to his reading the paper on the ground of its irrelevancy to the subject before the Senate. The Chair (Mr. Pomeroy) overruled the point of order, and decided that Mr. Sumner had the right to read the paper as part of his remarks. Mr. Davis appealed from the decision of the Chair. And the question being submitted the Chair was sustained.

Mr. Chandler presented a paper, and asked that it be read. Objected to; and upon a question of order, the Senate decided that a paper or letter upon a matter not before the Senate for legislation, if objected to, could not be received. (Senate Journal, second session Fortieth Congress, 214.)

A bill is under consideration; a motion to postpone the bill indefinitely is pending; Mr. Stockton calls for the reading of the bill and the amendments made to it; to this objection is made. The Chair (Mr. Anthony) decides that the reading of the bill being objected to, the question under the Fourteenth Rule must be submitted to the Senate. A question of order was here raised, viz: That a Senator before being called to vote on the motion to postpone the bill indefinitely had a right to call for the reading of the bill. The Chair overruled the question of order, on the ground that by the rules of the Senate a bill must have before its passage three readings, each of which readings may upon the call of a Senator be at length; that the bill under consideration had had two of these readings and could not of right be read at length upon the call of a Senator, until the question of the third reading was put to the Senate, without the leave of the Senate, and if objected to the question must be submitted to the decision of the Senate. From the decision an appeal was taken, and after debate the appeal was on motion laid on the table. (Senate Journal, June 8, 1872, second session Forty-second Congress, 997-998.)

After the reading of a paper has been commenced, and a motion to suspend the reading been disagreed to by a vote of the Senate, and the reading resumed; a motion to suspend the further reading decided to be in order, on an appeal from the decision of the Chair. (Senate Journal, second session Thirty-first Congress, 249.)

**RECEDE.**

When one house recedes from its amendment to a bill of the other— is the bill thereby passed? The chain of precedents that an amendment disagreed to by the originating house, and receded from by the amending house, thereby passed the bill, was unbroken in the Senate, until the 17th February, 1869, when the question was raised upon a motion that the Senate recede from its amendments to a resolution of the House, proposing an amendment, to the Constitution of the United States. The motion was submitted by Mr. Stewart, that the Senate *recede* from its amendments and agree to the resolution of the House; when a question of order was raised by Mr. Pomeroy, viz: If the motion to recede was agreed to would not the resolution then stand as passed? This question was submitted to the Senate for its decision; and it was decided *in the negative*. A division of the question on Mr. Stewart's amendment having been demanded, the Senate, by a vote of yeas 33, nays 24, receded; and on the question of the passage of the resolution, it was lost, yeas 31, nays 27—not being two-thirds of the Senators present. (Senate Journal, third session Fortieth Congress, pp. 285-287.)

NOTE.—*Hitherto*, and *subsequent* to this ruling, a motion to recede from an amendment of the Senate to a bill of the House, being agreed to, had, and yet has the effect of passing the bill as it originally came from the House. In the case of a resolution proposing an amendment to the Constitution, however, it would seem to be otherwise.

**RECEPTION OF RESOLUTIONS OF A PUBLIC MEETING**

Objected to, and Senate refused to receive them.

NOTE.—The point involved here seems to have been that the resolutions were a mere expression of opinion, with which the Senate had nothing to do, and called for no action by the Senate, as where a petition or memorial prays for the redress of a grievance, &c.—MCD.

**RECONSIDER.**

A motion to reconsider may be entered as a privileged motion, but its consideration must be determined by a vote of the Senate. (Senate Journal, third session Thirty-fifth Congress, 256.)

A motion to reconsider agreed to, brings the subject directly before the Senate. (*Idem*, 257.)

The vote on the passage of a bill vetoed by the President may be reconsidered. (Senate Journal, first session Thirty-fourth Congress, 621.)

The vote on the passage of a bill upon a reconsideration cannot be again reconsidered except by unanimous consent. (Senate Journal, first session Forty-fourth Congress, 606.)

A resolution is passed by the Senate. A motion is made to reconsider the vote on the passage of the resolution. The motion to recon-

**RECONSIDER.**

sider was laid on the table. Held that the motion to reconsider laid on the table did not carry with it the resolution. (Senate Journal, second session Forty-second Congress, 793, May 20, and Congressional Globe, p. 3741.)

A bill passed the Senate; a motion is made to reconsider the vote on the passage of the bill; a motion is made to lay the motion to reconsider on the table. A question of order is raised; can a motion to lay a motion to reconsider on the table be made; and if entertained and agreed to, will it carry with it the bill? The Vice-President (Colfax) ruled that the motion was in order and that if agreed to did not affect the bill. (Senate Journal, second session Forty-second Congress, May 21, p. 809. See also Cushing, 565.)

A motion to reconsider the vote on the passage of a bill may be laid on the table without carrying the bill. (Senate Journal, second session Forty-second Congress, 809; and Senate Journal, second session Forty-second Congress, 974.)

A motion to reconsider may be taken up on the same day on which it is made *by a vote of the Senate*. (Senate Journal, second session Forty-second Congress, 800.)

A bill (heirs of Asbury Dickins) passed *April 7, 1874*, on the same day a motion to reconsider was entered. (Senate Journal, first session Forty-third Congress, 438, 439.) The motion to reconsider held the bill before the Senate until the *3d of March, 1875*, when it (*the motion*) was taken up and ordered to lie on the table. *Held that the bill stood passed*. (Senate Journal, second session Forty-third Congress, 441.)

H. Res. 52, District of Columbia bond bill passed Senate; a *motion to reconsider* entered by Mr. Wadleigh; after a brief speech offered to withdraw the motion to reconsider; objected to by Mr. Ingalls; question of granting leave to withdraw the motion submitted to the Senate; debate; motion to lay that question (of leave) on the table entertained by the Chair (Mr. Ferry), and the motion to lie agreed to by yeas and nays. (Senate Journal, first session Forty-fourth Congress, February 24, 1876, 228.)

The motion to reconsider was then also laid on the table. (Senate Journal, first session Forty-fourth Congress, February 24, 1876, 234.)

**REGULAE ORDER, DEMAND FOR**

The regular order being informally laid over subject to the demand of any Senator, cannot be demanded while a Senator is in possession of the floor. (Senate Journal, second session Forty-second Congress, 921.)

**RELEVANCY IN DEBATE.**

A Senator cannot be called to order for irrelevancy in debate. (Senate Journal, second session Forty-second Congress, 303.)

**RESOLUTION**

That does not require the approval of the President, does not require three readings. (Senate Journal, second session Nineteenth Congress, 28.)

**RESOLUTION, CONCURRENT.**

Objection being made to the consideration of a resolution of the House of Representatives on the same day on which it was received from the House, it must like other resolutions, under the Twenty-sixth Rule, lie over one day. (Senate Journal, December 19, 1873, first session Forty-third Congress.)

**RETRENCHMENT AND INVESTIGATION.**

A standing Committee of Investigation and Retrenchment of seven Senators. (Senate Journal, second session Forty-second Congress, 51. December 14, 1871.)

**SPECIAL ORDERS.**

The private calendar when assigned to any particular day is to be treated as other special orders and not to be called before the expiration of the morning hour. (Senate Journal, first session Thirty-sixth Congress, 233.)

All special orders, if not finally disposed of on the day to which they were assigned, shall afterwards be called at one o'clock, without regard to the hour first fixed for their consideration. (Senate Journal, first session Thirty-fifth Congress, 191, 192.)

**SPECIAL SESSION OF SENATE.**

Not in order to present petitions or memorials praying for special legislation at a session of the Senate specially called by the President, in the recess of Congress, and which the Senate could not, without the co-operation of the House of Representatives, mature. (Special or called session of Senate, March 13, 1873.)

**SPECIAL OR CALLED SESSION OF THE SENATE.**

Legislative business not in order at a. (Senate Journal, third session Forty-second Congress, 612, 614.)

**STRIKE OUT.**

A motion to strike out, rejected, does not prevent a subsequent motion to strike out a part of the words proposed to be stricken out by the original motion. (Senate Journal, first session Twentieth Congress, 389.)

**TAKES.**

· Bill originating in the Senate containing provisions for raising revenue laid on the table by House of Representatives on the ground that the Senate had no power to originate such bill, and notified the Senate of its action. (Senate Journal, second session Forty-second Congress, 478; report com., 146.)

**TELEGRAPHIC DISPATCH.**

Presented by Vice-President. Reception objected to. Question of its reception laid on the table. (Senate Journal, third session Forty-second Congress, March 3, 1873.)

**THIRD READING OF A BILL.**

A bill is taken up, considered as in Committee of the Whole, reported to the Senate, and ordered to a third reading. On the question, Shall the bill be read a third time (then)? Objected to. Chair (Mr. Fitzpatrick, from Alabama) decided that if objected to, the bill could not then receive its third reading. This decision sustained by the Senate on an appeal. (Senate Journal, third session Thirty-fifth Congress, 478.)

**TWENTY-FIRST JOINT RULE.**

A resolution is submitted and agreed to, to suspend the Twenty-first Joint Rule, so as to allow action upon a House bill (Army appropriation bill) before the expiration of six days from the commencement of a session (August 21, 1856, p. 661). This resolution was sent to the House and agreed to (p. 668), and then the bill was taken up. (Senate Journal, second session Thirty-fourth Congress, 661, 668.)

Mr. Gwin moved to take up a Senate bill (Pacific Railroad bill) on the second day of a session. A question of order was raised by Mr. Pearce, viz: That under the Twenty-first Joint Rule the motion was not in order. The point of order was sustained by the Chair (Mr. Breckinridge in chair). (Senate Journal, second session Thirty-fifth Congress, 39.)

Mr. Sumner moved to take up a Senate bill (elective franchise in the District of Columbia). Question of order raised by Mr. McDougal, that the motion was not in order under the Twenty-first Joint Rule, and point of order sustained (Mr. Foster in the chair). (Senate Journal, second session Thirty-ninth Congress, 6.)

At the third session Forty-first Congress, December 5, 1870, Mr. Sherman moved to take up a House bill (ceding jurisdiction to Ohio). The Vice-President called attention of the Senate to previous rulings upon similar motions made within the first six days of the session; a debate ensued (Congressional Globe, p. 3). Vice-President submits question to Senate, and Senate adjourned. December 6, question again debated, but no decision come to on the

**TWENTY-FIRST JOINT RULE.**

question of order. The question then dropped. It would seem, however, that the former rulings were acquiesced in. This debate shows a distinction, in the operation of the rule, between Senate bills and bills of the House. And it was ruled not to apply to Senate bills *brought in* before six days expired.

**UNFINISHED BUSINESS.**

A motion is made to take up a bill; a question of order is raised on the motion to take up. Question of order is overruled by the Chair. An appeal is taken, and the Senate adjourned. Held that a motion to take up a proposition falling with adjournment, the question of order and appeal fell with it. (Congressional Record, December 7, 1876, second session Forty-fourth Congress.)

**VICE-PRESIDENT.**

The following letter from the Vice-President (*Mr. Calhoun*) was read:

*"The Secretary of the Senate :*

*"SIR: Having addressed, this morning, to the House of Representatives a communication, which may claim an investigation of my official conduct while in the discharge of the duties of the Department of War, you will please make known to the Senate that a sense of propriety forbids me from resuming my station till the House has disposed of this subject.*

*"J. C. CALHOUN."*

(Senate Journal, second session Nineteenth Congress, 70.)

**VOTE.**

A Senator may decline to answer to his name when called to vote, for the reason that he is "paired off" with another Senator. (Senate Journal, first session Thirty-sixth Congress, 720.)

No motion in order until the vote on the pending question is announced by the Chair. (Senate Journal, third session Forty-first Congress, 355.)

**WITHDRAWAL OF A MOTION.**

A resolution having a *preamble* is under consideration; after amendment, a division of the question is called, and the mover of the resolution asks leave to withdraw the preamble. Decided by the Vice-President (Colfax) that the *preamble being a part of the resolution*, and the resolution having been *amended*, it was, under the Tenth Rule of the Senate, no longer within the control of the mover, and could not, without the consent of the Senate, be modified or withdrawn. (Senate Journal, 21st February, second session Forty-second Congress, 270.)

**WITHOUT DEBATE.**

A motion to rescind an order adopted upon a motion which was not debatable, must be decided without debate. (On appeal, Edmunds in the chair.) (Senate Journal, second session Forty-second Congress, 954.)

## YEAS AND NAYS.

Being ordered on a question, a Senator declined to vote on the ground that he was "paired" with another Senator. A question of order was raised as to his right to refuse to answer to his name when called, for the reason stated. The question being submitted to the Senate, it was decided that he had the right. (Senate Journal, first session Thirty-sixth Congress, 720.)

Are ordered and the roll is being called; several Senators when their names are called make no response. A Senator inquires of the Chair (Mr. Carpenter), when would it be proper for him to call the attention of the Senate to the fact that several Senators sitting in their seats when their names were called by the Secretary had refused to vote? The Chair (Mr. Carpenter) ruled that the roll-call could not be interrupted by other proceedings; but that after that was finished and the names of the Senators voting had been read over by the Secretary, and before the announcement of the result, the question raised by the Senator would be in order. Mr. Thurman appealed from this ruling of the Chair; and after debate (Congressional Globe, February 23, 1871, 1602), the Chair reversed his decision, and ruled that no motion or other proceedings could be interposed between the calling of the yeas and nays and the announcement of the vote. (Senate Journal, third session Forty-first Congress, 355, and Congressional Globe, 1602.)

NOTE.—The rulings of the Chair and the action of the Senate upon this question are confused and unsatisfactory. Taking the Sixteenth Rule as the ground of proceeding, the proper time to require a Senator to vote would seem to be when his name is called by the Secretary. It is then that he is to give "special reasons" for refusing to vote, of which the *Senate alone* is to judge—and this judgment is to be rendered without debate and by a vote of the Senate. If a Senator is present and refuses to vote *when his name is called*, and he is not *then* called upon, or required to give, or does not offer to give, "special reasons" why he should be "excused by the Senate," it might well be held that the Senate has waived its privilege as to him, and the calling of the next name on the roll, with a response thereto, forecloses the question, and he cannot afterwards be challenged. The Senate has no right to compel or force a Senator to vote if, in the discharge of his duty, he should think fit to remain silent on a question. All it can do under its rule is to require of him "special reasons" for withholding his vote. These, when assigned, it may judge to be unsatisfactory; and if upon such judgment he should still refuse to vote, it is for the Senate to deal with him afterwards, and upon a subsequent proceeding; and in the mean time the roll-call is to proceed to a conclusion, that the question in hand may be disposed of in order.

The Senate has no power over the voice of any of its members. It can only declare the reasons assigned for not voting insufficient or unsatisfactory. It may in such case, where a Senator still remains mute, reprimand or censure him; but this is the extent of its power. It cannot compel that voice which he may be resolved, for reasons however unsatisfactory to the Senate, still sufficient for him not to give. The record of the Senate is thus made up, and for the part he may have in it he is responsible to the State and the people whom he is supposed to represent. The Senate may exercise a larger discretion in



YEAS AND NAYS.

dealing with a contumacious witness who refuses to testify, than with a Senator who refuses to vote. In the case of a witness, he refuses to disclose the truth, which the Senate, for the purposes of justice, has a legal right to require of him; in the case of a Senator, he simply refuses to exercise a right which the Constitution gives him without qualification as to how he shall exercise, or whether he shall exercise it at all—leaving the matter entirely at his own discretion.

The practice of the Senate in permitting its members, *without* question or challenge, to withhold their votes, whenever they have thought fit to do so, has been so uniform and unbroken, that, so far as precedent can make it so, it has become an absolute *parliamentary* right, and cannot be questioned without reversing the steady practice upon which the members of the body have a right to rely as their protection in the exercise of their discretion in giving or withholding their votes.

In the case to which this note is appended, the ground upon which certain Senators, being present, refused to vote, were, under the Sixteenth Rule, required to answer to their names, was that such refusal would leave the Senate without a quorum, and thus obstruct its business; but the absence of a quorum is provided for, however imperfectly, by the Eighth Rule, and under that rule all subsequent proceedings are to be had until a quorum shall appear in the chamber.

From all this it would seem to be the most orderly way of proceeding to require a Senator, *when his name is called*, either to vote or give to the Senate "special reasons," as required by the Sixteenth Rule, for not voting. Should he decline to do either, or should he give reasons which the Senate, *by a vote*, shall pronounce unsatisfactory, and he should still withhold his vote, the roll-call is to proceed to a conclusion, and the Senator is to be dealt with by the Senate by a separate proceeding afterwards—and this that the question before the Senate may be disposed of in an orderly way, and not be complicated nor shoved out of the way by another and totally different one. Should a Senator refusing to vote, not be challenged at the time his name is called, and the call be proceeded with, the right of challenge should be considered as waived and he exempt from further question; for what says the Rule? "Each Senator called upon shall, unless for special reasons he be excused by the Senate, declare, openly and without debate, his assent or dissent to the question." (See ruling of the Chair (Mr. Carpenter), Senate Journal, third session Forty-first Congress, 355.)

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