

p. 11646; Mar. 22, 1995, p. 8769; June 27, 1995, p. 17329; Nov. 2, 1995, p. —; (6) to permit en bloc consideration of several amendments under a “modified-closed” special order providing for the sequential consideration of designated separate amendments (Aug. 10, 1994, p. 20768); (7) to permit one of two committees controlling time for general debate pursuant to a special order to yield control of its time to the other (Aug. 18, 1994, p. 23118); and (8) to permit the offering of pro forma amendments for the purpose of debate under a “modified-closed” special order limiting both amendments and debate thereon (July 17, 1996, p. 17563; July 24, 1996, p. 18896).

By unanimous consent the House may delegate to the Committee of the Whole authority to entertain unanimous-consent requests to change procedures contained in an adopted special order (Aug. 11, 1986, p. 20633). The Member offering an amendment in the Committee of the Whole pursuant to a special order of the House has the burden of proving that it meets the description of the amendment made in order (July 17, 1996, p. 17553).

RULE XIX

MOTIONS FOLLOWING THE AMENDMENT STAGE

Previous question

1. (a) There shall be a motion for the previous question, which, being ordered, shall have the effect of cutting off all debate and bringing the House to a direct vote on the immediate question or questions on which it has been ordered. Whenever the previous question has been ordered on an otherwise debatable question on which there has been no debate, it shall be in order to debate that question for 40 minutes, equally divided and controlled by a proponent of the question and an opponent. The previous question may be moved and ordered on a single question, on a series of questions allowable under the rules, or on an amendment or amendments, or may embrace all authorized motions or amendments and include

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the bill or resolution to its passage, adoption, or rejection.

The House adopted a rule for the previous question in 1789, but it was not turned into an instrument for closing debate until 1811. The history of the motion for the previous question is discussed in V, 5443, 5446; VIII, 2661. In 1880, the previous question rule was amended to apply to single motions or a series of motions as well as to amendments, and the motion to commit pending the motion for the previous question or after the previous question is ordered to passage was added (V, 5443). From 1880 to 1890, the previous question could only be ordered to the engrossment and third reading, and then again ordered on passage, but in 1890 the rule was changed to permit ordering the previous question to final passage (V, 5443). When the House recodified its rules in the 106th Congress, it consolidated former clause 1 of rule XVII and a provision included in former clause 2 of rule XXVII, permitting 40 minutes debate on which the previous question has been ordered without there having been debate under this clause. The 106th Congress also transferred the provision addressing the motion to commit from clause 1 of rule XVII to clause 2 of this rule (H. Res. 5, Jan. 6, 1999, p. —).

The previous question is the only motion used for closing debate in the House itself (V, 5456; VIII, 2662). It is not in order in Committee of the Whole (IV, 4716; Apr. 25, 1990, p. 8257) but is in order in the House as in Committee of the Whole (VI, 639). The motion may not include a provision that it shall take effect at a certain time (V, 5457). Forty minutes of debate are allowed whenever the previous question is ordered on a proposition on which there has been no debate (V, 6821; VIII, 2689; Sept. 13, 1965, p. 23602); but if there has been debate, even though brief, before the ordering of the previous question, the 40 minutes are not allowed (V, 5499–5501). This preliminary debate should be on the merits of the question if the 40 minutes of debate are to be denied for reason of it (V, 5502). The 40 minutes should be demanded before division has begun on the main question (V, 5496). It may not be demanded on incidental motions, but is confined to the main question (V, 5497, 5498; VIII, 2687). It may not be demanded on a proposition that has been debated in Committee of the Whole (V, 5505), or on a conference report if the subject matter of the report was debated before being sent to conference (V, 5506, 5507). When the previous question is ordered merely on an amendment that has not been debated, the 40 minutes are allowed (V, 5503); but the same liberty of debate is not allowed when the question covers both an undebated amendment and the original proposition (V, 5504). It was also denied on a resolution to correct an error in an enrolled bill (V, 5508). The 40 minutes is divided, one half to those favoring and the other half to those opposing (V, 5495).

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The provisions of the rule define the application of the previous question with considerable accuracy. It may not be moved on more than one bill except by the unanimous consent of the House (V, 5461–5465), or on motions to agree to a conference report and also to dispose of differences not included in the report (V, 5464) and when ordered on a motion to send to conference applies to that motion alone and does not extend to a subsequent motion to instruct conferees (VIII, 2675). It may apply to the main question and a pending motion to refer (V, 5466; VI, 373; VIII, 2678), or to a pending resolution and a pending amendment thereto (Sept. 25, 1990, p. 25575; July 16, 1998, p. —). When a bill is reported from the Committee of the Whole with the recommendation that the enacting words be stricken out, it may be applied to the motion to concur without covering further action on the bill (V, 5342). During consideration “in the House as in Committee of the Whole” it may be demanded while Members still desire to offer amendments (IV, 4926–4929; VI, 639), but it may not be moved on a single section of a bill (IV, 4930). When ordered on a resolution with a preamble there is doubt of its application to the preamble, unless the motion specifies (V, 5469, 5470). It may be moved on a series of resolutions, but this does not preclude a division of the resolutions on the vote (V, 5468), although where two propositions on which the previous question is moved are related, as in the case of a special order reported from the Committee on Rules and a pending amendment thereto, a division is not in order (Sept. 25, 1990, p. 25575). The previous question is often ordered on nondebatable propositions to prevent amendment (V, 5473, 5490), but may not be moved on a motion that is both nondebatable and unamendable (IV, 3077). It applies to questions of privilege as to other questions (II, 1256; V, 5459, 5460; VIII, 2672).

The Member in charge of the bill and having the floor may demand the previous question although another Member may propose a motion of higher privilege (VIII, 2684), but the motion of higher privilege must be put first (V, 5480; VIII, 2609, 2684), and if the Member in charge of the bill claims the floor in debate another Member may not demand the previous question (II, 1458); but having the floor, unless yielded to for debate only, any Member may make the motion although the effect may be to deprive the Member in charge of the bill (V, 5476; VIII, 2685). The Member who has called up a measure in the House has priority of recognition to move the previous question thereon, even over the chairman of the reporting committee (Oct. 1, 1986, p. 27468). And if, after debate, the Member in charge of the bill does not move the previous question, another Member may (V, 5475); but where a Member intervenes on a pending proceeding to make a preferential motion, such as the motion to recede from a disagreement with the Senate, he may not move the previous question on that motion as against the rights of the Member in charge (II, 1459), and the Member in charge is entitled to recognition to move the

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previous question even after he has surrendered the floor in debate (VIII, 2682, 3231). Where a Member controlling the time on a bill or resolution in the House yields for the purpose of amendment, another Member may move the previous question before the Member offering the amendment is recognized to debate it (Nov. 8, 1971, p. 39944; July 24, 1979, p. 20385). Where under a rule of the House debate time on a motion or proposition is equally divided and controlled by the majority and the minority, or between those in favor and those opposed (see, *e.g.*, clauses 1, 2, and 6 of rule XV), or where a block of time for debate has been yielded by the manager, the previous question may not be moved until the other side has used or yielded back its time; and the Chair may vacate the adoption of the previous question where it was improperly moved while the other side was still seeking time (Oct. 3, 1989, p. 22842). The previous question may not be demanded on a proposition against which a point of order is pending (VIII, 3433).

The motion to lay on the table may not be applied to the previous question (V, 5410, 5411); nor may it be applied to the main question after the previous question has been ordered (V, 5415-5422; VIII, 2655), or after the yeas and nays have been ordered on the demand for the previous question (V, 5408, 5409).

The motion to postpone may not be applied to the main question after the previous question has been ordered (V, 5319-5321; VIII, 2617). The previous question may be applied both to the main question and a pending motion to refer (V, 5342; VI, 373).

Although this clause allows 40 minutes of debate when the previous question is ordered on a proposition on which there has been no debate (V, 6821; Mar. 22, 1990, p. 4996), any previous debate on the merits of the main proposition precludes the 40 minutes (V, 5499-5502). The demand for 40 minutes of debate: must come before the vote is taken on the main question (V, 5496); is not available when the question on which the previous question is ordered is otherwise nondebatable, such as the motion to close debate (VIII, 2555, 2690); is not available on an undebated amendment where the motion for the previous question covers both the amendment and the original proposition, which has been debated (V, 5504); and is not available on incidental motions (V, 5497-5498), on propositions previously debated in Committee of the Whole (V, 5505), on conference reports accompanying measures that were debated before being sent to conference (V, 5506-5507), or on ancillary measures, such as a concurrent resolution to correct an enrolled bill (V, 5508). Debate allowed under this provision is equally divided and controlled between the person demanding the time and a Member representing the opposition (Sept. 13, 1965, pp. 23602-06; May 8, 1985, p. 11073). Priority in recognition for time in opposition is accorded to a Member truly opposed (VIII, 2689).

§ 998. Relation of the previous question to motions.

§ 999. The 40 minutes of debate on undebated propositions.

(b) Incidental questions of order arising during the pendency of a motion for the previous question shall be decided, whether on appeal or otherwise, without debate.

§ 1000. Questions of order pending the motion for the previous question.

This provision was adopted in 1837 to prevent delay by debate on points of order after the demand for the previous question (V, 5448). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XVII (H. Res. 5, Jan. 6, 1999, p. —). Under the present practice, since debate on points of order is entirely within the control of the Chair, he may recognize and respond to a parliamentary inquiry although the previous question may have been demanded (Mar. 27, 1926, p. 6469).

A question of privilege relating to the integrity of action of the House itself has been distinguished from ordinary questions of order and has been thrown open to debate after the ordering of the previous question (III, 2532).

Recommit

2. (a) After the previous question has been ordered on passage or adoption of a measure, or pending a motion to that end, it shall be in order to move that the House recommit (or commit, as the case may be) the measure, with or without instructions, to a standing or select committee. For such a motion to recommit, the Speaker shall give preference in recognition to a Member, Delegate, or Resident Commissioner who is opposed to the measure.

(b) Except as provided in paragraph (c), if a motion that the House recommit a bill or joint resolution on which the previous question has been ordered to passage includes instructions, it shall be debatable for 10 minutes equally divided between the proponent and an opponent.

(c) On demand of the floor manager for the majority, it shall be in order to debate the motion for one hour equally divided and controlled by the proponent and an opponent.

That portion of the clause relating to debate on the motion to recommit with instructions (former clause 4 of rule XVI) was included as section 123 of the Legislative Reorganization Act of 1970 and was made a part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 14). That provision was also amended in the 99th Congress to provide that on the demand of the majority floor manager of a bill or joint resolution, the 10 minutes of debate on a motion to recommit with instructions, the previous question having been ordered, may be extended to one hour, equally divided and controlled (H. Res. 7, Jan. 3, 1985, p. 393). When the House recodified its rules in the 106th Congress, it consolidated the last sentence of former clause 1 of rule XVII and provisions of former clause 4 of rule XVI, addressing the motion to recommit, under this clause (H. Res. 5, Jan. 6, 1999, p. —). For a general discussion of the motion to refer see § 916, *supra*. When the previous question is ordered on a bill to final passage, debate on a straight motion to recommit under this clause is no longer in order and only a motion to recommit with instructions is debatable for the 10 minutes specified in the rule (June 22, 1995, p. 16844). Prior to the amendment of this clause in the 92d Congress, no debate was permitted on a motion to recommit with instructions after the previous question was ordered (V, 5561, 5582–5584; VIII, 2741). The 10 minutes of debate provided under this clause on motions to recommit with instructions does not apply to a motion to recommit with instructions a simple or concurrent resolution or conference report, since the clause limits its applicability to bills and joint resolutions (Nov. 15, 1973, p. 37151; Mar. 29, 1976, p. 8444; Speaker O'Neill, June 19, 1986, p. 14698). The manager of a bill or joint resolution, if opposed, and not the proponent of a motion to recommit with instructions has the right to close controlled debate on a motion to recommit (Speaker Wright, Dec. 3, 1987, p. 34066); the Member recognized for five minutes in favor of the motion may not reserve time (Speaker Wright, June 29, 1988, p. 16510; June 29, 1989, p. 13938).

The ordering of the previous question on a bill and all amendments to final passage precludes debate (other than that specified in clause 2 of rule XIX) on a motion to recommit but does not exclude amendments to such motion (V, 5582; VIII, 2741) and unless the previous question is ordered on a motion to recommit with instructions, the motion is open to amendment germane to the bill (see V, 6888; VIII, 2711), and a substitute striking out all of the proposed instructions and substituting others cannot be ruled out as interfering with the right of the minority to move recommitment (VIII, 2759). The Member offering a motion to recommit a bill with instructions may, at the conclusion of the 10 minutes of debate thereon,

yield to another Member to offer an amendment to the motion if the previous question has not been ordered on the motion to recommit (Speaker Albert, July 19, 1973, p. 24967).

It is not in order to propose as instructions anything that might not be proposed directly as an amendment such as to propose an amendment that is not germane (V, 5529–5541, 5834, 5889; VIII, 2705, 2707, 2708), such as to amend or eliminate an amendment adopted by the House (V, 5531; VIII, 2712, 2714, 2715, 2720–2724), to propose an amendment in violation of clauses 2, 4, or 5 of rule XXI (V, 5533–5540; Sept. 1, 1976, p. 28883; Sept. 19, 1983, p. 24646; Speaker Foley, Aug. 1, 1989, p. 17159, and Aug. 3, 1989, p. 18546, each time sustained by tabling of appeal; July 1, 1992, p. 17294; June 22, 1995, p. 16844); but it has been held in order to reoffer an amendment rejected by the House (VIII, 2728). Where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill during its consideration (in both the House and the Committee of the Whole), it was held not in order to offer a motion to recommit with instructions to incorporate an amendment in the restricted title (Jan. 11, 1934, pp. 479–83); however, that precedent should be read in light of clause 6(c)(2) of rule XIII which precludes the Rules Committee from reporting a rule that would prevent a motion to recommit from including amendatory instructions. Where an amendment in the nature of a substitute has been adopted, and no motion to recommit with an amendment is in order, the minority has sometimes used a motion that directs a committee to study an issue and to report “promptly” its recommendations (Mar. 29, 1990, p. 1834). Instructions must be germane to the bill regardless of whether they directly propose an amendment thereto (Sept. 23, 1992, p. 27178). In the 104th Congress the rules were amended to preclude the Committee on Rules from reporting a special order that would prevent the Minority Leader or his designee from offering a motion to recommit with instructions to report back an amendment otherwise in order (but for the adoption of a prior amendment). See § 857, *supra*.

It has been a practice to permit a motion to recommit with instructions that the committee report “forthwith,” in which case the chairman makes report at once without awaiting action by the committee (V, 5545–5547; VIII, 2730), and the bill is before the House for immediate consideration (V, 5550; VIII, 2735). If one motion to recommit is ruled out, a proper motion is admissible (VIII, 2736, 2760, 2761, 2763). Similarly, if the House votes pursuant to section 426(b)(3) of the Congressional Budget Act of 1974 not to consider a motion to recommit against which a Member has made a point of order under section 425(a) of that Act, a proper motion to recommit remains available (Mar. 28, 1996, p. 6932). The motion may be withdrawn in the House at any time before action or decision thereon (VIII, 2764). The simple motion to recommit and the motion to recommit with instructions are of equal privilege and have no relative precedence (VIII, 2714, 2758, 2762; Nov. 25, 1970, p. 38997). When a bill is recommitted

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it is before the committee as a new subject (IV, 4557; V, 5558), but the committee must confine itself to the instructions, if there be any (IV, 4404; V, 5526). Where the House has recommitted a bill to a committee with instructions to report it back forthwith with certain amendments, the amendments must be adopted by the House after the report by the committee (VIII, 2734).

As stated in this clause, recognition to offer the motion to recommit, whether a “straight” motion or with instructions, is the prerogative of a Member who is opposed to the bill or joint resolution (Speaker Martin, Mar. 19, 1954, p. 3967); and the Speaker looks first to the Minority Leader or his designee (as imputed by the form of former clause 4(b) of rule XI adopted in the 104th Congress (current clause 6(c) of rule XIII)), then to minority members of the committee reporting the bill, in order of their rank on the committee (Speaker Garner, Jan. 6, 1932, p. 1396; Speaker Byrns, July 2, 1935, p. 10638), then to other Members on the minority side (Speaker Rayburn, Aug. 16, 1950, p. 12608). Until a qualifying minority Member has had his motion read by the Clerk, he is not entitled to the floor so as to prevent another qualifying senior minority member from the reporting committee from seeking recognition to offer the motion to recommit (Speaker O’Neill, Apr. 24, 1979, p. 8360). If no Member of the minority qualifies, a majority Member who is opposed to the bill may be recognized (Speaker Garner, Apr. 1, 1932, p. 7327). The priority of recognition of a Member of the minority who is opposed is not diminished by the fact that the minority party may have successfully led the opposition to the previous question on the special order governing consideration of the bill and offered a “modified-closed” rule permitting only minority Members to offer perfecting amendments to the majority text (June 26, 1981, p. 14740). But while the motion to recommit is the prerogative of the minority if opposed, a Member who in the Speaker’s determination leads the opposition to the previous question on the motion to recommit, such as the chairman of the committee reporting the bill, is entitled to offer an amendment to the motion to recommit, regardless of party affiliation (June 26, 1981, pp. 14791–93). A Member who is opposed to the bill “in its present form” (*i.e.*, in the form before the House when the motion is made) qualifies to offer the motion (Speaker Martin, Apr. 15, 1948, p. 4547; Speaker McCormack, Mar. 12, 1964, p. 5147; Speaker Albert, Feb. 19, 1976, p. 3920). The Chair does not assess the degree of a Member’s opposition (Oct. 23, 1991, p. 28258). These principles of recognition have been applied to motions to “commit” or “recommit” simple or concurrent resolutions as well under former clause 1 of rule XVII (current clause 1 of rule XIX) in situations where the resolution or a similar measure has been reported from committee (Nov. 28, 1979, p. 33914).

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The motion to commit under this rule applies to resolutions of the House alone as well as to bills (V, 5572, 5573; VIII, 2742), and to a motion to amend the Journal (V, 5574). It does not apply to a report from the Committee on Rules providing a special order of business (V, 5593–5601; VIII, 2270, 2750), or to a pending amendment to a proposition in the House (V, 5573). Although a motion to commit under this clause, with instructions to report forthwith with an amendment, has been allowed after the previous question has been ordered on a motion to dispose of Senate amendments before the stage of disagreement (V, 5575; VIII, 2744, 2745), a motion to commit under this rule does not apply to a motion disposing of Senate amendments after the stage of disagreement where utilized to displace a pending preferential motion (Speaker Albert, Sept. 16, 1976, p. 30887).

The motion to commit may be made pending the demand for the previous question on the passage, whether a bill or resolution be under consideration (V, 5576); but when the demand covers all stages of the bill to the final passage the motion to commit is made only after the third reading, and is not in order pending the demand or before the engrossment or third reading (V, 5578–5581). When separate motions for the previous question are made, respectively, on the third reading and on the passage of a bill, the motion to commit should be made only after the previous question is ordered on the passage (V, 5577). When the previous question has been ordered on a simple resolution (as distinguished from a joint resolution) and a pending amendment, the motion to commit should be made after the vote on the amendment (V, 5585–5588). A motion to commit has been entertained after ordering of the previous question even before the adoption of rules at the beginning of a Congress (VIII, 2755; Jan. 5, 1981, p. 111).

It was formerly held that the opponents of a bill had no claim to prior recognition to make the motion (II, 1456), but under this clause the prior right to recognition is given to an opponent on a bill or joint resolution pending final passage. The right to move to recommit a House bill with a Senate amendment belongs to a Member who is opposed to the whole bill in preference to a Member who is merely opposed to the Senate amendment (VIII, 2772). Where the previous question has been ordered on both the pending resolution and its preamble, a Member may qualify to offer a motion to recommit on the basis of his opposition to the preamble, even though it is not otherwise subject to separate vote or amendment (Feb. 12, 1998, p. —). A Member rising in opposition to a motion to recommit must likewise qualify as opposed to the motion (Apr. 29, 1999, p. —).

An opponent has priority in recognition to offer a motion to commit a simple or concurrent resolution under this clause, and the Speaker looks first to the Minority Leader or his designee (as he would for a motion to recommit), and then to minority members on the committee of jurisdiction in order of seniority (VIII, 2764; Nov. 28, 1979, p. 33914; Procedure, ch. 23, sec. 13.1), except that recognition to offer a motion under this clause

to commit a resolution called up as a privileged matter without having been referred to committee does not depend on opposition to the resolution or on party affiliation (Speaker Albert, Feb. 19, 1976, p. 3920). When the House refused to order a bill to be engrossed and read a third time the motion to commit may not be made (V, 5602, 5603).

The motion to refer under this rule after the previous question is ordered is not debatable (V, 5582), except as provided in clause 2 of rule XIX; but may be amended, as by adding instructions, unless such amendment be precluded by moving the previous question (V, 5582–5584; VIII, 2695). Unless the previous question is ordered, an amendment (including one in the nature of a substitute) is in order on a motion to commit with instructions (VIII, 2698, 2759), but the amendment should be germane (V, 6888; VIII, 2711).

The motion to recommit may not be accompanied by preamble or otherwise include argument, explanation, or other matter in the nature of debate (V, 5589; VIII, 2749). Thus, a motion to recommit a bill to a standing committee with recommendations for producing legislation that the President could sign was held inadmissible in both form and content (Feb. 27, 1992, p. 3778). The motion may not be laid on the table after the previous question has been ordered (V, 5412–5414). Only one motion to commit is in order (V, 5577, 5582, 5585; VIII, 2763), but where a bill is recommitted under this motion the previous question being pending but not ordered on final passage and, having been reported again, is again amended and subjected to the previous question, another motion to commit is in order after the engrossment and third reading (V, 5591). And where one motion to recommit was ruled out of order, the Speaker entertained a proper motion to recommit (VIII, 2763).

When a special order declares that at a certain time the previous question shall be considered as ordered on a bill to the final passage, it has usually, but not always, been held that a motion to commit is precluded (IV, 3207–3209). Under clause 6(c) of rule XIII (former clause 4(b) of rule XI) the Committee on Rules is prohibited from reporting such special order that precludes the motion to recommit in clause 2 of rule XIX (VIII, 2260, 2262–2264; see also § 1001, *supra*). That provision was amended in the 104th Congress to further prohibit the Committee on Rules from denying the Minority Leader or his designee the right to include proper amendatory instructions in a motion to recommit (sec. 210, H. Res. 6, Jan. 4, 1995, p. 460). Where a special order providing for consideration of a matter in the House provides that the previous question shall be considered as ordered thereon without intervening motion, and does not simply state that the previous question be considered as ordered after debate, the previous question is considered as ordered from the beginning of the debate, precluding the consideration of any intervening motion (Mar. 12, 1980, pp. 5387–93).

Reconsideration

3. When a motion has been carried or lost, it shall be in order on the same or succeeding day for a Member on the prevailing side of the question to enter a motion for the reconsideration thereof. The entry of such a motion shall take precedence over all other questions except the consideration of a conference report or a motion to adjourn, and may not be withdrawn after such succeeding day without the consent of the House. Once entered, a motion may be called up for consideration by any Member. During the last six days of a session of Congress, such a motion shall be disposed of when entered.

The motion to reconsider used in the Continental Congress and in the House of Representatives from its first organization, in 1789, was first made the subject of a rule in 1802; and at various times this rule has been perfected by amendments (V, 5605). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XVIII (H. Res. 5, Jan. 6, 1999, p. —).

The motion is not used in Committee of the Whole (IV, 4716–4718; VIII, 2324, 2325), but is in order in the House as in Committee of the Whole (VIII, 2793). It is not in order in the House during the absence of a quorum when the vote proposed to be reconsidered requires a quorum (V, 5606). But on votes incident to a call of the House the motion to reconsider may be entertained and also laid on the table, although a quorum may not be present (V, 5607, 5608).

The mover of a proposition is entitled to prior recognition to move to reconsider (II, 1454). A Member may make the motion at any time without thereby abandoning a prior motion made by himself and pending (V, 5610). A Delegate or Resident Commissioner may not make the motion in the House (rule III; II, 1292; VI, 240). The provision of the rule that the motion may be made by any Member of the majority is construed, in case of a tie vote, to mean any Member of the prevailing side (V, 5615, 5616), and the same construction applies in case of a two-thirds vote (II, 1656; V, 5617, 5618; VIII, 2778–2780). Where the yeas and nays have not been ordered recorded in the Journal, any Member, irrespective of whether he voted with the majority or not, may make the motion to reconsider (V, 5611–5613, 5689; VIII,

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2775, 2785; Sept. 23, 1992, p. 27196); but a Member who was absent (V, 5619), or who was paired in favor of the majority contention and did not vote, may not make the motion (V, 5614; VIII, 2774). When proxy voting was permitted in committee, it was generally held that a member who was not present at a vote, but cast his vote by proxy, did not qualify to make the motion to reconsider thereon. Any Member may object to the Chair's statement that by unanimous consent the motion to reconsider a vote is laid on the table, and the objecting Member need not have voted on the prevailing side, but if objection is made, the Chair's statement is ineffective and only a Member who voted on the prevailing side may offer the motion to reconsider the vote (Aug. 15, 1986, p. 22139). The Chair, having voted on the prevailing side, may offer the motion to reconsider by stating the pendency of the motion (Oct. 9, 1997, p. —).

The precedence given the motion by the rule permits it to be made even after the previous question has been demanded (V, 5656) or while it is operating (V, 5657–5662; VIII, 2784). The motion to reconsider the vote on the engrossment of a bill may be admitted after the previous question has been moved on a motion to postpone (V, 5663), and a motion to reconsider the vote on the third reading may be made and acted on after a motion for the previous question on the passage has been made (V, 5656). It also takes precedence of the motion to go into Committee of the Whole to consider an appropriation bill (VIII, 2785), or even of a demand that the House return to committee after the appearance of a quorum (IV, 3087). But in a case wherein the House had passed a bill and disposed of a motion to reconsider the vote on its passage, it was held to be too late to reconsider the vote sustaining the decision of the Chair which brought the bill before the House (V, 5652), and that a motion to vacate those proceedings was not in order (Speaker O'Neill, Dec. 17, 1985, pp. 37472–74). After a conference has been agreed to and the managers for the House appointed, it is too late to move to reconsider the vote whereby the House acted on the amendments in disagreement (V, 5664). While the motion has high privilege for entry, it may not be considered while another question is before the House (V, 5673–5676; July 2, 1980, p. 18354), or while the House is dividing (VIII, 2791). A motion to reconsider a secondary motion to postpone which has previously been offered and rejected is highly privileged, even after the manager of the main proposition has yielded time to another Member and before that Member has begun his remarks (May 29, 1980, p. 12663). When it relates to a bill belonging to a particular class of business, consideration of the motion is in order only when that class of business is in order (V, 5677–5681; VIII, 2786). It may then be called up at any time; but is not the regular order until called up (V, 5682; VIII, 2785, 2786). When once entered it may remain pending indefinitely, even until a succeeding session of the same Congress (V, 5684). The motion to reconsider an action taken on a bill on Tuesday may be entered but may not be considered on Calendar

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Wednesday (VII, 905); is subject to the question of consideration (VIII, 2437), and may be laid on the table (VIII, 2652, 2659). The motion to reconsider is in order in the procedure of standing committees, and may be made on the same day on which the action is taken to which it is proposed to be applied, or on the next day thereafter on which the committee convenes with a quorum present at a properly scheduled meeting at which business of that class is in order (VIII, 2213).

A motion to reconsider may be entertained, although the bill or resolution to which it applies may have gone to the other House or the President (V, 5666–5668). However, unanimous consent is required to initiate reconsideration of a measure passed by both Houses (IV, 3466–3469). The

Senate may not reconsider the confirmation of a nomination after a commission has been issued by the President to a nominee and the latter has taken the oath and entered upon the duties of his office (*U.S. v. Smith*, 286 U.S. 6). The fact that the House had informed the Senate that it had agreed to a Senate amendment to a House bill was held not to prevent a motion to reconsider the vote on agreeing (V, 5672). When a motion is made to reconsider a vote on a bill that has gone to the Senate, a motion to recall the bill is privileged (V, 5669–5671). The motion to reconsider may be applied once only to a vote ordering the previous question (V, 5655; VIII, 2790), and may not be applied to a vote ordering the previous question that has been partially executed (V, 5653, 5654); but a vote agreeing to an order of the House has been reconsidered, although the execution of the order had begun (III, 2028; V, 5665). The vote ordering the previous question on a special order reported from the Committee on Rules may be reconsidered and is not dilatory under clause 6(b) of rule XIII (former clause 4(b) of rule XI) (Sept. 25, 1990, p. 25575).

The motion may not be applied to negative votes on motions to adjourn (V, 5620–5622), or for a recess (V, 5625), or to go into Committee of the Whole (V, 5641). The motion to reconsider may be applied however to an affirmative vote on the motion to resolve into the Committee of the Whole while the Speaker is still in the chair (V, 5368; Apr. 20, 1978, p. 10990). A motion to reconsider the vote by which the House had decided a question of parliamentary procedure was held not to be in order (VIII, 2776). Motions to reconsider negative votes on motions to fix the day to which the House shall adjourn have been the subject of conflicting rulings (V, 5623, 5624). It is in order to reconsider a vote postponing a bill to a day certain (V, 5643; May 29, 1980, p. 12663). It is not in order to reconsider a negative decision of the question of consideration (V, 5626, 5627), although it is in order to reconsider an affirmative vote on the question of consideration (Oct. 4, 1994, p. 27644). It is not in order to reconsider a negative vote on the motion to suspend the rules (V, 5645, 5646; VIII, 2781; Sept. 28, 1996, p. —), although it is in order to reconsider an affirmative vote on that motion (Sept. 28, 1996, p. —). It is not in order to reconsider a vote on reconsideration of a bill returned with the objections of the Presi-

dent (VIII, 2778). A vote whereby a second is ordered may be reconsidered (V, 5642). The motion to reconsider a vote on a proposition having been once agreed to, and the said vote having again been taken, a second motion to reconsider may not be made unless the nature of the proposition has been changed by amendment (V, 5685–5688; VIII, 2788; Sept. 20, 1979, p. 25512). After disposition of a conference report and amendments reported from conference in disagreement, it is in order on the same day to move to reconsider the vote on a motion disposing of one of the amendments; but laying on the table a motion to reconsider the vote whereby the House has amended a Senate amendment does not preclude the House from acting on a subsequent Senate amendment to that House amendment, or considering any other proper motion to dispose of an amendment that might remain in disagreement after further Senate action (Oct. 5, 1983, p. 27323). For a discussion of the application of the motion to reconsider in committees, see § 416, *supra*.

A bill is not considered passed or an amendment agreed to if a motion to reconsider is pending, the effect of the motion being to suspend the original proposition (V, 5704); and the Speaker declines to sign an enrolled bill until a pending motion to reconsider has been disposed of (V, 5705). But when the Congress expires leaving undisposed a motion to reconsider the vote whereby a simple resolution of the House has been agreed to, it is probable that the resolution would be operative; and where a bill has been enrolled, signed by the Speaker, and approved by the President, it is undoubtedly a law, even though a motion to reconsider may not have been disposed of (V, 5704, note). A Member-elect may not take the oath until a motion to reconsider the vote determining his title is disposed of (I, 335); but when, in such a case, the motion is disposed of, the right to be sworn is complete (I, 622). When the motion to reconsider is decided in the affirmative the question immediately recurs on the question reconsidered (V, 5703). When a vote whereby an amendment has been agreed to is reconsidered the amendment becomes simply a pending amendment (V, 5704). When the vote ordering the previous question is reconsidered it is in order to withdraw the motion for the previous question, the “decision” having been nullified (V, 5357). 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 (V, 5493); under the earlier practice, when a vote taken under the operation of the previous question was reconsidered, the main question stood divested of the previous question, and was debatable and amendable without reconsideration separately of the motion for the previous question (V, 5491–5492, 5700), but under the modern practice, where the House adopts a motion to reconsider a vote on a question on which the previous question has been ordered, the question to be reconsidered is neither debatable nor amendable (unless the vote on the previous question is separately reconsidered) (July 2, 1980, p. 18355). It is in order to move to reconsider the

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ordering of the yeas and nays on a question before the question has been finally decided (V, 5689–5691, 6029; VIII, 2790; Sept. 24, 1997, p. —); but where the House had voted to reconsider the vote whereby it had rejected a bill but had not separately reconsidered the ordering of a recorded vote, the Speaker put the question de novo and entertained a new demand for a recorded vote (Sept. 20, 1979, p. 25512).

The motion to reconsider is agreed to by majority vote, even when the vote reconsidered requires two-thirds for affirmative action (II, 1656; V, 5617, 5618; VIII, 2795), or when only one-fifth is required for affirmative action, as in votes ordering the yeas and nays (V, 5689–5692, 6029; VIII, 2790). But one motion to reconsider the yeas and nays having been acted on, another motion to reconsider is not in order (V, 6037).

A vote on the motion to lay on the table may be reconsidered whether the decision be in the affirmative (V, 5628, 5695, 6288; VIII, 2785) or in the negative (V, 5629). It is in order to reconsider the vote laying an appeal on the table (V, 5630), although during proceedings under a call of the House this motion was once ruled out (V, 5631).

The motion to reconsider may not be applied to the vote whereby the House has laid another motion to reconsider on the table (V, 5632–5640; June 20, 1967, p. 16497); and a motion to reconsider may be laid on the table only before the Chair has put the question on the motion to a vote (Sept. 20, 1979, p. 25512).

A motion to reconsider is debatable only if the motion proposed to be reconsidered was debatable (V, 5694–5699; VIII, 2437, 2792; Sept. 13, 1965, p. 23608); so the motion to reconsider a vote ordering the previous question is not debatable (Sept. 25, 1990, p. 25575) and the application of the previous question makes a motion to reconsider nondebatable (V, 5701; VIII, 2792; Sept. 20, 1979, p. 25512; July 2, 1980, p. 18355). Where a resolution providing for the order of business was agreed to without adoption of the previous question, the Speaker advised that a motion to reconsider would be debatable and that the Member moving the reconsideration would be recognized to control the one hour of debate (Speaker McCormack, Sept. 13, 1965, p. 23608).

4. A bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, may not be brought back to the House on a motion to reconsider.

§ 1011. Application of motion to reconsider to bills in committees.

This clause (former clause 2 of rule XVIII) was first adopted in 1860, and amended in 1872, to prevent a practice of using the privilege of the motion to reconsider to secure consideration of bills otherwise not in order

(V, 5647). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XVIII, and in recodification a provision requiring written reports was deleted as redundant of the requirement contained in clause 2 of rule XIII (H. Res. 5, Jan. 6, 1999, p. —). There is a question as to whether or not the rule applies to a case wherein the House, after considering a bill, recommits it (V, 5648–5650). After a committee has reported a bill it is too late to reconsider the vote by which it was referred (V, 5651).

RULE XX

VOTING AND QUORUM CALLS

1. (a) The House shall divide after the Speaker has put a question to a vote by voice as provided in clause 6 of rule I if the Speaker is in doubt or division is demanded. Those in favor of the question shall first rise from their seats to be counted, and then those opposed.

§ 1012. Voting viva voce, by division, by electronic device.

(b) If a Member, Delegate, or Resident Commissioner requests a recorded vote, and that request is supported by at least one-fifth of a quorum, the vote shall be taken by electronic device unless the Speaker invokes another procedure for recording votes provided in this rule. A recorded vote taken in the House under this paragraph shall be considered a vote by the yeas and nays.

This provision (former clause 5(a) of rule I) was adopted in 1789 and its present form reflects the revisions and amendments of 1860, 1880 (II, 1311), 1972 (H. Res. 1123, Oct. 13, 1972, pp. 36005–08), and 1993 (H. Res. 5, Jan. 5, 1993, p. 49). From January 22, 1971 (when H. Res. 5 of the 92d Congress was adopted incorporating provisions in the Legislative Reorganization Act of 1970, 84 Stat. 1140), until October 13, 1972, this rule provided a two-step procedure for ordering “tellers with clerks” prior to installation of the electronic voting system, and for the first time permitted Members to be recorded on votes in Committee of the Whole. The last two sentences of this paragraph permitting a single-step “recorded