

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

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

This clause was adopted in 1837 to prevent delay by debate on points of order after the demand for the previous question (V, 5448). Under the present practice, since debate on points or 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 (Speaker pro tempore Snell, 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).

RULE XVIII.

RECONSIDERATION.

1. When a motion has been made and carried or lost, it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any Member may call it up for consideration: *Provided*, That such motion, if made during the last six days of a session, shall be disposed of when made.

§ 812. The motion to reconsider.

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).

RULES OF THE HOUSE OF REPRESENTATIVES

Rule XVIII.

§ 813-§ 814

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 XII; 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, 2775, 2785; Sept. 23, 1992, p. —); 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 (Speaker pro tempore Wright, Aug. 15, 1986, p. 22139).

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, pp. 12663-64). 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 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 4(b) of rule XI (Sept. 25, 1990, p. 25575).

§ 815. Application of the motion to reconsider.

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

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, pp. 10990–91). 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. —). 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 President (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, pp. 25512–13). 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, footnote). 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 ordering of the yeas and nays on a question before the question has been finally decided (V, 5689-5691, 6029; VIII, 2790); 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, pp. 25512-13).

The motion to reconsider is agreed to by majority vote, even when the

§ 817. The vote on the motion to reconsider. 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

§ 818. Relation of the motion to reconsider to the motion to lay on the table. 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, pp. 16497-98); 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

§ 819. Debate on the motion to reconsider. 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 debat-

able (Sept. 25, 1990, p. 25575) and the application of the previous question makes a motion to reconsider undebatable (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).

2. No bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, shall be brought back into the House on a motion to reconsider; * * *

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

This clause 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). 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).

§ 821. Requirement that reports of committees be in writing and be printed.

2. * * * and all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.

This clause was adopted in 1880 (V, 5647). The House insists on observance of this rule (IV, 4655) and does not receive verbal reports as to bills (IV, 4654). But the sufficiency of a report is passed on by the House and not by the Speaker (II, 1339; IV, 4653). A report is not necessarily signed by all those concurring (II, 1274) or even by any of those concurring, but minority, supplemental and additional views are signed by those submitting them (IV, 4671; VIII, 2229; see clause 2(l)(5) of rule XI). Under this rule, the printing requirement is not a condition precedent to consideration of the matter reported (VIII, 2307-2309), but see clause 7 of rule XXI, which states that no general appropriation bill shall be considered until printed hearings and report thereon have been available for three calendar days, and clause 2(l) of rule XI, pertaining to the consideration of matters reported by committees, and clause 2 of rule XXVIII, pertaining to the requirement that conference reports and amendments reported in disagreement from conference be available before consideration.