§ 803. Dilatory motions.

10. No dilatory motion shall be entertained by the Speaker.

This clause was adopted in 1890 (V, 5706) to make permanent a principle already enunciated in a ruling of the Speaker, who had declared that the "object of a parliamentary body is action, not stoppage of action" (V, 5713).

The Speaker has declined to entertain debate or appeal on a question as to the dilatoriness of a motion, as to do so would be to nullify the rule (V, 5731); but has recognized that the authority conferred by the rule should not be exercised until the object of the dilatory motion "becomes apparent to the House" (V, 5713–5714). For example, the Chair has held that a virtually consecutive invocation of rule XXX, resulting in a second pair of votes on use of a chart and on reconsideration thereof, was not dilatory under clause 10 of rule XVI (or clause 4(b) of rule XI) (July 31, 1996, p. ——). Usually, but not always, the Speaker awaits a point of order from the floor before acting (V, 5715–5722). The rule has been applied to the motions to adjourn (V, 5721, 5731–5733; VIII, 2796, 2813), to reconsider (V, 5735; VIII, 2797, 2815, 2822), to fix the time of five-minute debate in Committee of the Whole (V, 5734; VIII, 2817), and to lay on the table (VIII, 2816); and to the question of consideration (V, 5731–5733). The point of "no quorum" has also been ruled out (V, 5724–5730; VIII, 2801, 2808), and clause 6 of rule XV, as adopted in the 93d Congress and as amended in the 95th Congress prevents the making of a point of no quorum under certain circumstances. A demand for tellers has been held dilatory (V, 5735, 5736; VIII, 2436, 2818–2821); but the constitutional right of the Member to demand the yeas and nays may not be overruled (V, 5737; VIII, 3107). (For ruling by Speaker Gillett construing dilatory motions, see VIII, 2804.) See also § 729a, *supra*, for discussion of dilatory motions pending consideration of Rules Committee report, and § 874, *infra*, for rule prohibiting offering of dilatory amendments printed in Record.

RULE XVII.

PREVIOUS QUESTION.

§ 804. The previous question.

1. There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered

upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

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).

§805. Effect of previous question on debate.

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; see clause 2 of rule XXVII); but if there has been debate, even though brief, before the ordering of the previous question, the forty minutes are not allowed (V, 5499–5501). This preliminary debate should be on the merits of the question if the forty minutes of debate are to be denied for reason of it (V, 5502). The forty 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 forty 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 forty minutes is divided, one half to those favoring and the other half to those opposing (V, 5495).

§806. Application of the previous question.

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). 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 undebatable propositions to prevent amendment (V, 5473, 5490), but may not be moved on a motion that is both undebatable and unamendable (IV, 3077). It applies to questions of privilege as to other questions (II, 1256; V, 5459, 5460; VIII, 2672).

§807. The right to move the previous question.

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 pend-

ing 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 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, 4, and 5 of rule XXVIII), 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).

§808. The motion to commit in relation to the previous question.

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, pp. 30887–88).

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 clause 4 of rule XVI 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). 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).

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 governed by clause 4 of rule XVI), 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).

The motion to refer under this rule after the previous question is ordered is not debatable (V, 5582), except as provided in clause 4 of rule XVI; 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).

It is not in order to do indirectly by a motion to commit with instructions what may not be done directly by way of amendment such as to propose an amendment that is not germane (V, 5529–5541, 5834, 5889; VIII, 2707, 2708); to propose to strike out or amend what has already been inserted by way of amendment (V, 5531; VIII, 2712, 2714, 2715, 2723); to propose an amendment in violation of clauses 2, 5, or 6 of rule XXI (V, 5533–5540); or to grant a committee leave to report at any time (V, 5543). 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).

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. ——). 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 4(b) of rule XI the Committee on Rules is prohibited from reporting such special order that precludes the motion to recommit in clause 4 of rule XVI (§729(a); VIII, 2260, 2262–2264). Clause 4(b) 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. ——). 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).

§809. Relation of the previous question to other motions.

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).

§810. Relation of previous question to failure of a quorum.

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

This clause of the rule was adopted in 1860 (V, 5447).

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

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.

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.

§812. The motion to reconsider.

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.

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).