

### § 34. Purpose and Effect; Pro Forma Motion

The most common usage of the motion to reconsider is its perfunctory disposal by a Member simultaneously entering the motion and moving to lay it on the table. One Member may move to reconsider and another may move to lay that motion on the table, or both motions may be entered by the same Member. Usually, after the Clerk has announced the result of a vote, the Speaker will declare, "Without objection, a motion to reconsider is laid on the table." This precludes subsequent motions for reconsideration.<sup>(10)</sup>

The pro forma motion is generally accepted as the method of making a decision of the House final.<sup>(11)</sup>

10. See §34.5, *infra*. In practice, one of the Members managing the bill under consideration will move that the motion to reconsider be laid on the table, thereby precluding reconsideration. Floyd M. Riddick, *Congressional Procedure*, Chapman and Grimes (Boston, 1941) p. 237.

11. The pro forma use of the motion is generally proposed by Members who agree with the decision reflected in the vote that is the subject of the motion. It is interesting to note that after Thaddeus Stevens had successfully sponsored the House resolution that President Andrew Johnson be impeached Mr. Stevens moved to re-

If the prerogative of reconsideration is to be preserved a Member must object to the pro forma motion in a timely manner and may be well advised to notify the Speaker in advance of his intention to seek genuine reconsideration.

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#### *Tabling of Motion to Reconsider*

#### § 34.1 A motion to reconsider and a motion to table that motion may be made from the floor and agreed to by unanimous consent.

On July 18, 1962,<sup>(12)</sup> the House voted to recommit the conference report on S. 167, relating to the enforcement of the antitrust laws. Mr. H. R. Gross, of Iowa, then rose to his feet.

Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:<sup>(13)</sup> The gentleman will state it.

MR. GROSS: Was the vote by which the motion to recommit carried recon-

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consider the vote by which the resolution was agreed to, and also moved to lay the motion to reconsider on the table. The later motion was agreed to, this being the parliamentary mode of making a decision final.

12. 108 CONG. REC. 13997, 87th Cong. 2d Sess.

13. John W. McCormack (Mass.).

sidered and that motion laid on the table?

THE SPEAKER: It has not been yet.

MR. GROSS: I so move, Mr. Speaker.

THE SPEAKER: Without objection the motion to reconsider will be laid on the table.

There was no objection.

**§ 34.2 Following inquiry from the floor, a motion to reconsider the vote whereby a conference report was recommitted was laid on the table.**

On the legislative day of Dec. 20, 1963,<sup>(14)</sup> the House voted to recommit Conference Report No. 1091, on House Resolution 9499 (foreign aid appropriations). Mr. Charles A. Halleck, of Indiana, rose with the following inquiry:

Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:<sup>(15)</sup> The gentleman will state the parliamentary inquiry.

Mr. Halleck: Mr. Speaker, was a motion to reconsider the vote just taken on the motion to recommit tabled?

THE SPEAKER: The Chair thanks the gentleman.

A motion to reconsider the vote by which action was taken on the motion to recommit the conference report on H.R. 9499 making appropriations for foreign aid and related agencies for other purposes, was laid on the table.

***Who May Offer***

**§ 34.3 After a recapitulation confirmed that a proposition**

14. 109 Cong. Rec. 25423, 88th Cong. 1st Sess., Dec. 21, 1963 (Calendar Day).

15. John W. McCormack (Mass.).

**had been passed by a single vote, the Speaker, by unanimous consent, laid a motion to reconsider that vote on the table, despite a later objection from a Member who had voted on the losing side and who had sought the recapitulation.**

On Aug. 12, 1941,<sup>(16)</sup> the House approved by one vote House Joint Resolution 222, to amend the Selective Service Act of 1940. Mr. Dewey Short, of Missouri, who had voted against the bill, first sought and obtained a recapitulation, and then attempted to have the vote reconsidered.

THE SPEAKER:<sup>(17)</sup> . . . [T]he vote stands and the bill is passed and without objection a motion to reconsider is laid on the table. . . .

MR. SHORT: Mr. Speaker, I was on my feet.

THE SPEAKER: The Chair announced the vote before the recapitulation. There were no changes whatsoever and the Chair announced that the vote stood and the bill was passed, and without objection a motion to reconsider was laid on the table, and there was no objection.

MR. SHORT: Mr. Speaker, I object, and I demand recognition. I wanted to move to recapitulate the vote by which the bill was passed.

THE SPEAKER: That has already been done.

16. 87 CONG. REC. 7075, 77th Cong. 1st Sess.

17. Sam Rayburn (Tex.).

MR. SHORT: I mean to reconsider the vote by which the bill was passed.

THE SPEAKER: The vote has been recapitulated.

MR. SHORT: I meant to reconsider the vote by which the bill was passed.

Mr. [Earl C.] Michener (of Michigan): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MICHENER: Mr. Speaker, there is no use getting excited about this.

THE SPEAKER: The Chair trusts the gentleman from Michigan does not think the Chair is excited.

MR. MICHENER: The only thing that would make me think it was the speed with which the Speaker passed the bill and refused to recognize the gentleman from Missouri (Mr. Short), who was on the floor.

THE SPEAKER: The gentleman did not state for what purpose. Mr. Short: Mr. Speaker, I did not have time. I wanted to move to reconsider the vote by which the bill was passed.

THE SPEAKER: The gentleman, in the first place, is not eligible to make that motion.<sup>(18)</sup>

Effect of Objection to Request to Table

**§ 34.4 Where objection was raised to the pro forma unanimous-consent request stated by the Speaker that a motion to reconsider be tabled, the Chair announced that the objection was heard and then, since no Member sought rec-**

18. For eligibility requirements to offer the motion to reconsider, see §35, *infra*.

**ognition to make a motion relating to the pending bill, recognized another Member to call up the next item of scheduled business.**

On Oct. 9, 1969,<sup>(19)</sup> after the House agreed to a conference on H.R. 11612 (Department of Agriculture appropriations for 1970) Mr. Silvio O. Conte, of Massachusetts, offered a motion to instruct the House conferees to insist on a certain provision therein. The following then occurred:

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Whitten moves to lay on the table the motion offered by the gentleman from Massachusetts (Mr. Conte).

THE SPEAKER:<sup>(20)</sup> The question is on the preferential motion offered by the gentleman from Mississippi (Mr. Whitten). . . .

The question was taken; and there were—yeas 181, nays 177, not voting 73. . . .

So the preferential motion was agreed to. . . .

THE SPEAKER: The Chair appoints the following conferees: Messrs. Whitten, Natcher, Hull, Shipley, Evans of Colorado, Mahon, Langen, Michel, Edwards of Alabama, and Bow.

Without objection, a motion to reconsider is laid on the table.

19. 115 CONG. REC. 29315, 29316, 91st Cong. 1st Sess.

20. John W. McCormack (Mass.).

MR. ASHBROOK: Mr. Speaker, I object.

THE SPEAKER: Objection is heard.

THE SPEAKER then recognized another Member to call up a special rule for the consideration of a bill seeking to limit the number of hours of work permitted for railroad employees. The motion to reconsider was not entered or called up on the next legislative day, so the matter became moot.

***Tabling of Motion to Reconsider as Affecting Second Motion to Reconsider***

**§ 34.5 The tabling of a motion to reconsider by the Speaker has precluded a Member from subsequently offering a motion to reconsider the same question.**

On June 20, 1967,<sup>(21)</sup> the House voted approval of H.R. 10480, a bill prohibiting desecration of the flag. After announcement of the result of the vote, a motion to reconsider was laid on the table by unanimous consent.

Subsequently, Mr. Theodore R. Kupferman, of New York, sought to have the vote reconsidered, but the Speaker ruled that motion out of order.

THE SPEAKER:<sup>(1)</sup> The question is on the passage of the bill.

21. 113 Cong. Rec. 16497, 16498, 90th Cong. 1st Sess.

1. John W. McCormack (Mass.).

Mr. [ROBERT] MCCLORY [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 387, nays 16, not voting 30. . . .

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MR. KUPFERMAN: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from New York will state his parliamentary inquiry.

MR. KUPFERMAN: Mr. Speaker, I voted for this bill believing that the word “knowingly” had been included at line 8 on page 1. It was adopted in committee on the amendment proposed by the gentleman from Pennsylvania [Mr. Biester]. I am now told informally—and that is the basis for my parliamentary inquiry—that the provision is not included in the bill we voted for because of the adoption in the committee, also, of the amendment of the gentleman from New Hampshire [Mr. Wyman], which was later defeated in the House itself. So my parliamentary inquiry is, Mr. Speaker, is the word “knowingly” included on line 8, page 1, of the bill that has just been adopted by the House?

THE SPEAKER: In reply to the parliamentary inquiry, the Chair will state that the word “knowingly” is not included.

MR. KUPFERMAN: Then I make a point of order, Mr. Speaker.

THE SPEAKER: As the Chair understands the situation, the gentleman from California [Mr. Corman], in the

Committee of the Whole offered an amendment to strike out the last two lines on page 1 and the first two lines on page 2 and insert new language. The gentleman from Pennsylvania [Mr. Biester] then offered a substitute for the Corman amendment. The substitute, which proposed to insert the word "knowingly" after the word "whoever" in the first line of the section, was agreed to; and the Corman amendment, as amended, was then agreed to.

Subsequently, the gentleman from New Hampshire [Mr. Wyman] offered an amendment to strike out the last two lines on page 1 and the first line on page 2 and insert new language. This amendment was adopted in the Committee of the Whole and was then reported to the House. The only amendment to this part of the bill reported to the House by the Committee of the Whole was the so-called Wyman amendment.

The House, on a separate vote, then rejected the Wyman amendment. The net result was that the language of the original bill was then before the House. The language of the original bill was thus what the House passed.

MR. KUPFERMAN: Even though, Mr. Speaker, we had adopted the word "knowingly" as proposed by the gentleman from Pennsylvania [Mr. Biester].

In other words, Mr. Speaker, I must make a point of order because I believe—and I know that a great many other Members of the House believe—that they voted for this bill on the basis that the word "knowingly" was included. My vote might very well have been otherwise had it not been included, and I must make the point of

order that the vote was taken on a false premise.

THE SPEAKER: The Chair will state that there is no point of order involved. The Chair has undertaken to answer a parliamentary inquiry proposed by the gentleman from New York. As a result of the various motions and the actions of the Committee of the Whole or, rather, the action of the House, the original language of the bill has been restored and the original language of the bill is the language that finally passed the House.

MR. [BYRON G.] ROGERS of Colorado: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman from Colorado will state his parliamentary inquiry.

MR. ROGERS of Colorado: Mr. Speaker, that also includes the word "burning" which was a committee amendment; is that correct?

THE SPEAKER: The Chair will state to the gentleman from Colorado that the two words "knowingly" and "burning" were eliminated by the action of the House.

MR. ROGERS of Colorado: I thank the distinguished Speaker.

KUPFERMAN: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman from New York will state his parliamentary inquiry.

MR. KUPFERMAN: Mr. Speaker, may I ask is it in order for reconsideration of the vote on the ground that there was a misconception at the time of the vote?

THE SPEAKER: The Chair will reply to the gentleman from New York that a motion to reconsider was laid on the

table and that a motion to reconsider at this point is not in order.

### § 35. Who May Offer; Calling Up

#### *Members Voting With the Majority*

#### § 35.1 A motion to reconsider a vote may be made by a Member voting with the majority on that vote.

On May 5, 1943,<sup>(2)</sup> Mr. Robert Ramspeck, of Georgia, called up for consideration a previously entered motion to reconsider the vote whereby a conference report had been rejected. A parliamentary inquiry was raised and entertained by Speaker Sam Rayburn, of Texas.

MR. RAMSPECK: Mr. Speaker, pursuant to rule 18, I call up for consideration the motion to reconsider the vote whereby the conference report on the bill (H.R. 1860) to provide for the payment of overtime compensation to Government employees, and for other purposes, was rejected.

MR. [JOHN] TABER [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. TABER: Was the motion to reconsider made by one of those who was in the majority upon that question?

THE SPEAKER: It was. It was made by the gentleman from Texas [Mr. Worley].<sup>(3)</sup>

2. 89 CONG. REC. 4001, 78th Cong. 1st Sess.

3. See also 87 CONG. REC. 7074, 7075, 77th Cong. 1st Sess., Aug. 12, 1941.

#### *Reconsideration of Tie Vote*

#### § 35.2 Since a tie vote defeats a question, a Senator who voted in the affirmative is not on the prevailing side and is precluded from moving to reconsider the question.

On Feb. 4, 1964,<sup>(4)</sup> Senator Thomas H. Kuchel, of California, moved to reconsider the tie vote whereby the Senate rejected an amendment to H.R. 8363, the Revenue Act of 1964. With Senator George McGovern, of South Dakota, presiding, the following occurred:

MR. KUCHEL: Mr. President, I move that the Senate reconsider the vote by which the last amendment was defeated. I ask for the yeas and nays on the motion. . . .

MR. [ELMER J.] HOLLAND [of Pennsylvania]: A point of order.

THE PRESIDING OFFICER: The Senator will state his point of order.

MR. HOLLAND: Is the Senator from California in position to make his motion?

MR. [RUSSEL B.] LONG of Louisiana: How did the Senator from California vote?

MR. KUCHEL: I make my motion. I voted in the affirmative.

MR. LONG of Louisiana: The Senator is not in a position to make his motion.

MR. KUCHEL. I renew my motion.

4. 110 CONG. REC. 1854, 88th Cong. 2d Sess.