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Chapter 41
Question of Consideration

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5 Hinds §§ 4936–4977
8 Cannon §§ 2436–2447
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§ 1. In General

Generally; Purpose and Effect

Rule XVI clause 3 provides that when any motion or proposition is entertained, a Member may demand the question ''[w]ill the House now consider it?'' *Manual* § 906. This rule, which was adopted in its present form in 1880, permits the House by simple majority vote to refuse to consider business it may not want to consider on that day. 5 Hinds § 4936; 8 Cannon § 2447. The rule provides that the question is not to be put unless demanded. *Manual* § 906.

Any Member, Delegate, or the Resident Commissioner may demand the question of consideration, even against matters of the highest privilege and even though the Member in charge claims the floor for debate or to move the previous question. 5 Hinds §§ 4936, 4941, 4944, 4945, 5478; 6 Cannon § 404. The question of consideration is not debatable because such debate would defeat the purpose of the rule. 8 Cannon § 2447. If the House votes against consideration, it has the effect of preventing all debate on the pending measure at that time. The form for raising the question of consideration is as follows:

> MEMBER: Mr. Speaker, I raise the question of consideration.
> SPEAKER: The gentleman raises the question of consideration. The question is: Will the House now consider it [the motion or proposition]?

Where a report from the Committee on Rules is called up on the same legislative day on which reported, the Chair puts the question without de-

mand pursuant to rule XIII clause 6(a)(1). *Manual* § 857; see SPECIAL ORDERS OF BUSINESS.

When in Order

The question of consideration is not in order after debate has begun and does not lie until the initial reading has been concluded. 5 Hinds §§ 4937–4939; 6 Cannon § 541; 8 Cannon § 2436. It may not be raised after the previous question has been ordered. 5 Hinds §§ 4965, 4966.

Voting on the Question

A negative vote on the question of consideration does not amount to a rejection of the proposition and does not prevent the measure from being brought before the House again. 5 Hinds § 4940. By the same token, an affirmative vote does not prevent the question of consideration from being raised on a subsequent day when the bill is again called up as unfinished business. 8 Cannon §§ 2438, 2447. If the question of consideration is raised but not voted on at adjournment it does not recur as unfinished business on the succeeding day. 5 Hinds §§ 4947, 4948.

It is in order to reconsider an affirmative vote on the question of consideration. Deschler-Brown Ch 29 § 5. However, it is not in order to reconsider a negative vote on the question of consideration. 5 Hinds §§ 5626, 5627.

As Related to Points of Order

A point of order against the eligibility for consideration of a bill, which if sustained might prevent consideration, should be made and decided before the question of consideration is put. *Manual* § 909. However, if the point of order relates merely to the manner of considering the bill, the point of order should be passed on after the House has decided the question of consideration. 5 Hinds § 4950. Points of order against a conference report are raised after the question of consideration has been decided in the affirmative. *Manual* § 909.

A point of order against consideration of a bill for failure of a proper quorum in committee to report was permitted despite unanimous consent of the House to immediately consider the bill because the unanimous-consent request was not accompanied by a waiver of points of order. Deschler Ch 20 § 17.13.

Other Methods of Preventing Consideration

Immediate consideration of a measure can be avoided by use of the motions to postpone or to refer. *Manual* §§ 915, 916. Successful application of

the motion to lay the proposition on the table constitutes a final adverse disposition of the matter before the House. See LAY ON THE TABLE.

§ 2. Propositions Subject to the Question

The question of consideration has been applied to bills, resolutions, motions, and reports. It may be demanded against matters of highest privilege. *Manual* § 908; 5 Hinds § 4941. The question may be demanded:

- Against a committee report relating to the seating of a Member. 5 Hinds § 4941.
- Against a resolution raising a question of the privileges of the House. 6 Cannon § 560.
- Against a bill that has been made in order on a particular day by a special order. 4 Hinds § 3175; 5 Hinds §§ 4953–4957.
- Against a bill on the Union Calendar on Calendar Wednesday before resolving into the Committee of the Whole. 8 Cannon § 2445.
- Against the motion to reconsider. 8 Cannon § 2437.
- Against a conference report. 8 Cannon § 2439; Deschler-Brown Ch 29 § 5.12.
- Against a resolution to elect a Member to a standing committee. 104–1, July 10, 1995, p 18253.

§ 3. Propositions Not Subject to the Question

The question of consideration lies only against an individual proposition and may not be raised against a class of business, such as District of Columbia business generally. 4 Hinds §§ 3308, 3309; 5 Hinds § 4598.

Some legislative propositions are considered under special rules that provide for the ''immediate consideration'' of the proposition. Under that procedure the House decides the question of consideration by voting on the special rule itself, and the question of consideration cannot be raised against the ultimate proposition. 5 Hinds §§ 4960–4963; 8 Cannon §§ 2440, 2441. The question of consideration is likewise inapplicable to a motion to resolve into the Committee of the Whole because the House expresses its will concerning consideration by voting on the motion. *Manual* § 908; Deschler-Brown Ch 29 § 5.6. Under modern practice, special rules authorize the Speaker to declare the House resolved into Committee of the Whole without motion, thereby precluding the question of consideration or any vote of the House. Rule XVIII clause 2(b); *Manual* § 972.

Other propositions held not subject to the question of consideration include:

- A bill returned with the President's veto. 5 Hinds §§ 4969, 4970.
- A motion relating to the order of business. 5 Hinds §§ 4971–4976; 8 Cannon § 2442.
- A motion to discharge committees. 5 Hinds § 4977.
- Propositions before the House merely for reference. 5 Hinds § 4964.
- A motion under rule XIV clause 2(d) to take from the Speaker's table a Senate bill substantially the same as a House bill already favorably reported and on the House Calendar. 8 Cannon § 2443.
- Reports from the Committee on Rules relating to the rules or order of business. Rule XIII clause 6; *Manual* § 858; 5 Hinds §§ 4961–4963.

§ 4. Application to Points of Order Against Unfunded Mandates

Sections 423–426 of the Congressional Budget Act establish committee report requirements and points of order against consideration. *Manual* § 1127; see also UNFUNDED MANDATES.

Section 425(a)(2) establishes a point of order against consideration of any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal intergovernmental mandates by an amount that exceeds the $50 million threshold in section 424(a)(1) unless it also provides spending authority or authorizes sufficient appropriations to cover the costs. Section 426(a) of the Act establishes a point of order against consideration of any rule or order that waives the application of section 425. Points of order under sections 425 and 426(a) of the Budget Act are disposed of not by a ruling of the Chair but by the Chair stating the question of consideration. Section 426(b)(2) establishes as a threshold premise for cognizability of a point of order under section 425 or 426(a) the specification of precise legislative language that is alleged to constitute a Federal mandate.

Form

THE SPEAKER: The gentleman from _____ makes a point of order that the resolution (H. Res. ____) violates section 426(a) of the Congressional Budget Act of 1974 by waiving all points of order (therefore necessarily including the application of section 425 of that Act) during the consideration of H.R. ____. In accordance with section 426(b)(2) of the Act, the gentleman has met his threshold burden to identify the language of the resolution that has that effect. Under section 426(b)(4) of the Act, the gentleman from _____ and a Member opposed will each control 10 minutes of debate. Pursuant to section 426(b)(3) of the Act, after debate the Chair will put the question of consideration, to wit: ''Will the House now consider the resolution?''