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Chapter 47
Reconsideration

§ 1. Generally; Use of Motion
§ 2. Pro Forma Motions Distinguished
§ 3. Effect of Motion
§ 4. Who May Offer Motion
§ 5. When Motion Is In Order
§ 6. Use in Standing Committees
§ 7. Forms
§ 8. Precedence and Privilege of Motion
§ 9. Quorum Requirements
§ 10. Debate and Voting; Withdrawal
§ 11. Application to Particular Propositions
§ 12. — Other Motions and Requests
§ 13. — Bills and Resolutions; Amendments
§ 14. — Amendments Between the Houses; Conference Reports
§ 15. — Measures Sent to the Senate or the President

Research References
5 Hinds §§ 5605–5705
8 Cannon §§ 2774–2795
Deschler Ch 23 §§ 33–41
Manual §§ 1003–1011

§ 1. Generally; Use of Motion

In General

By long tradition, the vote of the House on a proposition usually is not final and conclusive until there has been an opportunity to reconsider it. A proposition is not regarded as passed until a motion to reconsider it is disposed of or precluded. The motion to reconsider under rule XIX clause 3 is the procedural device that permits the House to review its action on a given proposal. Its purpose is to allow the House to reflect on the wisdom of its action on the proposition. Deschler Ch 23 § 33.

Historical Background

Although not mentioned in the first rules of the House, adopted in 1789, the motion to reconsider was at that time well known in parliamentary

practice. 5 Hinds § 5605. The motion was used in the Continental Congress and in the House from its first organization. It was made the subject of a rule of the House in 1802. *Manual* § 1003. In 1811, the rule was modified by limiting the time during which the motion might be offered to ''the same or succeeding day'' as the vote to be reconsidered. The rule was further revised in 1880, but has existed in the rules since then with only minor changes. 5 Hinds § 5605.

Use in Committee of the Whole

The motion to reconsider is in order in the House and in the House as in the Committee of the Whole but not in the Committee of the Whole. 4 Hinds §§ 4716–4718; 8 Cannon §§ 2324, 2325, 2793; Deschler Ch 23 §§ 33, 39.10. Indeed, a request to reconsider a vote is not in order in the Committee even by unanimous consent. Deschler Ch 23 § 39.12. However, on occasion, in lieu of a motion to reconsider, the Chairman has allowed a unanimous-consent request to vacate the proceedings whereby an amendment had been adopted. Deschler Ch 23 § 39.13.

Entering and Calling Up Distinguished

A distinction should be made at the outset between *entering* the motion and offering or calling up the motion. Entering the motion and offering the motion can be separate events. 8 Cannon § 2785. One Member may enter the motion, and another Member may call up the motion. § 4, infra. In the modern practice, the motion is rarely entered but rather is considered as pending when offered. The motion must be offered within the two-day period allowed by the rule, but a motion merely entered during that time may remain pending indefinitely. §§ 5, 8, infra.

§ 2. Pro Forma Motions Distinguished

Normally, the Speaker declares, after the announcement of a vote, ''without objection, a motion to reconsider is laid on the table.'' Deschler Ch 23 § 34. The effect of this declaration is to preclude a subsequent motion to reconsider, and it is the accepted parliamentary mode of making the vote in question final. Deschler Ch 23 § 34.5. Thereafter, the proposition may be taken up again only by special rule, unanimous consent, or suspension of the rules. 5 Hinds § 5640; see also Deschler Ch 23 § 38.5. A Member who is opposed to the tabling of the motion to reconsider must object to the Speaker's declaration in a timely manner and is well advised to notify the Speaker in advance of his intention to seek genuine reconsideration. Deschler Ch 23 § 34. If such objection is made, one Member may move to reconsider and another Member may immediately move to table that motion. 5

Hinds § 5637. Disposition of the motion to reconsider is permitted while the previous question is operating. 8 Cannon § 2784.

§ 3. Effect of Motion

Effect When Motion Is Entered

After the House has voted on a proposition and a motion to reconsider it is entered, the effect is to suspend the proposition. *Manual* § 1007; 5 Hinds § 5704; Deschler Ch 23 § 33. The motion is thereafter considered as pending and, if not acted on, will remain pending, even in succeeding sessions of the same Congress. 5 Hinds § 5684. However, when a Congress expires without the House having acted on the motion, the motion fails, and the original proposition stands or falls according to the original vote. 5 Hinds § 5704 (footnote).

A motion to reconsider a bill having been entered, the Speaker will normally decline to sign its enrollment until the motion is disposed of. 5 Hinds § 5705. However, where a bill has been signed by the Speaker and the Vice President and has received the approval of the President, it cannot be impeached on the ground that a motion to reconsider it is still pending. 5 Hinds § 5705 (note).

Effect of Agreement to Motion

When a motion to reconsider is adopted, the question immediately recurs on the proposition to be reconsidered. 5 Hinds § 5703; Deschler Ch 23 § 33. Thus, when the House agrees to a motion to reconsider a vote on an amendment, the amendment is again pending and the Chair may put it to a vote *de novo*. 5 Hinds § 5704. Likewise, when the House agrees to reconsider a vote ordering the yeas and nays (by majority vote), the question immediately recurs on ordering the yeas and nays (by one-fifth of those present). *Manual* § 1007; 5 Hinds §§ 5689–5691. However, if the proposition originally voted on was a motion for the previous question, that motion may be withdrawn after the House has voted to reconsider it, on the theory that the action of the House has effectively ''nullified'' the vote on the previous question. 5 Hinds § 5357. For further discussion of the effect of the motion to reconsider, see *Manual* § 1007.

As Precluding Repetition of Motion

When a motion to reconsider has been offered and acted upon, a second motion to reconsider is not ordinarily in order. Deschler Ch 23 § 39.16. Otherwise, it is reasoned, motions to reconsider could be offered interminably. Thus, a vote ordering the previous question may be reconsidered only once. *Manual* § 1006; 5 Hinds § 5655. One motion to reconsider the yeas and nays

having been acted on, another motion to reconsider is not in order. 5 Hinds § 6037. Similarly, the motion to reconsider a vote on a proposition having been adopted, and that vote having again been taken, a second motion to reconsider may not be offered unless the nature of the proposition has been changed by amendment. *Manual* § 1006; 5 Hinds §§ 5685–5688; 8 Cannon § 2788; Deschler Ch 23 § 33. The general rule that precludes the repetition of the motion is applied even where the House rejects the first motion by laying it on the table. 5 Hinds § 5632; Deschler Ch 23 § 39.15. However, the tabling of 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 the same proposition or considering any other proper motion to dispose of an amendment that might remain in disagreement after further Senate action. *Manual* § 1006.

§ 4. Who May Offer Motion

Rule XIX clause 3 requires the Member entering the motion to be ''on the prevailing side'' but permits the motion to be called up by ''any Member.'' *Manual* §§ 1003, 1004. Under this rule, the *entering* of the motion and the *offering* of the motion are regarded as separate events. 8 Cannon § 2785. However, under the modern practice the motion rarely is ''entered'' but is considered pending when offered. Thus, the Member offering a motion not previously entered must qualify as being on the prevailing side of the issue to be reconsidered. *Manual* § 1004; 2 Hinds § 1454. Those voting with the losing side do not qualify. *Manual* § 1004.

With respect to pro forma motions to reconsider (see § 2, supra), any Member may object to the Chair's statement that ''without objection'' a motion to reconsider a vote just taken be laid on the table and need not have voted on the prevailing side to make such an objection. However, if objection is made, only a Member who voted on the prevailing side on a record vote may offer the motion to reconsider the vote. *Manual* § 1004.

Likewise ineligible to move the reconsideration of a record vote are Members who were absent at the time of the vote (5 Hinds § 5619), who failed to vote (8 Cannon § 2774), or who were paired on the vote with another Member (5 Hinds § 5614).

In the case of a tie vote (a tie vote resulting in the defeat of the proposition), a Member voting in the negative qualifies as voting on the prevailing side. 5 Hinds § 5616. In the case of a proposition that did not receive a requisite two-thirds vote for approval, a Member voting in the negative qualifies. 5 Hinds §§ 5617, 5618.

When a vote is not recorded, any Member, regardless of how he voted, may enter the motion. *Manual* § 1002b; 8 Cannon § 2775; Deschler Ch 23 § 33. Any point of order relating to the eligibility of the Member to offer the motion should be raised before the ordering of the vote on the motion. Deschler Ch 23 § 35.4. The Chair, having voted on the prevailing side, may offer the motion to reconsider by stating the pendency of the motion. A Delegate or the Resident Commissioner may not offer the motion to reconsider. *Manual* § 1004.

§ 5. When Motion Is In Order

During the Continental Congress, there was no time limit on when the motion to reconsider could be offered, and the Congress often reconsidered matters passed on a preceding day or even several days or months before. 5 Hinds § 5605. Today rule XIX clause 3 provides that the motion is in order ''on the same or succeeding day'' as that vote; and, once entered, may be called up by any Member. This means that the motion to reconsider may be offered or entered at any time during the day on which the vote sought to be reconsidered is taken (5 Hinds § 5674) or on the next legislative day after the question to be reconsidered was voted on (Deschler Ch 23 § 35.5). The entry of the motion during the two days prescribed by the rule is in order, even after the previous question is ordered or when a question of the highest privilege is pending. 5 Hinds § 5673; 8 Cannon § 2785.

Once the motion has been entered within the two-day period, it remains pending indefinitely, even into a succeeding session of the same Congress. 5 Hinds § 5684; 8 Cannon § 2787. When a motion to reconsider relates to a bill belonging to a particular class of business, the consideration of the motion is in order only when that class of business is again in order. 5 Hinds § 5677; 8 Cannon §§ 2785, 2786. For example, a motion to reconsider the vote on a bill on the Private Calendar properly entered may be taken up for consideration only on a Private Calendar day. 8 Cannon § 2786.

In accordance with the general rule that the motion to reconsider is in order at any time during the two days prescribed by the rule, the motion has been held in order:

- After a demand for the previous question on a related matter (5 Hinds § 5656) or while the previous question is operating (5 Hinds §§ 5657–5672).
- Pending a motion to go into the Committee of the Whole. 8 Cannon § 2785.
- At a time set apart for other business if the matter sought to be reconsidered is entertained during such time by unanimous consent. 5 Hinds § 5683.

- After a bill to be reconsidered has gone to the Senate. 5 Hinds §§ 5666, 5667.
- After the Senate has been informed of agreement by the House to a Senate amendment. 5 Hinds § 5672.
- After a bill has gone to the President. 5 Hinds § 5668.

However, an entered motion is not in order:

- While another Member has the floor or while another question is pending before the House. 5 Hinds § 5673; 8 Cannon § 2785.
- While the House is dividing on a motion. 8 Cannon § 2791.
- In Committee of the Whole. § 1, supra.

See also §§ 8, 12, infra.

§ 6. Use in Standing Committees

The motion to reconsider is in order in the procedure of standing committees; and in the absence of a committee rule governing the motion, the committee will be governed by the analogous House rule. 8 Cannon § 2213. Thus, the motion to reconsider may be entered in a committee on the same day as the vote to be reconsidered, or on the next day the committee convenes with a quorum present at which business of that class is in order. *Manual* §§ 416, 1005; Deschler Ch 23 § 33. Sometimes the motion must be applied to a series of propositions seriatim to achieve a desired result. In a committee, reconsideration of an amendment may require that the motion to report first be reconsidered, and then the ordering of the previous question on the measure, before a motion can be offered to reconsider the amendment. *Cf.* 8 Cannon § 2789.

A motion to reconsider is sometimes used in a committee, when it has obtained a quorum, to order reports on bills approved earlier in the day in the absence of a quorum. Deschler Ch 23 § 39.1.

§ 7. Forms

Following are the forms for entering the motion to reconsider, for subsequently calling it up and bringing it to a vote, and for offering the so-called pro forma motion.

Entering the Motion

MEMBER: I enter a motion to reconsider the vote by which the bill H.R. ____ was passed [*or rejected*].

Offering the Motion

MEMBER: I move to reconsider the vote by which the bill H.R. ____ was passed [*or rejected*].

SPEAKER: The gentleman moves to reconsider the vote on H.R. ____. As many as are in favor of the motion say ''aye.''

Pro Forma Motion—By the Speaker

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

> *Note:* Any Member may object to the Chair's statement that ''without objection'' a motion to reconsider a vote just taken be laid on the table (the Member need not be on the prevailing side). However, if objection is heard, only a qualified Member may call for reconsideration of the vote, and another Member may move to lay that motion to reconsider on the table. *Manual* § 1004.

§ 8. Precedence and Privilege of Motion

Under rule XIX clause 3, when no other question is pending, the motion to reconsider takes precedence of all other questions except the consideration of a conference report or a motion to adjourn. *Manual* §§ 1003, 1005; 8 Cannon § 2787. For example, the motion to reconsider takes precedence of a motion to go into the Committee of the Whole. 8 Cannon § 2785. However, the motion is subject to the question of consideration (8 Cannon § 2437) and the motion to lay on the table (8 Cannon § 2652), unless the Chair has put the question on the motion to reconsider (*Manual* § 1009). The precedence given the motion by the rule permits it to be offered, even after the previous question has been moved or while it is operating. 5 Hinds §§ 5656–5662; 8 Cannon § 2784. A motion to reconsider a secondary motion (such as a motion to postpone) that was rejected is highly privileged and may be entertained by the Chair even after the manager of the main proposition has yielded time to another Member and before that Member has begun his remarks. 96–2, May 29, 1980, p 12663.

§ 9. Quorum Requirements

In general, the motion to reconsider cannot be agreed to in the House in the absence of a quorum when the vote to be reconsidered requires a quorum. 5 Hinds § 5606; Deschler Ch 23 § 33. A quorum is not necessary on a motion to reconsider the vote whereby the yeas and nays were ordered because the yeas and nays may be ordered by one-fifth of the Members present. 5 Hinds § 5693.

§ 10. Debate and Voting; Withdrawal

Debate

The motion to reconsider is debatable for one hour. Deschler Ch 23 § 41.1. Debate is under the control of the Member offering the motion if the proposition proposed to be reconsidered was debatable. 5 Hinds § 5696; 8 Cannon § 2792. If the proposition proposed to be reconsidered was not debatable, then the motion calling for reconsideration is itself not debatable. 5 Hinds §§ 5694, 5695, 5698; Deschler Ch 23 § 33. Thus, the motion to reconsider a vote ordering the previous question is not debatable. *Manual* § 1010.

An earlier view was that a motion to reconsider a vote may be debatable even if the previous question was operating at the time of such vote, on the theory that the vote of the House ''exhausted the previous question so as to open up the motion to debate.'' 5 Hinds § 5494. However, the current view is that, if the proposition to be reconsidered was voted on under the operation of the previous question, the motion to reconsider is not debatable because a primary function of the previous question is to terminate debate. *Manual* § 1010; 5 Hinds §§ 5656, 5701; Deschler Ch 23 § 38.7; Deschler-Brown Ch 29 § 6.49 (note). If the motion is agreed to, and if that proposition is again taken up, it is voted on without debate unless the ordering of the previous question itself is reconsidered. Deschler-Brown Ch 29 § 6.49.

Voting

A simple majority vote is sufficient to adopt a motion to reconsider, even when the vote reconsidered requires two-thirds for affirmative action. *Manual* § 1008; 5 Hinds §§ 5617, 5618; 8 Cannon § 2795. A majority vote also is required to reconsider a vote ordering the yeas and nays, although one-fifth is sufficient to order the yeas and nays. 5 Hinds §§ 5689–5692; 8 Cannon § 2790. If the House votes to reconsider, the yeas and nays may be ordered again by one-fifth. 5 Hinds § 5689.

Withdrawal of Motion

The motion to reconsider having been entered within the time specified by the rules—that is, on the same or succeeding day as the vote on the proposition to be reconsidered—it may not be withdrawn without the consent of the House thereafter. *Manual* § 1003.

§ 11. Application to Particular Propositions

Generally

Rule XIX clause 3 applies whenever ''a motion has been carried or lost. . . .'' *Manual* § 1003. The term ''motion'' in this rule has been construed so as to permit reconsideration of a wide variety of propositions. See §§ 12–14, infra. The motion is applicable whether the passage of the proposition required a simple majority or a two-thirds vote. 8 Cannon § 2778. However, the motion is not in order when dilatory and manifestly for the purpose of delay. 5 Hinds §§ 5731–5733, 5735, 5739; 8 Cannon §§ 2797, 2815, 2822.

House Orders

The motion to reconsider applies to the vote on a House order, although the execution of that order has begun. 3 Hinds § 2028; 5 Hinds § 5665. The motion may be applied to a vote ordering the yeas and nays (5 Hinds §§ 5689–5691; 6029; 8 Cannon § 2790) or to a vote refusing the yeas and nays (5 Hinds § 5692) or to the vote by which the House refuses to order a third reading of a bill (8 Cannon § 2777). The motion to reconsider also may be used to reopen the proceedings whereby the House has voted to expunge certain matter from the *Congressional Record*. Deschler Ch 23 § 39.7.

The motion may not be applied to the vote by which the House has decided a question of parliamentary procedure submitted by the Speaker for the decision of the House. *Manual* § 1006; 8 Cannon § 2776; Deschler Ch 23 § 33. However, the motion may be applied to a vote laying an appeal on the table. Compare 5 Hinds § 5630 with 5 Hinds § 5631.

Referrals

Under rule XIX clause 4, measures referred to a committee may not be brought back into the House on a motion to reconsider. *Manual* § 1011. This rule, which was adopted in its present form in 1880, was intended to prevent a Member from bringing back into the House, on a motion to reconsider, any matter that he had obtained unanimous consent to introduce or submit for reference. 5 Hinds § 5647. The rule was intended to apply to the initial formal reference to a committee and not to a motion to recommit. Deschler Ch 23 § 39.6. However, it is too late to reconsider a vote by which a measure was recommitted to committee after the committee report has been made. 5 Hinds § 5651.

In Relation to Previous Question

The motion to reconsider may be applied only once to a vote ordering the previous question. 5 Hinds § 5655; 8 Cannon § 2790. It may not be ap-

plied to a vote ordering the previous question that has been partially executed. For example, if the previous question has been ordered on a bill and an amendment thereto, and the amendment has been disposed of, the vote upon which the previous question was ordered is not subject to reconsideration. 5 Hinds §§ 5653, 5654. Furthermore, if the special order governing consideration of a measure orders the previous question on the measure, and on any amendment thereto, to final adoption or passage without intervening motion except one motion to recommit (which is the modern practice), the vote upon which an amendment was disposed of is not subject to reconsideration. 4 Hinds § 3203.

§ 12. — Other Motions and Requests

Generally

The motion to reconsider is applied to permit the House to review its vote on certain motions, including:

- An affirmative vote on a motion for the previous question, unless the previous question has been partially executed, as by a vote on certain amendments. 5 Hinds §§ 5653–5655; Deschler Ch 23 § 33.
- A vote on the motion to lay on the table, whether decided in the affirmative or in the negative. 5 Hinds §§ 5628, 5629, 5695, 6288; 8 Cannon § 2785; Deschler Ch 23 § 38.1.
- An affirmative vote on a motion to go into the Committee of the Whole. 5 Hinds § 5641; Deschler Ch 23 § 33.
- An affirmative vote on the question of consideration. *Manual* § 907.
- An agreement by the House to a unanimous-consent request. 8 Cannon § 2794; Deschler Ch 23 § 33.
- An affirmative vote on a motion to suspend the rules. *Manual* § 886.

When Not Applicable

The motion to reconsider may not be applied to votes rejecting certain motions, such as:

- A vote rejecting a motion to go into the Committee of the Whole. 5 Hinds § 5641.
- A vote rejecting the question of consideration. 5 Hinds §§ 5626, 5627; Deschler Ch 23 § 39.14.
- A vote rejecting the motion to suspend the rules. *Manual* § 886; 5 Hinds § 5645; 8 Cannon § 2781; Deschler Ch 23 § 33.
- A vote rejecting a motion to recess. 5 Hinds § 5625.
- A vote rejecting a motion to adjourn. 5 Hinds §§ 5620–5622.
- A vote rejecting a motion to fix the day to which the House would adjourn. 5 Hinds § 5624. But see 5 Hinds § 5623.

Certain motions or questions are not subject to the motion to reconsider because of the adoption of ''expedited procedures'' prescribed by statute and intended to bring a legislative matter to a final conclusion without all the procedural protections normally accorded. See *Manual* § 1130 for examples of such laws. One such example is found in section 305(a) of the Congressional Budget Act of 1974, which precludes the motion to reconsider the vote by which a concurrent resolution on the budget is agreed to or disagreed to and the vote on adoption of a conference report on the same.

§ 13. — Bills and Resolutions; Amendments

The motion to reconsider may be applied to the vote by which a bill or joint resolution was passed (5 Hinds § 5666), including a private bill (4 Hinds §§ 3468, 3469); to a vote on the engrossment of the bill (5 Hinds § 5663); to a vote refusing to order a third reading of the bill (8 Cannon § 2777); and to a vote by which a measure was recommitted to committee (Deschler Ch 23 § 39.6). The motion also is applied to permit reconsideration of a vote on a resolution. 5 Hinds § 5609.

The motion to reconsider may be applied to permit reconsideration of a vote on an amendment; however, if the motion is not offered until after the passage of the amended bill, such reconsideration can be secured only after a successful motion to reconsider the vote on the passage of the bill. *Cf.* 8 Cannon § 2789. Similarly, to entertain a motion to reconsider a vote on an amendment to an amendment, it is first necessary to vote to reconsider the vote by which the original amendment, as amended, was disposed of. Deschler Ch 23 § 33.

§ 14. — Amendments Between the Houses; Conference Reports

A motion to reconsider may be applied to a vote on a Senate amendment to a House bill. The fact that the House has informed the Senate that it has voted to agree to such an amendment does not prevent a motion to reconsider that vote. 5 Hinds § 5672. However, such a motion must be timely offered. 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 an amendment in disagreement. 5 Hinds § 5664.

The motion to reconsider may be applied to a vote on a conference report or to a vote recommitting a conference report. Deschler Ch 23 §§ 39.4, 39.5. After disposition of a conference report and amendments reported therefrom in disagreement, it is in order to move to reconsider the vote on a motion disposing of one of the amendments. *Manual* § 1006.

Tabling a motion to reconsider ordinarily prevents the House from reconsideration of the vote in question. However, the laying on the table of 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 the same proposition or considering any other proper motion to dispose of an amendment that might remain in disagreement after further Senate action. *Manual* § 1006.

§ 15. — Measures Sent to the Senate or the President

The motion to reconsider may be applied to a measure that has been sent to the Senate. If that motion is agreed to, a motion to recall the measure is privileged. 5 Hinds §§ 5666, 5667, 5669. Reconsideration of the vote on the measure may be permitted even if the measure has passed both Houses and even if the measure has been sent to the President. 4 Hinds §§ 3466–3469; 5 Hinds § 5668. It would appear, however, that once the bill has been signed by the President, it cannot be called into question pursuant to a pending motion to reconsider the measure. 5 Hinds § 5704 (note). If the President returns the bill to the House with his objections, and the House votes on the passage of the bill notwithstanding the objections of the President, that vote is not subject to the motion to reconsider because the Constitution expressly provides for that vote as one in the nature of reconsideration. U.S. Const. art. I, § 7, cl. 2; *Manual* § 109; 5 Hinds § 5644; 8 Cannon § 2778.