

to others earlier in the bill under a special order of the House contemplating that each remaining amendment be offered only at the “appropriate point in the reading of the bill” (Mar. 29, 2000, p. 3980); (11) to permit the reading of an amendment that already was considered as read under the special order of the House (June 13, 2000, p. 10546; July 10, 2002, p. 12441); (12) to permit a request for a recorded vote even though untimely (Mar. 28, 2007, p. \_\_); (13) to vacate a pending recorded vote in favor of taking the question de novo (although a motion to that effect is not available) (May 8, 2008, p. \_\_).

By unanimous consent the House may delegate to the Committee of the Whole authority to entertain unanimous-consent requests to change procedures contained in an adopted special order (Aug. 11, 1986, p. 20633). The Member offering an amendment in the Committee of the Whole pursuant to a special order of the House has the burden of proving that it meets the description of the amendment made in order (July 17, 1996, p. 17553). The Chair advised the Committee that an amendment made in order was described by subject matter rather than by prescribed text and that the pending amendment fit such description (July 20, 2000, p. 15751). For a description of the authority under clause 6(g) for the chair of the Committee of the Whole to postpone and cluster requests for recorded votes on amendments (which, before the adoption of that clause, was commonly provided by special orders of the House), and the Chair’s interpretation thereof, see § 984, *supra*.

## RULE XIX

### MOTIONS FOLLOWING THE AMENDMENT STAGE

#### ***Previous question***

1. (a) There shall be a motion for the previous question, which, being ordered, shall have the effect of cutting off all debate and bringing the House to a direct vote on the immediate question or questions on which it has been ordered. Whenever the previous question has been ordered on an otherwise debatable question on which there has been no debate, it shall be in order to debate that question for 40 minutes, equally divided and controlled by a proponent of the question and an opponent. The previous question may be moved

§ 994. The previous question.

and ordered on a single question, on a series of questions allowable under the rules, or on an amendment or amendments, or may embrace all authorized motions or amendments and include the bill or resolution to its passage, adoption, or rejection.

The House adopted a rule for the previous question in 1789, but did not turn it 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). When the House recodified its rules in the 106th Congress, it consolidated former clause 1 of rule XVII and a provision included in former clause 2 of rule XXVII, permitting 40 minutes debate on which the previous question has been ordered without there having been debate under this clause. The 106th Congress also transferred the provision addressing the motion to commit from clause 1 of rule XVII to clause 2 of this rule (H. Res. 5, Jan. 6, 1999, p. 47).

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).

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, or on motions to agree to a conference report and to dispose of differences not included in the report, except by unanimous consent (V, 5461–5465). When ordered on a motion to send to conference, it 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; July 16, 1998, p. 15793). When a bill is reported from the Committee of the Whole with the recommendation that the enacting words be stricken, 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

**§ 996. Application of the previous question.**

ordered on a resolution with a preamble there is doubt of its application to the preamble, unless the motion so specifies (V, 5469, 5470). Thus, the practice of the House is for special rules to order the previous question on a resolution and on its preamble. 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 nondebatable propositions to prevent amendment (V, 5473, 5490), but may not be moved on a motion that is both nondebatable and unamendable (IV, 3077). It applies to questions of privilege as to other questions (II, 1256; V, 5459, 5460; VIII, 2672).

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), which must be put first (V, 5480; VIII, 2609, 2684). 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 of the floor (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 chair of the reporting committee (Oct. 1, 1986, p. 27468). 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 pending proceeding to make a preferential motion, such as the motion to recede from a disagreement with the Senate, that Member 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 surrendering 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 (or offers an amendment), another Member may move the previous question on the bill or resolution before the Member offering the amendment is recognized to debate it (Deschler, ch. 23, § 18.3; 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 2 and 6 of rule XV), 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).

§ 997. The right to move the previous question.

RULES OF THE HOUSE OF REPRESENTATIVES

§ 998–§ 1000

Rule XIX, clause 1

The motion to lay on the table may not be applied to the previous question (V, 5410, 5411); and it may not 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).

§ 998. Relation of the previous question to motions.

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). The motion to adjourn is not available when the previous question has been ordered by special rule from the beginning of debate to final passage without intervening motion (IV, 3211–3213, June 14, 2001, p. 10725; Apr. 18, 2002, p. 4969).

This clause allows 40 minutes of debate when the previous question is ordered on an otherwise debatable proposition on which there has been no debate (V, 6821; VIII, 2689; Sept. 13, 1965, p. 23602; Mar. 22, 1990, p. 4996) but not before it is ordered (Nov. 6, 2007, p. \_\_). However, any previous debate on the merits of the main proposition precludes the 40 minutes (V, 5499–5502). The demand for 40 minutes of debate must come before the vote is taken on the main question (V, 5496). It is not available: (1) when the question on which the previous question is ordered is otherwise nondebatable, such as the motion to close debate (VIII, 2555, 2690); (2) on an undebated amendment where the motion for the previous question covers both the amendment and the original proposition, which has been debated (V, 5504) (although when the previous question is ordered merely on an amendment that has not been debated, the 40 minutes are allowed (V, 5503)); (3) on incidental motions (V, 5497–5498); (4) on propositions previously debated in Committee of the Whole (V, 5505); (5) on conference reports accompanying measures that were debated before being sent to conference (V, 5506–5507); (6) on ancillary measures, such as a concurrent resolution to correct an enrolled bill (V, 5508). Debate allowed under this provision is equally divided and controlled between the person demanding the time and a Member representing the opposition (V, 5495; Sept. 13, 1965, pp. 23602–06; May 8, 1985, p. 11073). Priority in recognition for time in opposition is accorded to a Member truly opposed (VIII, 2689).

§ 999. The 40 minutes of debate on undebated propositions.

(b) Incidental questions of order arising during the pendency of a motion for the previous question shall be decided, whether on appeal or otherwise, without debate.

§ 1000. Questions of order pending the motion for the previous question.

This provision was adopted in 1837 to prevent delay by debate on points of order after the demand for the previous question (V, 5448). Before the

RULES OF THE HOUSE OF REPRESENTATIVES

Rule XIX, clause 2

§ 1000a–§ 1001

House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XVII (H. Res. 5, Jan. 6, 1999, p. 47). The Chair may recognize and respond to a parliamentary inquiry although the previous question may have been demanded (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 debated after the ordering of the previous question (III, 2532).

(c) Notwithstanding paragraph (a), when the  
§ 1000a. Postponement. previous question is operating to  
adoption or passage of a measure  
pursuant to a special order of business, the  
Chair may postpone further consideration of  
such measure in the House to such time as may  
be designated by the Speaker.

This provision was adopted in the 111th Congress (sec. 2(f), H. Res. 5, Jan. 6, 2009, p. \_\_).

***Recommit***

2. (a) After the previous question has been or-  
§ 1001. Recommit. dered on passage or adoption of a  
measure, or pending a motion to  
that end, it shall be in order to move that the  
House recommit (or commit, as the case may be)  
the measure, with or without instructions, to a  
standing or select committee. For such a motion  
to recommit, the Speaker shall give preference  
in recognition to a Member, Delegate, or Resi-  
dent Commissioner who is opposed to the meas-  
ure.

(b)(1) Except as provided in paragraph (c), a  
motion that the House recommit a bill or joint  
resolution on which the previous question has  
been ordered to passage shall be debatable for  
10 minutes equally divided between the pro-  
ponent and an opponent.

(b)(2) A motion to recommit a bill or joint resolution may include instructions only in the form of a direction to report an amendment or amendments back to the House forthwith.

(c) On demand of the floor manager for the majority, it shall be in order to debate the motion for one hour equally divided and controlled by the proponent and an opponent.

The motion to commit or recommit described in paragraph (a) was added to the previous question rule (formerly clause 1 of rule XVII) in 1880 (V, 5443). The portion of paragraph (a) that gives preference in recognition to one opposed to the measure was added to former clause 4 of rule XVI in the 61st Congress (Mar. 15, 1909, pp. 22–34). Paragraph (c) and an earlier form of paragraph (b), relating to debate on the motion to recommit with instructions, were added to former clause 4 of rule XVI by section 123 of the Legislative Reorganization Act of 1970 and made a part of the standing rules in the 92d Congress (H. Res. 5, Jan. 21, 1971, p. 14). Paragraph (b) was amended in the 111th Congress to allow for debate on the straight motion, and subparagraph (2) was added to restrict the range of permissible instructions to those “forthwith” (sec. 2(g), H. Res. 5, Jan. 6, 2009, \_\_). That provision was also amended in the 99th Congress to provide that on the demand of the majority floor manager of a bill or joint resolution, the 10 minutes of debate on a motion to recommit with instructions, the previous question having been ordered, may be extended to one hour, equally divided and controlled (H. Res. 7, Jan. 3, 1985, p. 393). When the House recodified its rules in the 106th Congress, it consolidated the last sentence of former clause 1 of rule XVII and provisions of former clause 4 of rule XVI, addressing the motion to recommit, under this clause (H. Res. 5, Jan. 6, 1999, p. 47). For a general discussion of the motion to refer, see § 916, *supra*.

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). 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). However, a motion to commit under this clause 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, p. 30887).

§ 1002. Application of motion.

RULES OF THE HOUSE OF REPRESENTATIVES

Rule XIX, clause 2

§ 1002a

The motion to commit may be made pending the demand for the previous question on passage (or adoption), whether a bill or resolution is under consideration (V, 5576). However, when the demand covers all stages of the bill to passage, the motion to commit is made only after the third reading and is not in order pending the demand or before third reading (V, 5578–5581). When separate motions for the previous question are made, respectively, on the third reading and on passage of a bill, the motion to commit should be made only after the previous question is ordered on passage (V, 5577). When the House refuses to order a bill to be engrossed and read a third time, the motion to commit may not be made (V, 5602, 5603). 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).

When a special order declares that at a certain time the previous question shall be considered as ordered on a bill to final passage, it has usually, but not always, been held that a motion to commit is precluded (IV, 3207–3209). Under clause 6(c) of rule XIII (formerly clause 4(b) of rule XI) the Committee on Rules is prohibited from reporting a special order that precludes the motion to recommit as provided in clause 2 of rule XIX (VIII, 2260, 2262–2264; see also § 1001, *supra*). That provision was amended in the 104th Congress to further prohibit the Committee on Rules from denying the Minority Leader or a designee the right to include proper amendatory instructions in a motion to recommit except with respect to a Senate measure for which the text of a House-passed measure has been substituted (sec. 210, H. Res. 6, Jan. 4, 1995, p. 460). 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; June 14, 2001, p. 10725).

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).

Before the amendment of this clause in the 92d Congress, no debate was permitted on a motion to recommit with instructions after the previous question was ordered (V, 5561, 5582–5584; VIII, 2741). The 10 minutes of debate provided under this clause does not apply to a motion to recommit a simple or concurrent resolution or a conference report, because the clause limits

§ 1002a. Consideration of motion.

RULES OF THE HOUSE OF REPRESENTATIVES

§ 1002b

Rule XIX, clause 2

its applicability to bills and joint resolutions (Nov. 15, 1973, p. 37151; Mar. 29, 1976, p. 8444; Speaker O'Neill, June 19, 1986, p. 14698). The manager of a bill or joint resolution, if opposed, and not the proponent of a motion to recommit with instructions, has the right to close controlled debate on a motion to recommit (Speaker Wright, Dec. 3, 1987, p. 34066). The Member recognized for five minutes in favor of the motion may not reserve time (Speaker Wright, June 29, 1988, p. 16510; June 29, 1989, p. 13938). Although time for debate on a motion to recommit is not "controlled," and therefore Members may not reserve or yield blocks of time (July 26, 2006, p. \_\_), a Member under recognition may yield to another while remaining standing (Feb. 27, 2002, p. 2081).

Although the ordering of the previous question on a bill and all amendments to final passage precludes debate (other than that specified in clause 2 of rule XIX) on a motion to recommit, it does not exclude amendments to such motion (V, 5582; VIII, 2741); and, unless the previous question is ordered on a motion to recommit with instructions, the motion is open to amendment germane to the bill (see V, 6888; VIII, 2711). An amendment to a motion to recommit is read in full (unless the reading is dispensed with by unanimous consent) (Feb. 27, 2002, p. 2084). An amendment to a motion to recommit is not debatable (Feb. 27, 2002, p. 2084). An amendment striking all of the proposed instructions and substituting others cannot be ruled out as interfering with the right of the minority to move recommitment (VIII, 2698, 2759). The Member offering a motion to recommit a bill with instructions may, at the conclusion of the 10 minutes of debate thereon, yield to another Member to offer an amendment to the motion if the previous question has not been ordered on the motion to recommit (Speaker Albert, July 19, 1973, p. 24967).

The motion may be withdrawn in the House at any time before action or decision thereon (VIII, 2764). The motion may not be laid on the table after the previous question has been ordered (V, 5412–5414).

The simple motion to recommit and the motion to recommit with instructions are of equal privilege and have no relative precedence (VIII, 2714, 2758, 2762; Nov. 25, 1970, p. 38997). If the House adopts a motion to recommit with instructions that the committee report "forthwith," the chair reports at once without awaiting action by the committee (V, 5545–5547; VIII, 2730), the bill is before the House for immediate consideration (V, 5550; VIII, 2735), and the amendments must be adopted by the House (VIII, 2734). When recommitment without such instructions, the measure is before the committee anew (IV, 4557; V, 5558).

It is not in order to propose as instructions anything that might not be proposed directly as an amendment such as: (1) an amendment that is not germane (V, 5529–5541, 5834, 5889; VIII, 2705, 2707, 2708); (2) to amend or eliminate an amendment adopted by the House (unless permitted by special order) (V, 5531; VIII, 2712, 2714, 2715, 2720–2724); (3) an amendment in violation of clause 2 of rule XXI (V, 5533–5540; Sept.

RULES OF THE HOUSE OF REPRESENTATIVES

Rule XIX, clause 2

§ 1002c

1, 1976, p. 28883; Sept. 19, 1983, p. 24646; Speaker Foley, Aug. 1, 1989, p. 17159, and Aug. 3, 1989, p. 18546, each time sustained by tabling of appeal; July 1, 1992, p. 17294; June 22, 1995, p. 16844). However, it has been held in order to reoffer an amendment rejected by the House (VIII, 2728). A waiver of all points of order against consideration of a bill does not inure to the motion to recommit (May 9, 2003, p. 11072).

Where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill (at any point during consideration), it was held not in order to offer a motion to recommit with instructions to amend the restricted title (Jan. 11, 1934, pp. 479–83). However, that precedent should be read in light of clause 6(c) of rule XIII, which precludes the Committee on Rules from reporting a rule that would prevent a motion to recommit from including amendatory instructions (see § 857, *supra*).

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).

Only one motion to commit is in order (V, 5577, 5582, 5585; VIII, 2763). If a motion to recommit is ruled out, a proper motion is admissible (VIII, 2736, 2760, 2761, 2763; June 22, 2005, p. \_\_). Similarly, if the House votes pursuant to section 426(b)(3) of the Congressional Budget Act of 1974 not to consider a motion to recommit against which a Member has made a point of order under section 425(a) of that Act, a proper motion to recommit remains available (Mar. 28, 1996, p. 6932).

A motion to recommit with instructions was ruled out of order before the entire motion had been read as a matter of form where a special order of business precluded instructions (May 6, 2004, p. \_\_). A point of order against a motion to recommit that initially is reserved pending its reading may be insisted upon before commencement of debate thereon (July 12, 2007, p. \_\_) but not after (Mar. 5, 2008, p. \_\_).

Before the adoption of paragraph (b)(2) in the 111th Congress, it was permissible to direct a committee to study an issue (with or without amendatory instructions) and to report “promptly” its recommendations (Mar. 29, 1990, p. 1834) as long as they were germane and not argumentative (Sept. 23, 1992, p. 27178). Such motions sent the bill or joint resolution to committee, whose eventual report (if any) would not be immediately before the House (Deschler, ch. 23, § 32.25; May 24, 2000, p. 9151; May 3, 2007, p. \_\_). When a bill was so recommitted, the committee had to confine itself to the instructions (IV, 4404; V, 5526).

Before former clause 4 of rule XVI was amended in 1909 to give priority in recognition for the motion to recommit to an opponent of a bill or joint resolution pending final passage, it was held that the opponents of a bill had no claim to prior recognition (II, 1456). Although the provision as amended in 1909 applied only to bills and joint resolutions, the principle embodied in that provision was applied also to motions to recommit simple or concurrent

§ 1002c. Recognition to offer motion.

RULES OF THE HOUSE OF REPRESENTATIVES

§ 1002c

Rule XIX, clause 2

resolutions or conference reports under former clause 1 of rule XVII (VIII, 2764; Nov. 28, 1979, p. 33914). When the House consolidated the last sentence of former clause 1 of rule XVII and provisions of former clause 4 of rule XVI, addressing the motion to recommit, under this clause (H. Res. 5, Jan. 6, 1999, p. 47), the sentence conferring prior recognition to the opposition was formally applied to all measures. However, precedents under former clause 1 of rule XVII still dictate that recognition to offer a motion to commit a resolution offered from the floor 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).

When applying this rule the Speaker looks first to the Minority Leader or a designee (as imputed by the form of former clause 4(b) of rule XI adopted in the 104th Congress (current clause 6(c) of rule XIII)). If the Minority Leader is not seeking recognition, the Speaker looks to minority members of the committee reporting the bill, in order of their rank on the committee (Speaker Garner, Jan. 6, 1932, p. 1396; Speaker Byrns, July 2, 1935, p. 10638), then to other Members on the minority side (Speaker Rayburn, Aug. 16, 1950, p. 12608). Until a qualifying minority Member has had the motion read by the Clerk, that Member is not entitled to the floor so as to prevent a senior qualifying minority member from the reporting committee from seeking recognition to offer the motion to recommit (Speaker O'Neill, Apr. 24, 1979, p. 8360). If no Member of the minority qualifies, a majority Member who is opposed to the bill may be recognized (Speaker Garner, Apr. 1, 1932, p. 7327). The Chair does not assess the degree of a Member's opposition (Oct. 23, 1991, p. 28258) and accepts a Member's averment of opposition (Nov. 9, 2005, p. \_\_; Apr. 26, 2006, p. \_\_; May 4, 2006, p. \_\_). A Member who is opposed to the bill "in its present form" (*i.e.*, in the form before the House when the motion is made) qualifies to offer the motion (Speaker Martin, Apr. 15, 1948, p. 4547; Speaker McCormack, Mar. 12, 1964, p. 5147). In response to a parliamentary inquiry, the Chair requested all Members to reflect on the importance of the Chair's being able to rely on the veracity of a Member's assertion, when qualifying to offer a motion to recommit, of opposition to the bill; and the Chair recited to the Members the following apology by the ranking minority member of the Committee on Appropriations in 1979: "The honorable, if not technical, duty of a Member offering a motion to recommit is to vote against the bill on final passage" (Speaker Hastert, June 23, 2005, p. \_\_, quoting from Deschler-Brown, ch. 29, §23.49). The Chair also advised that it is not a violation of the rules for a Member to vote for passage after asserting opposition to a measure in order to qualify to offer a motion to recommit, and it is not the province of the Chair to instruct a Member how to vote (Apr. 26, 2006, p. \_\_).

The priority in recognition of a Member of the minority who is opposed is not diminished by the fact that the minority party may have successfully led the opposition to the previous question on the special order governing

consideration of the bill and offered a “modified-closed” rule permitting only minority Members to offer perfecting amendments to the majority text (June 26, 1981, p. 14740). However, although the motion to recommit is the prerogative of the minority if opposed, a Member who in the Speaker’s determination led the opposition to the previous question on the motion to recommit is entitled to offer an amendment to the motion to recommit, regardless of party affiliation, such as the chair (June 26, 1981, pp. 14791–93) or another majority-party member (Feb. 27, 2002, pp. 2080–85) of the committee reporting the bill. The right to offer a motion 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). Where the previous question has been ordered on both the pending resolution and its preamble, a Member may qualify to offer a motion to recommit on the basis of opposition to the preamble, even though it is not otherwise subject to separate vote or amendment (Feb. 12, 1998, p. 1333). A Member rising in opposition to a motion to recommit must likewise qualify as opposed to the motion (Apr. 29, 1998, p. 7156) or obtain unanimous consent if not (*e.g.*, Mar. 14, 2007, p. \_\_).

### ***Reconsideration***

3. When a motion has been carried or lost, it shall be in order on the same or succeeding day for a Member on the prevailing side of the question to enter a motion for the reconsideration thereof. The entry of such a motion shall take precedence over all other questions except the consideration of a conference report or a motion to adjourn, and may not be withdrawn after such succeeding day without the consent of the House. Once entered, a motion may be called up for consideration by any Member. During the last six days of a session of Congress, such a motion shall be disposed of when entered.

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). Before the House recodified its

RULES OF THE HOUSE OF REPRESENTATIVES

§ 1004–§ 1005

Rule XIX, clause 3

rules in the 106th Congress, this provision was found in former clause 1 of rule XVIII (H. Res. 5, Jan. 6, 1999, p. 47).

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). However, 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 such Member and pending (V, 5610). A Delegate or the Resident Commissioner may not make the motion in the House (rule III; 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, any Member, irrespective of whether voting with the majority or not, may make the motion to reconsider (V, 5611–5613, 5689; VIII, 2775, 2785; Sept. 23, 1992, p. 27196); 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 voted 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 (Aug. 15, 1986, p. 22139). The Chair, having voted on the prevailing side, may offer the motion to reconsider by stating the pendency of the motion (Oct. 9, 1997, p. 22017).

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 resolve 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). However, 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 that 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). Although 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 that 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 or her remarks (May 29, 1980, p. 12663). 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 is subject to the question of consideration (VIII, 2437), and may be laid on the table (VIII, 2652, 2659). 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).

The motion to reconsider is in order in 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). In practice in the standing committees, 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.* VIII, 2789).

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 the office. *U.S. v. Smith*, 286 U.S. 6 (1932). 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 recon-

§ 1006. Application of the motion to reconsider.

sider 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 6(b) of rule XIII (formerly clause 4(b) of rule XI) (Sept. 25, 1990, p. 25575).

The motion may not be applied to negative votes on motions to adjourn (V, 5620–5622), or for a recess (V, 5625), or to resolve 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, p. 10990). 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), but recent practice does not admit the motion (*e.g.*, Aug. 1, 2007, p. \_\_). 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. 27644). 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. 25796), although it is in order to reconsider an affirmative vote on that motion (Sept. 28, 1996, p. 25795). 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 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, p. 25512). 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

§ 1007. Effect of the motion to reconsider.

RULES OF THE HOUSE OF REPRESENTATIVES

Rule XIX, clause 3

§ 1008-§ 1009

motion to reconsider has been disposed of (V, 5705). However, 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, note). A Member-elect may not take the oath until a motion to reconsider the vote determining the 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). However, 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; Sept. 24, 1997, p. 19946); 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 record vote, the Speaker put the question de novo and entertained a new demand for a record vote (Sept. 20, 1979, p. 25512).

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

§ 1008. The vote on the motion to reconsider.

§ 1009. Relation of the motion to reconsider to the motion to lay on the table.

RULES OF THE HOUSE OF REPRESENTATIVES

§ 1010–§ 1012

Rule XX, clause 1

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, p. 16497); 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 proposition proposed to be 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 debatable (Sept. 25, 1990, p. 25575) and the application of the previous question makes a motion to reconsider nondebatable (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).

4. A bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, may not be brought back to the House on a motion to reconsider.

§ 1011. Application of motion to reconsider to bills in committees.

This clause (formerly clause 2 of rule XVIII) 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). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XVIII, and in recodification a provision requiring written reports was deleted as redundant of the requirement contained in clause 2 of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47). 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).

RULE XX

VOTING AND QUORUM CALLS

1. (a) The House shall divide after the Speaker has put a question to a vote by voice as provided in clause 6 of rule I if the Speaker is in doubt or divi-

§ 1012. Voting viva voce, by division, by electronic device.