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,[2] 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].[3]

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,[4] 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.

MR. LONG of Louisiana: Mr. President——

The PRESIDING OFFICER: The Senator from California voted in the affirmative. The Parliamentarian informs the Chair that the Senator from California, therefore, is not in a position to make his motion.

Reconsideration of Unrecorded Vote

§ 35.3 Where there has been no recorded vote, a Member offering a motion to reconsider will not be compelled to say whether he voted with the majority or minority.

On July 14, 1932,[5] Mr. William P. Connery, Jr., of Massachusetts, moved to reconsider a vote by division on a motion to recommit Senate Joint Resolution 169, to relocate the unemployed on unoccupied rural lands. A point of order was raised that Mr. Connery had not voted with the majority and was therefore not eligible to make that motion.

MR. CONNERY: Mr. Speaker, I move to reconsider the vote on the motion to recommit the resolution, Senate Joint Resolution 169, and spread that on the Journal.

MR. [JOHN B.] SCHAFER [of Wisconsin]: Mr. Speaker, a point of order. The gentleman voted against the motion, and under the parliamentary situation and the rules of the House, the gentleman can not move to reconsider the vote.

THE SPEAKER:[6] The Chair has no knowledge of how any vote was cast. There was no roll call.

MR. [JOHN] TABER [of New York]: But should not the gentleman be required to state how he voted, when the question is raised, Mr. Speaker?

THE SPEAKER: Well, it has not been customary in the House since the present occupant of the chair has been a Member of it.

Timeliness of Objection as to Eligibility

§ 35.4 A point of order that a Senator who had moved to reconsider was ineligible to make the motion [not being on prevailing side of question] comes too late where a motion to table the motion to reconsider has been rejected and yeas and nays have been ordered on the motion to reconsider.

On July 23, 1964,[7] during Senate consideration of S. 2642, the Economic Opportunity Act of 1964, with Senator Daniel Inouye, of Hawaii, presiding, the following took place:

MR. [JACOB K.] JAVITS [of New York]: Mr. President, I move that the

5. 75 CONG. REC. 15392, 72d Cong. 1st Sess.

6. John N. Garner (Tex.).

7. 110 CONG. REC. 16722, 16723, 88th Cong. 2d Sess.

Senate reconsider the vote by which the amendment was agreed to.

MR. [WINSTON L.] PROUTY [of Vermont]: I move to lay that motion on the table.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Vermont to lay on the table the motion of the Senator from New York to reconsider the vote by which the amendment was agreed to.

MR. [HUBERT H.] HUMPHREY [(of Minnesota]: Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

THE PRESIDING OFFICER: The clerk will call the roll.

The legislative clerk proceeded to call the roll. . . .

The result was announced—yeas 45, nays 45, as follows. . . .

So the motion to lay on the table was rejected.

MR. [THOMAS H.] KUCHEL [of California]: Mr. President, on the last vote, was the question to lay on the table the motion to reconsider?

THE PRESIDING OFFICER: That is correct.

MR. KUCHEL: Is the question now on the motion to reconsider?

THE PRESIDING OFFICER: That is correct. . . .

MR. [JOHN G.] TOWER [of Texas]: Mr. President, a point of order.

THE PRESIDING OFFICER: The Senator will state it.

MR. TOWER: The motion to reconsider was made by the Senator from New York, who, I believe, was not on the prevailing side.

THE PRESIDING OFFICER: The Parliamentarian advises the Chair that it is too late to raise that point of order.

Calling Up on Subsequent Day; Form

§ 35.5 A Member entered a motion to reconsider the vote by which a conference report was rejected; subsequently, another Member called up that motion for the consideration of the House.

On Apr. 22, 1943,[8] Mr. Eugene Worley, of Texas, moved to reconsider the vote whereby the House had on the previous day rejected H.R. 1860, a bill to provide overtime compensation for government employees.

MR. WORLEY: Mr. Speaker, I move to reconsider the action by which H.R. 1860 was on yesterday rejected.

On May 5, 1943,[9] Mr. Robert Ramspeck, of Georgia, called up for consideration a motion to reconsider the vote by which a conference report had been rejected.

MR. RAMSPECK: Mr. Speaker,[10] 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.

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8. 89 CONG. REC. 3729, 78th Cong. 1st Sess.

9. *Id.* at p. 4001.

10. Sam Rayburn (Tex.).