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MR. STRATTON: I have a . . . parliamentary inquiry, Mr. Speaker.

Would a motion to recede and concur with an amendment be a preferential motion?

THE SPEAKER: It would be preferential over a motion to insist on disagreement.

MR. STRATTON: Mr. Speaker, I ask unanimous consent that I may be permitted to withdraw my preferential motion.

MR. [R. LAWRENCE] COUGHLIN [of Pennsylvania]: Mr. Speaker, I object.

THE SPEAKER: The gentleman from New York (Mr. Stratton) does not need unanimous consent for that purpose in the House.

Does the gentleman intend to withdraw his motion? The gentleman does not need unanimous consent to withdraw the motion that he has made.

MR. STRATTON: Mr. Speaker, if I do not need unanimous consent, then I withdraw my motion.

THE SPEAKER: The gentleman from New York (Mr. Stratton) withdraws his motion.

PREFERENTIAL MOTION OFFERED BY MR. YATES

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a preferential motion.

THE SPEAKER: The Clerk will report the preferential motion.

The Clerk read as follows:

> Mr. Yates moves on amendment 56 to recede and concur with the Senate on amendment No. 56 with an amendment as follows: on page 35, line 11, strike out the words "including cost-plus-fixed-fee contracts".
>
> On lines 14 and 15, strike out the words "cost-plus-a-fixed-fee".
>
> On line 23, strike out language after "appurtenant thereto" and strike out lines 24 and on page 36 strike out lines 1 and 2.

MR. SHIPLEY: Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. Yates). . . .

Mr. Speaker, I urge a "no" vote, and I move the previous question on the motion.

The previous question was ordered.

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Illinois (Mr. Yates). . . .

So the preferential motion was rejected. . . .

THE SPEAKER PRO TEMPORE:[10] The question is on the motion offered by the gentleman from Illinois (Mr. Shipley).

The motion was agreed to.

§ 11. To Concur With an Amendment; To Recede and Concur With an Amendment

A motion to concur in a Senate amendment with an amendment, or to recede from disagreement to a particular Senate amendment and amend it further, if adopted, adds another level to the degree of amendments between the Houses.[11]

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10. John J. McFall (Calif.).

11. See §§ 523–525, *House Rules and Manual* (1997).

Motions of this character may or may not be privileged, depending on whether the stage of disagreement has been reached.

Concurrence With an Amendment by Unanimous Consent

§ 11.1 The House may by unanimous consent take from the Speaker's table a House bill with a Senate amendment, and concur in the Senate amendment with an amendment.

On Mar. 12, 1942,[12] the following occurred in the House:

> MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6550) to extend and amend Subtitle—Insurance of Title II of the Merchant Marine Act, 1936, as amended (Public, No. 677, 76th Cong.), approved June 29, 1940, and for other purposes, with a Senate amendment, and concur in the Senate amendment with the following amendment, which I send to the desk.
>
> THE SPEAKER:[13] The Clerk will report the title of the bill and the Senate amendment, as amended.
>
> The Clerk read the title of the bill.
>
> The Clerk read as follows:
>
> Mr. Bland asks unanimous consent to concur in the Senate amendment to the bill H.R. 6550, with an amendment as follows: After the word "repeal," in line 12, page 1, of the engrossed bill, insert the following before the period: "and such authority is hereby vested in the Administrator of the War Shipping Administration in conformity with the President's Executive order of February 7, 1942, No. 9054–7–FR–873."
>
> THE SPEAKER: Is there objection?
>
> There was no objection.
>
> The Senate amendment as amended was agreed to.

§ 11.2 A unanimous-consent request to take a House bill with a Senate amendment from the Speaker's table and concur with a further amendment is self-executing if not objected to, and is not severable, so that a vote is not permitted on the Senate amendment or amendment thereto.

The parliamentary exchanges between Speaker Thomas P. O'Neill, Jr., of Massachusetts, Mr. Robert E. Bauman, of Maryland, and Mr. William E. Dannemeyer, of California, on Dec. 15, 1980,[14] illustrate the concept of a self-executing unanimous-consent re-

12. 88 CONG. REC. 1843, 77th Cong. 2d Sess.
13. Sam Rayburn (Tex.).
14. 126 CONG. REC. 34184–89, 96th Cong. 2d Sess.

quest. On this occasion, when an objection was lodged against the unanimous-consent request, the legislative action was accomplished by a motion to suspend the rules, since suspension motions happened to be in order on that day under Rule XXVII.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 644) making further continuing appropriations for fiscal year 1981, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Strike out all after the resolving clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts: . . .

House amendment to Senate amendment: In lieu of the matter inserted by said amendment, insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenue, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely: . . .

MR. BAUMAN: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Speaker, the gentleman from California (Mr. Dannemeyer) informs me his concern is getting a rollcall vote on agreeing to the amendments proposed by the gentleman from Mississippi (Mr. Whitten). Would it be in order to ask unanimous consent that the yeas and nays be ordered on this; the amendments the gentleman from Mississippi offers at the appropriate time?

THE SPEAKER: There is a manner in which the House can grant unanimous consent to consider the Senate amendment, and to then offer an amendment which would require a vote. There must be 217 Members voting.

The Chair has glanced around the Chamber and finds at the present a precarious number present on the floor. The Chair does not know whether the House can get a sufficient number or not. I would hope at the same time the gentleman appreciates, as he understands the law, that the Social Security Offices close in the morning. Any person who wanted social security could not go into an office. The courts in this country legally are supposed to close

tomorrow if the Congress has not passed the bill.

If there is a negotiating team negotiating at the present time with regards to the hostages, that negotiating team has no funds to pay salaries to negotiate.

Those are the complications that are apparent at the present time. It is of a serious nature. The Chair would hope that the gentleman would reconsider his action, because this matter would have to go to the other body, at which time the other body, as the Chair understands, has recessed until 12:30 to see what action this House is going to take.

The Chair does not truly know what the action of the other body would be if this were to pass here.

PARLIAMENTARY INQUIRY

MR. DANNEMEYER: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. DANNEMEYER: Mr. Speaker, if the gentleman from California withdraws his objection to the unanimous-consent request, what would then be the procedure whereby a Member of the House could ask for an amendment on the proposal that the gentleman from Mississippi has talked about to the proposal which came from the other body?

THE SPEAKER: There is no method by which an amendment could be offered without a change in the request by the gentleman from Mississippi. He is in charge of it. His all one unanimous-consent request. . . .

Does the Chair understand that the gentleman from New York will stop the Government running because of a $2 million debt that is owed to the Olympic team?

MR. DANNEMEYER: Mr. Speaker, I withdraw my reservation of objection.

MR. [SAMUEL S.] STRATTON [of New York]: I object, Mr. Speaker.

THE SPEAKER: Is there objection to the request of the gentleman from Mississippi?

MR. STRATTON: I object, Mr. Speaker.

THE SPEAKER: The gentleman from New York (Mr. Stratton) objects.

Objection is heard. . . .

MR. WHITTEN: Mr. Speaker, I move to suspend the rules and take from the Speaker's table the joint resolution (H.J. Res. 644) making further continuing appropriations for fiscal year 1981, and for other purposes, with the Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the amendment to the Senate amendment, as follows:

> In lieu of the matter inserted by said amendment, insert the following:

Vacating Concurrence

§ 11.3 The House, by unanimous consent, vacated proceedings whereby it had concurred in a Senate amendment with an amendment, and then agreed to a motion to concur with a further amendment.

On June 14, 1967,[15] Mr. Edward A. Garmatz, of Maryland, made the following request regarding H.R. 5424, appropriations for vessels, aircraft, and the construction of Coast Guard establishments:

> MR. GARMATZ: Mr. Speaker, I ask unanimous consent to vacate the proceedings whereby the House concurred, with an amendment to Senate amendment No. 2 to the bill, H.R. 5424.
>
> THE SPEAKER:[16] Is there objection to the request of the gentleman from Maryland?
>
> There was no objection.
>
> MR. GARMATZ: Mr. Speaker, I move that the House concur in the Senate amendment No. 2 with an amendment.
>
> The Clerk read as follows:
>
> > Mr. Garmatz moves that the House concur in Senate amendment No. 2 with the following amendment: In lieu of "$37,663,000" insert "$37,963,000".
>
> The motion was agreed to.
>
> A motion to reconsider was laid on the table.

Agreement to Resolution for Concurrence Under Suspension of Rules

§ 11.4 The House agreed to a motion to suspend the rules and agree to a resolution offered by a Member which provided for taking a House bill with a Senate amendment from the Speaker's table and concurring in the Senate amendment with a designated amendment.

On Dec. 20, 1973,[17] Speaker Carl Albert, of Oklahoma, recognized Mr. Wright Patman, of Texas, to offer the following motion:

> Mr. Speaker, I move to suspend the rules and agree to the House resolution (H. Res. 753) to take from the Speaker's table the bill (H.R. 8449) to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes, with Senate amendment thereto, and agree to the Senate amendments with an amendment to strike out title III of the Senate amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> H. RES. 753
>
> *Resolved*, That immediately upon the adoption of this resolution the bill H.R. 8449, together with the Senate amendment thereto be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment be, and the same

15. 113 CONG. REC. 15843, 90th Cong. 1st Sess.
16. John W. McCormack (Mass.).
17. 119 CONG. REC. 42883, 42884, 93d Cong. 1st Sess.

is hereby, agreed to with an amendment as follows:

"Strike out title III of the Senate amendment in the nature of a substitute."

After a brief debate the question was taken, and the motion to suspend the rules and agree to the resolution was adopted by a two-thirds majority.

Effect of Rejection of Committee of the Whole Recommendation

§ 11.5 If the House disagrees to the recommendation of the Committee of the Whole that the House concur in a Senate amendment with an amendment, such Senate amendment is before the House for consideration.

On July 12, 1945,[18] the Committee of the Whole upon consideration of Senate amendments to H.R. 3368, war agencies appropriations for 1946, recommended, *inter alia*, that the House concur in Senate amendment No. 1 with an amendment. Mr. Joseph W. Martin, Jr., of Massachusetts, rose in the House:

If we do not adopt the amendment which was just adopted in Committee of the Whole, we will then take the Senate amendment as it stands?

MR. [JOHN E.] RANKIN [of Mississippi]: No, sir.

THE SPEAKER:[19] The Senate amendment itself will be in order for consideration.

Divisibility

§ 11.6 A motion to recede and concur in a Senate amendment with an amendment is divisible.

On May 20, 1936,[20] the House was considering Senate amendments to the Department of the Interior appropriations bill, reported from conference in disagreement.

MR. [EDWARD T.] TAYLOR of Colorado: Mr. Speaker, I move that the House recede and concur in the Senate amendment with the following amendment.

The Clerk read as follows:

Mr. Taylor of Colorado moves that the House recede from its disagreement to the amendment of the Senate no. 24, with an amendment, as follows:

"In line 10, the first line of the second paragraph of said amendment, after the word 'by' insert the following: 'and in accordance with.' "

MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Speaker, I move that the House

18. 91 CONG. REC. 7474, 7493, 7494, 79th Cong. 1st Sess.

19. Sam Rayburn (Tex.).

20. 80 CONG. REC. 7616, 74th Cong. 2d Sess.

further insist on its disagreement to the amendment of the Senate no. 24.

Mr. Speaker, I realize that the motion to recede and concur is a preferential motion. I ask a division of the motion to recede and concur.

THE SPEAKER:[1] The gentleman is entitled to a division of the motion. The question is, Will the House recede from its disagreement to the amendment of the Senate?

Parliamentarian's Note: The two parts of the proposition which are distinct and hence divisible are first, that the House recede from its disagreement to the Senate amendment, and second, that the House concur in that amendment with an amendment. Although the motions to concur in an amendment or to concur in a further amendment with an amendment may each be offered separately, the motion to concur (in an amendment) with an amendment, once offered as an entity, may not be divided. See § 11.8, infra.

Dividing Question on Motion To Recede and Concur

§ 11.7 A motion to recede and concur with an amendment in a Senate amendment reported from conference in disagreement may be divided, and the Chair will entertain the demand for a division immediately after the motion is offered.

The proceedings of Sept. 24, 1975,[2] relating to the proper time to ask for a division of the question where a motion to recede and concur in a Senate amendment is pending are carried herein. The Chair may, as indicated, entertain the demand for a division but may proceed with debate before putting the question on the first part of the motion.

THE SPEAKER:[3] The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 16, line 18, strike:

"SEC. 104. None of the funds appropriated in this title shall be used for the purposes of negotiating the surrender or relinquishment of any U.S. rights in the Panama Canal Zone."

MOTION OFFERED BY MR. SLACK

MR. [JOHN M.] SLACK [Jr., of West Virginia]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: Restore the

1. Joseph W. Byrns (Tenn.).

2. 121 CONG. REC. 30071, 30080, 30081, 94th Cong. 1st Sess.

3. Carl Albert (Okla.).

matter stricken by said amendment amended to read as follows:

"SEC. 104. It is the sense of the Congress that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the operation, maintenance, property and defense of the Panama Canal."

PARLIAMENTARY INQUIRY

MR. [M. G. (GENE)] SNYDER [of Kentucky]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. SNYDER: Mr. Speaker, is this the proper time for the gentleman from Kentucky to demand a division of the question?

THE SPEAKER: It is.

MR. SNYDER: Mr. Speaker, then I demand a division of the question.

THE SPEAKER: The gentleman is entitled to a division of the question.

The Chair recognizes the gentleman from West Virginia (Mr. Slack) for 30 minutes.

MR. SLACK: Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, on June 26 the House adopted the Snyder amendment to H.R. 8121 by a vote of 246 to 164. The House language read as follows:

SEC. 104. None of the funds appropriated in this title shall be used for the purposes of negotiating the surrender or relinquishment of any United States rights in the Panama Canal Zone.

The Senate amendment No. 8 struck this provision from the bill. After a lengthy discussion, the conferees agreed on the following language:

SEC. 104. It is the sense of the Congress that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the operation, maintenance, property and defense of the Panama Canal. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, we are facing a replay of the issue which this House decisively voted on last June 26. At that time by a majority of more than 80 votes, the House supported the Snyder amendment which simply forbids the State Department to use any funds to negotiate the surrender of our sovereign rights in the Panama Canal Zone. . . .

I would sincerely request that every Member examine his conscience and vote again today in favor of the Snyder amendment, and that can be done by voting against the committee's motion to recede from our past strong stand.

THE SPEAKER: Without objection, the previous question is ordered.

There was no objection.

PARLIAMENTARY INQUIRIES

MR. SNYDER: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. SNYDER: Mr. Speaker, am I correct that the parliamentary situation is such that an "aye" vote would be agreeing to the committee's recommendation and a "no" vote would be to reject it?

THE SPEAKER: An "aye" vote would be that the House will recede from disagreement to Senate amendment No. 8. A "no" vote is not to recede. In other words, a "no" vote is to vote for the po-

sition of the gentleman from Kentucky (Mr. Snyder).

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Speaker, I have a further parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WRIGHT: In order that all of us may understand this in exactly the same way, an "aye" vote would support the language recommended in the conference committee report; is that correct?

THE SPEAKER: The gentleman is correct.

The question is on the motion to recede.

The question was taken; and the Speaker announced that the ayes appeared to have it. . . .

The vote was taken by electronic device, and there were—yeas 197, nays 203, not voting 33. . . .

Divisibility of Motion To Concur With an Amendment

§ 11.8 An amendment proposed in a motion to recede and concur in a Senate amendment with a further amendment is divisible only if the proposed House amendment is in a form amenable to division, and a motion to strike out and insert is not subject to the demand.

Where a motion is pending to concur with an amendment in a Senate amendment and the proposed House amendment is in the form of a motion to strike out and insert, precedents do not permit a division of the question between aspects of the matter to be inserted.[4] The motion offered by Mr. William Lehman, of Florida, on Oct. 15, 1986,[5] was not in a form which permitted the Chair to divide the question.

THE SPEAKER PRO TEMPORE:[6] The Clerk will designate the final amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 124, page 71, line 13: insert the following language:

TITLE VII

METROPOLITAN WASHINGTON AIRPORTS

SEC. 701. SHORT TITLE AND TABLE OF CONTENTS.

This title may be cited as the "Metropolitan Washington Airports Act of 1986". . . .

SEC. 712. NONSTOP FLIGHTS.

A person may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,000 statute miles away from Washington National Airport.

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4. See Rule XVI clause 7 which states that "A motion to strike out and insert is indivisible . . .". *House Rules and Manual* § 793 (1997).
5. 132 CONG. REC. 32127, 32131, 32134, 32135, 99th Cong. 2d Sess.
6. Kenneth J. Gray (Ill.).

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

MR. LEHMAN of Florida: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Lehman moves that the House recede from its disagreement to the amendment of the Senate numbered 124 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act of 1986". . . .

SEC. 6011. SEPARABILITY.

Except as provided in section 6007(h), if any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 6012. NONSTOP FLIGHTS.

PERIMETER RULE.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National Airport. . . .

PARLIAMENTARY INQUIRY

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. CONTE: Mr. Speaker, is it permissible to separate or divide the question on the perimeter rule?

THE SPEAKER PRO TEMPORE: The answer is in the negative. In the form submitted the proposed House amendment is not divisible.

MR. CONTE: Mr. Speaker, I withdraw my reservation of objection.

§ 11.9 A privileged motion to concur in a Senate amendment with an amendment was held not subject to a demand for a division.

On Aug. 3, 1973,[7] the House was considering the conference report on S. 1888, the Agriculture and Consumer Protection Act of 1973. The conferees had been unable to agree so the amendment in disagreement was before the House. Mr. William R. Poage, of Texas, offered a motion to recede and concur in the Senate amendment to a House amendment with an amendment. After the previous question was ordered on that motion, Mr. William A. Steiger, of Wisconsin, rose:

Mr. Speaker, is the demand for a division of the question to concur with an amendment in order?

7. 119 CONG. REC. 28121, 28124, 93d Cong. 1st Sess.

THE SPEAKER:[8] Under the present conditions such a demand is not in order.

Putting Motions To Recede and Concur With Amendment En Bloc

§ 11.10 The use of unanimous-consent agreements to permit the en bloc consideration of motions to recede and concur with amendments in a series of Senate amendments reported from conference in disagreement has been used to expedite consideration where the printed motions and proposed amendments are available, since printed in the joint statement of the managers, and there is no controversy.

The form of a unanimous-consent request to consolidate the many motions to recede and concur with amendment into one, and make it not subject to a demand for a division of the question, is shown here. This truncated procedure, as excerpted from the Record of Sept. 25, 1992,[9] was frowned upon by the Committee on Appropriations and the Chair in earlier Congresses, but is seeing more use in the modern House.

AMENDMENTS IN DISAGREEMENT

THE SPEAKER PRO TEMPORE:[10] Pursuant to House Resolution 579, the amendments in disagreement and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

MR. [BOB] TRAXLER [of Michigan]: Mr. Speaker, I ask unanimous consent that Senate amendments numbered 1, 5, 7, 9, 10, 15, 27, 28 . . . 244, 246 . . . 267, 269, 272 . . . and 303 be considered en bloc and printed in the Record, and that the motions to dispose of said amendments as printed in the joint statement of managers be considered as read and that the motions not be subject to a division of the question.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Michigan?

MR. [DANA] ROHRABACHER [of California]: Mr. Speaker, I reserve the right to object.

Mr. Speaker, I wish to have some kind of assurance that amendment 267 will not be part of this unanimous-consent request.

MR. TRAXLER: Mr. Speaker, will the gentleman yield?

MR. ROHRABACHER: I yield to the gentleman from Michigan.

8. Carl Albert (Okla.).

9. 138 CONG. REC. 27710, 102d Cong. 2d Sess.

10. Jim McDermott (Wash.).

MR. TRAXLER: Mr. Speaker, I will amend my request to include amendment 267, to have it removed from my request.

MR. ROHRABACHER: And also amendment 245?

THE SPEAKER PRO TEMPORE: Amendment 245 is already excluded.

(The text of unanimous-consent request, as modified, is as follows:)

MR. TRAXLER: Mr. Speaker, I ask unanimous consent that Senate amendments numbered 1, 5, 7, 9, 10, 15, 27, 28, 29 . . . 244, 246 . . . 266, 269 . . . and 303 be considered en bloc and printed in the Record, and that the motions to dispose of said amendments as printed in the joint statement of managers be considered as read and that the motions not be subject to a division of the question.

MR. ROHRABACHER: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER PRO TEMPORE: With that modification, is there objection to the request of the gentleman from Michigan?

There was no objection.

(The texts of the various Senate amendments referred to in the unanimous-consent request are as follows:)

Senate amendment No. 1: Page 3, line 2, strike out "transferred" and insert "reimbursed".

Senate amendment No. 5: Page 4, line 22, strike out "to" and insert "which may". . . .

Second Motion as Not Preferential

§ 11.11 When a motion that the House recede from its disagreement to a Senate amendment and concur in the same with an amendment is pending, another motion to recede and concur with an amendment is not preferential.

On Dec. 16, 1943,[11] during consideration of the Senate amendments to H.R. 3598, the first national defense appropriation bill of 1944, the following occurred:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House recede from its disagreement to Senate amendment No. 49 and concur in the same with an amendment which I have sent to the desk.

THE SPEAKER:[12] The Clerk will report the motion.

The Clerk read as follows:

Mr. Cannon of Missouri moves that the House recede from its disagreement to Senate amendment No. 49 and agree to the same with an amendment as follows:

"In lieu of the sum of '$2,800,000' named in such amendment, insert '$700,000'; and in lieu of the sum of '$800,000' named in such amendment, insert '$200,000.' "

MR. [CLINTON P.] ANDERSON of New Mexico: I make a preferential motion, which I send to the desk.

THE SPEAKER: The Clerk will report the motion.

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11. 89 CONG. REC. 10777, 78th Cong. 1st Sess.
12. Sam Rayburn (Tex.).

The Clerk read as follows:

Mr. Anderson of New Mexico moves that the House recede from its disagreement to Senate amendment No. 49, and agree to the same with an amendment, as follows: On page 34, line 8, strike out the figure "$2,800,000" and insert the figure "$1,400,000".

THE SPEAKER: The gentleman has not made a preferential motion. He has made a motion to recede from its disagreement to the Senate amendment and concur in the same, and a motion to recede and concur in the Senate amendment is already pending.[13]

Rejection of Motion as Permitting Subsequent Motion; Recognition for Subsequent Motion

§ 11.12 Where one motion to recede and concur with an amendment is rejected, another motion to recede and concur with a different amendment may be offered.

On Oct. 25, 1967,[14] the House was considering Senate amendments to H.R. 11641, public works appropriations for fiscal 1968.

MR. [MICHAEL J.] KIRWAN [of Ohio]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Kirwan moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$968,474,000, of which $875,000 shall be available to continue planning on the Dickey-Lincoln School Dam and Reservoirs, Maine,".

THE SPEAKER PRO TEMPORE:[15] The gentleman from Ohio is recognized. . . .

MR. KIRWAN: Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Ohio [Mr. Kirwan] that the House recede from its disagreement to Senate amendment No. 2 and concur therein with an amendment. . . .

The question was taken; and there were—yeas 162, nays 236, answered "present" 1, not voting 33. . . .

So the motion was rejected. . . .

MR. KIRWAN: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Kirwan moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$967,599,000".

THE SPEAKER:[16] The question is on the motion offered by the gentleman from Ohio [Mr. Kirwan] that the House recede from its disagreement to Senate

13. See also 84 CONG. REC. 7747, 76th Cong. 1st Sess., June 22, 1939.
14. 113 CONG. REC. 29933, 29942, 29943, 90th Cong. 1st Sess.
15. Carl Albert (Okla.).
16. John W. McCormack (Mass.).

amendment No. 2 and concur therein with an amendment.[17]

§ 11.13 After agreeing to a conference report, a motion to recede and concur in a Senate amendment was rejected and (when the manager of the conference report did not seek further recognition) the Chair recognized another Member who offered a motion to further insist on disagreement.

On Dec. 3, 1969,[18] the House had just adopted the conference report on H.R. 14159, public works appropriations for fiscal 1970, when the manager of the conference report, Mr. Joseph L. Evins, of Tennessee, was recognized:

> Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. Evins of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein. . . .
>
> MR. EVINS of Tennessee: Mr. Speaker, I move the previous question on the motion.
>
> The previous question was ordered.
>
> THE SPEAKER PRO TEMPORE:[19] The question is on the motion offered by the gentleman from Tennessee (Mr. Evins).
>
> The motion was rejected.
>
> MR. GLENN B. DAVIS of Wisconsin:[20] Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. Davis of Wisconsin moves that the House insist upon its disagreement to Senate amendment numbered 5.
>
> The motion was agreed to.

§ 11.14 A motion to recede and concur in a Senate amendment with an amendment having been defeated, the Speaker recognized a Member, who was opposed to the original motion, to offer a second motion to recede and concur with a different amendment.

On Oct. 13, 1962,[1] the House resumed its consideration of the Senate amendments to H.R. 12900, public works appropriations for fiscal 1963.

> THE SPEAKER:[2] The unfinished business is the vote on the motion of

17. See also 110 CONG. REC. 20625, 88th Cong. 2d Sess., Aug. 20, 1964.
18. 115 CONG. REC. 36759, 36760, 91st Cong. 1st Sess.
19. Charles M. Price (Ill.).
20. Mr. Davis was a member of the minority and on the Committee on Appropriations.
1. 108 CONG. REC. 23474–76, 87th Cong. 2d Sess.
2. John W. McCormack (Mass.).

the gentleman from Missouri [Mr. Cannon].

Without objection, the Clerk will again report the motion of the gentleman from Missouri.

There was no objection.

The Clerk read as follows:

> Mr. [Clarence] Cannon moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$791,580,500".

THE SPEAKER: The question is on the motion. . . .

The question was taken; and there were—yeas 93, nays 143, not voting 199. . . .

So the motion was rejected. . . .

MR. [ROBERT L. F.] SIKES [of Florida]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Sikes moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: in lieu of the sum proposed by said amendment insert "$792,845,500".

§ 11.15 Where the House rejects a motion by the manager of a bill to dispose of a Senate amendment remaining in disagreement, recognition to offer another amendment is accorded a Member who led the opposition to the rejected motion.

On Sept. 30, 1976, a conference report relating to the State and Local Fiscal Assistance Amendments of 1976[3] was ruled out on a point of order because a provision therein violated the Congressional Budget Act of 1974.

Following the Speaker's ruling on the point of order, the Senate amendment in disagreement was reported and the manager of the conference report then offered a motion to recede and concur therein with an amendment. After the reading of the motion was dispensed with, in response to a parliamentary inquiry, the Chair announced that by custom, he would divide the time on the motion between its proponent and a member of the minority party, Mr. Frank Horton, of New York.

During the 30 minutes allocated to him, Mr. Horton then proceeded to ask Members to defeat the motion; and when this in fact occurred, he was then recognized to offer another motion to dispose of the Senate amendment in disagreement.

The point of order, the parliamentary inquiries and the rele-

3. H.R. 13367.

vant proceedings are carried below:[4]

THE SPEAKER:[5] The Chair is ready to rule.

The gentleman from Washington (Mr. Adams) makes a point of order against the conference report on the bill H.R. 13367 on the ground that section 5(a) of the conference report provides new spending authority and entitlement increment for fiscal years 1978 and 1979 over the amounts provided for in fiscal year 1977, in violation of section 303(a) of the Congressional Budget Act of 1974.

The gentleman from New York (Mr. Horton) and the gentleman from Ohio (Mr. Brown) rebut this argument by contending that a mere incremental increase in an entitlement for subsequent fiscal years is not new spending authority as prescribed in section 401(c)(2)(c) to become effective during the subsequent fiscal years, but rather, a continuation of the spending authority for fiscal year 1977, which is permitted under section 303(a).

The Chair has examined the conference report, and section 5(a) is structured so as to provide separate authorization for entitlement payments for each of the fiscal years 1977, 1978, and 1979, with a higher authorization for 1978 and 1979 than for 1977.

In the opinion of the Chair, such a separate increase in entitlement authorizations is new spending authority to become effective during those subsequent fiscal years, which may not be included in a bill or an amendment prior to the adoption of the first concurrent resolution for fiscal years 1978 and 1979, which does not come within the exception contained in section 303(b) for new budget authority, and which does not come within the section 401(d) revenue-sharing exception—applicable only to contract or borrowing spending authority as defined in subsections (a) and (b) of section 401(c)—cited by the gentleman from Ohio.

The Chair therefore sustains the point of order against the conference report.

AMENDMENT IN DISAGREEMENT

THE SPEAKER: The Clerk will report the Senate amendment in disagreement.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976". . . .

MR. [JACK B.] BROOKS [of Texas] (during the reading): Mr. Speaker, I ask unanimous consent that the Senate amendment in disagreement be considered as read and printed in the Record.

THE SPEAKER: Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION OFFERED BY MR. BROOKS

MR. BROOKS: Mr. Speaker, I offer a motion.

The Clerk read as follows:

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4. 122 CONG. REC. 34075, 34080, 34085, 34090, 34092, 34097, 94th Cong. 2d Sess., Sept. 30, 1976.

5. Carl Albert (Okla.).

Mr. Brooks moves that the House recede from its disagreement and concur in the Senate amendment to the House bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972 and for other purposes, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976". . . .

MR. BROOKS (during the reading): Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

THE SPEAKER: Is there objection to the request of the gentleman from Texas?

MR. HORTON: Mr. Speaker, I reserve the right to object. . . .

Mr. Speaker, I am reserving the right to object on the unanimous-consent request to have the motion considered as read.

I wanted to ask the gentleman from Texas (Mr. Brooks) whether he is going to explain the motion to the House.

MR. BROOKS: Mr. Speaker, if the gentleman will yield, I look forward to that opportunity to explain it as my distinguished friend, the gentleman from New York (Mr. Horton) desires. . . .

THE SPEAKER: Does the gentleman from Texas desire to make a brief explanation of the amendment? If not, the gentleman from Ohio (Mr. Brown) desires to have the amendment read.

MR. BROOKS: Mr. Speaker, as soon as I am recognized, I will be pleased to explain the amendment in detail.

THE SPEAKER: The Chair will state that at this time the gentleman from Texas can be recognized only if the gentleman from Ohio yields under his reservation.

MR. [CLARENCE J.] BROWN of Ohio: I yield.

MR. [JOHN W.] WYDLER [of New York]: Mr. Speaker, I object.

THE SPEAKER: The Clerk will read the amendment.

The Clerk continued to read the amendment.

MR. BROWN of Ohio: Mr. Speaker, I withdraw my reservation of objection and ask unanimous consent that the amendment be considered as read.

THE SPEAKER: The Chair understands the gentleman to withdraw his reservation of his point of order and to ask to dispense with further reading.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE SPEAKER: The Chair recognizes the gentleman from Texas, Mr. Brooks.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. HORTON: Mr. Speaker, I would like to ask what the allocation of time is on this particular motion.

THE SPEAKER: The Chair will state that the rule provides, of course, for 30 minutes on a side under consideration of a conference report but the practice has been followed, if the Chair recalls correctly, of allotting 30 minutes to a side on a motion when a conference report is ruled out on a point of order.

Under that procedure, the gentleman from Texas (Mr. Brooks) will be recognized for 30 minutes.

The Chair would inquire who will be handling the matter on the minority side?

MR. HORTON: Mr. Speaker, I will be handling time on this side.

THE SPEAKER: And the gentleman from New York (Mr. Horton) will be recognized for 30 minutes for debate only.

The Chair recognizes the gentleman from Texas (Mr. Brooks) for 30 minutes. . . .

THE SPEAKER PRO TEMPORE:[6] The gentleman from New York (Mr. Horton) is recognized for 3 minutes.

MR. HORTON: Mr. Speaker, I take this time to explain briefly what the parliamentary situation is and what it is that we will be voting on. . . .

Mr. Speaker, I am asking the Members to vote against the Brooks amendment and to vote for an amendment which I subsequently will offer, which will provide for the $600 million. It would also provide that it will be indexed so that it will not be subject to a point of order.

Mr. Speaker, I urge the Members to vote "no" on the Brooks amendment and vote "aye" on the amendment which I will offer, for myself and on behalf of the gentleman from North Carolina (Mr. Fountain), the chairman of the subcommittee, on behalf of the gentleman from Florida (Mr. Fuqua); a conferee and a member of the subcommittee; on behalf of the gentleman from New York (Mr. Wydler); and also on behalf of the gentleman from Ohio (Mr. Brown), all members of the subcommittee who also were conferees. . . .

So the motion was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. HORTON

MR. HORTON: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Horton moves that the House recede and concur in the Senate amendment to H.R. 13367, with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:
>
> SECTION 1. SHORT TITLE.
>
> This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976". . . .

MR. HORTON (during the reading): Mr. Speaker, I move that further reading of the amendment be dispensed with and that it be printed in the Record.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from New York?

There was no objection.

THE SPEAKER PRO TEMPORE: The gentleman from New York (Mr. Horton) will be recognized for 30 minutes, and the gentleman from Texas (Mr. Brooks) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York.

§ 11.16 Following the adoption of a conference report on a supplemental appro-

6. Richard W. Bolling (Mo.).

priation bill, the House rejected a motion to recede from disagreement to a Senate amendment and concur therein with an amendment, and then agreed to a motion to recede and concur with another amendment.

On May 20, 1971,[7] the House was considering the Senate amendments reported back from conference in disagreement to H.R. 8190, supplemental appropriations for fiscal 1971.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

OFFICE OF THE SECRETARY

CIVIL SUPERSONIC AIRCRAFT DEVELOPMENT TERMINATION

For expenses necessary for the termination of the civil supersonic aircraft program, and for refund of amounts contributed by airlines toward the civil supersonic aircraft research and development program, $155,800,000, to remain available until expended.

THE SPEAKER:[8] The question is on the motion offered by the gentleman from Texas. . . .

The question was taken; and there were—yeas 118, nays 156, answered "present" 1, not voting 157. . . .

So the motion was rejected.

The Speaker again recognized Mr. Mahon:

Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

OFFICE OF THE SECRETARY

CIVIL SUPERSONIC AIRCRAFT DEVELOPMENT TERMINATION

For expenses, not otherwise provided for, necessary for the termination of development of the civil supersonic aircraft and to refund the contractors' cost shares, $97,300,000, to remain available until expended.

Debate

§ 11.17 Debate on a motion to concur in a Senate amendment with an amendment is under the hour rule.

On June 15, 1943,[9] the House was considering Senate amend-

7. 117 CONG. REC. 16197, 16198, 92d Cong. 1st Sess.

8. Carl Albert (Okla.).

ments in disagreement to H.R. 1648, Treasury and Post Office appropriations for fiscal 1944. Mr. Louis E. Ludlow, of Indiana, offered a motion to recede and concur which was divided on demand of Mr. John Taber, of New York. After the House voted to recede, Mr. Frank B. Keefe, of Wisconsin, offered a preferential motion to concur with an amendment.

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

THE SPEAKER:[10] The gentleman will state it.

MR. KEEFE: Am I correct in the assumption that there is now 1 hour's time for discussion of this subject and that the time is under the control of the gentleman from Indiana [Mr. Ludlow]?

THE SPEAKER: The gentleman is correct. The gentleman from Indiana made the original motion.

Parliamentarian's Note: See Rule XXVIII clause 2(a),[11] for current procedure for debating amendments in disagreement.

§ 11.18 Debate on a motion to recede and concur with an amendment is not in order after the yeas and nays have been ordered.

On Oct. 25, 1967,[12] the House was considering amendments of the Senate in disagreement to H.R. 11641, public works appropriations for fiscal 1968. Speaker John W. McCormack, of Massachusetts, recognized Mr. Michael J. Kirwan, of Ohio:

Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Kirwan moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$967,599,000".

THE SPEAKER: The question is on the motion offered by the gentleman from Ohio [Mr. Kirwan] that the House recede from its disagreement to Senate amendment No. 2 and concur therein with an amendment.

MR. [JOHN J.] RHODES of Arizona: Mr. Speaker on that I demand the yeas and nays.

The yeas and nays were ordered.

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GIAIMO: Mr. Speaker, is it the parliamentary situation at the present time in regard to the amendment No. 2

9. 89 CONG. REC. 5899, 5900, 78th Cong. 1st Sess.
10. Sam Rayburn (Tex.).
11. *House Rules and Manual* § 912a (1997).
12. 113 CONG. REC. 29943, 90th Cong. 1st Sess.

such that it would provide almost $1 billion for construction by the Corps of Engineers, and that we are voting on these funds without the $875,000 for Dickey-Lincoln?

THE SPEAKER: The Chair will state that the House has before it the motion by the gentleman from Ohio that the House recede from its disagreement to the amendment of the Senate numbered 2, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$967,599,000".

MR. GIAIMO: In other words, Mr. Speaker, this takes out the $875,000 for Dickey-Lincoln?

THE SPEAKER: That is not within the prerogative of the Chair to state.

MR. GIAIMO: Mr. Speaker, can we get an explanation from the committee?

THE SPEAKER: The Chair will state that it is too late for that. However, it is the understanding of the Chair that would be the result.

Where Manager Yields for Amendment

§ 11.19 The manager of a conference report controlling the floor on a motion to dispose of an amendment in disagreement, by yielding to another to offer an amendment to his motion, loses the floor and the Member to whom yielded then controls one hour of debate on his amendment and has the right to move the previous question on the amendment and the original motion.

On Sept. 8, 1977,[13] after adoption of the conference report on the Defense appropriation bill for fiscal 1978, an amendment in disagreement pertaining to the funding of the B–1 bomber was reported. Mr. Mahon's original motion was to fund the program. Mr. Addabbo's amendment reduced the funding. The proceedings show the consequences of yielding for an amendment to the manager's motion.

MOTION OFFERED BY MR. MAHON

MR. [GEORGE E.] MAHON [of Texas]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$7,693,400,000". . . .

MR. MAHON: Mr. Speaker, I hope we have had a fair debate on the issues. My motion provides for the continuation of the B–1 program, and I rise in further support of my motion and in opposition to the Addabbo amendment.

By previous arrangement, in order to be absolutely fair with the House and give the House an opportunity to work its will, I yield to the gentleman from

13. 123 CONG. REC. 28122, 28130–32, 95th Cong. 1st Sess.

New York (Mr. Addabbo) for the purpose of offering an amendment.

AMENDMENT OFFERED BY MR. ADDABBO TO THE MOTION OFFERED BY MR. MAHON

MR. [JOSEPH P.] ADDABBO [of New York]: Mr. Speaker, I offer an amendment to the motion offered by the gentleman from Texas (Mr. Mahon).

The Clerk read as follows:

> Amendment offered by Mr. Addabbo to the motion offered by Mr. Mahon: In lieu of the sum proposed to be inserted by said motion insert: "$6,262,000,000".

MR. ADDABBO: Mr. Speaker, I will not take the hour. By previous arrangement and agreement with the chairman of the full committee, the gentleman from Texas (Mr. Mahon), who has been kind enough to recognize me at this time for the purpose of offering this amendment, the agreement was that I would after offering the substitute move the previous question so that we would have a clear vote on the question of whether or not to fund the B–1. . . .

Mr. Speaker, I move the previous question on the amendment to the motion.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[14] The question is on the amendment offered by the gentleman from New York (Mr. Addabbo) to the motion offered by the gentleman from Texas (Mr. Mahon).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

MR. ADDABBO: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 202, nays 199, not voting 33. . . .

So the amendment to the motion was agreed to.

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Texas (Mr. Mahon), as amended.

The motion, as amended, was agreed to.

Effect of Rejection of Previous Question

§ 11.20 Where a motion to concur in a Senate amendment with an amendment is pending, defeat of the previous question permits the offering of any proper motion.

On May 14, 1963,[15] the House was considering the Senate amendments in disagreement to H.R. 5517, supplemental appropriations for fiscal 1963. A motion

14. George E. Brown, Jr. (Calif.).

15. 109 CONG. REC. 8506, 8509, 88th Cong. 1st Sess.

to recede and concur was divided and the House voted to recede from its disagreement to Senate amendment No. 76, whereupon Mr. Albert Thomas, of Texas, moved to concur with an amendment.

MR. [AUGUST E.] JOHANSEN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[16] The gentleman will state it.

MR. JOHANSEN: If the previous question is defeated, will it then be in order for the gentleman from Iowa to offer his motion?[17]

THE SPEAKER: If the previous question is defeated, any proper motion can be made at that time.

MR. JOHANSEN: I thank the Speaker.

§ 11.21 A motion to recede and concur with an amendment to a Senate amendment in disagreement is subject to amendment if the previous question is voted down.

On Dec. 11, 1967,[18] the House was considering Senate amendments reported in disagreement from a conference on H.R. 7977, the Postal Revenue and Federal Salary Act of 1967. After Speaker John W. McCormack, of Massachusetts, recognized Mr. Thaddeus J. Dulski, of New York, to offer a motion to recede and concur with an amendment, Mr. H. R. Gross, of Iowa, rose:

Mr. Speaker, at this point may I make a parliamentary inquiry?

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GROSS: Mr. Speaker, would the Senate amendment be subject to amendment if this motion is adopted, or prior to the adoption of this amendment?

THE SPEAKER: The motion is to recede from disagreement to the Senate amendment and concur therein with an amendment.

MR. GROSS: With an amendment?

THE SPEAKER: Yes.

MR. GROSS: Would that be subject to an amendment, Mr. Speaker?

THE SPEAKER: It would be, if the previous question on the motion is voted down.

MR. GROSS: I thank the Speaker.

THE SPEAKER: Is there objection to the request of the gentleman from New York?

Where Previous Question Is Defeated on Original Motion To Dispose of Senate Amendment

16. John W. McCormack (Mass.).
17. Mr. H. R. Gross, of Iowa, had signaled his intention to offer an amendment
18. 113 CONG. REC. 35811, 35833, 90th Cong. 1st Sess.

§ 11.22 After rejection of the previous question on an original motion to dispose of a Senate amendment reported from conference in disagreement, the Member leading the opposition to the previous question was recognized for an undivided hour on his amendment to the pending motion.

During the proceedings of Sept. 17, 1992,[19] Mr. George E. Brown, of California, waged the previous question fight against the motion offered by the manager of the bill, Mr. Tom Bevill, of Alabama, the subcommittee chairman so that he would be entitled to recognition to offer his own amendment. The debate time on a motion following defeat of the previous question is governed by Rule XIV clause 2.[20]

THE SPEAKER PRO TEMPORE:[1] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 37: Page 33, line 4, strike out all after "only)," down to and including "research" in line 9 and insert "$2,971,583,000, to remain available until expended, of which $300,000 shall be available only for planning funds for the Bishop Science Center, State of Hawaii; the Ambulatory Research and Education Building, Oregon Health Sciences University; and the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, Louisiana, and of which $4,000,000 shall be derived by transfer from the Geothermal Resources Development Fund".

MOTION OFFERED BY MR. BEVILL

MR. BEVILL: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE: The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$3,015,793,000 to remain available until expended, of which $94,800,000 shall be available only for the Bishop Science Center, State of Hawaii; the Ambulatory Research and Education Building, Oregon Health Sciences University; the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, Louisiana; the Advanced Technologies Institute, University of Connecticut; the Biomedical Research Facility, University of Alabama at Birmingham; the Cancer Treatment Facility for the Indiana University School of Medicine at Indianapolis, Indiana; the Cancer Institute of New Jersey; the Northeast Environmental Resource and Renewal Facility, Mayfield, Pennsylvania; Center for Advanced Industrial Process, Washington State University, Washington; and the Hahnemann University Ambulatory

19. 138 CONG. REC. 25432, 25433, 25437, 25438, 102d Cong. 2d Sess.

20. See *House Rules and Manual* § 758 (1997).

1. John W. Cox, Jr. (Ill.).

Care and Teaching Center in Philadelphia, Pennsylvania.".

MR. BROWN: Mr. Speaker, I am opposed to the motion and I ask for 20 minutes of the time allotted for debate.

THE SPEAKER PRO TEMPORE: Is the gentleman from Indiana [Mr. Myers] opposed to the motion?

MR. [JOHN T.] MYERS of Indiana: Mr. Speaker, I am not opposed.

THE SPEAKER PRO TEMPORE: The gentleman from Alabama [Mr. Bevill] will be recognized for 20 minutes, the gentleman from California [Mr. Brown] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. Myers] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alabama [Mr. Bevill].

MR. BEVILL: Mr. Speaker, I reserve the balance of my time. . . .

THE SPEAKER PRO TEMPORE: The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

MR. BEVILL: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 157, nays 203, not voting 72, as follows: . . .

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BROWN TO THE MOTION OFFERED BY MR. BEVILL

MR. BROWN: Mr. Speaker, I offer an amendment to the motion offered by the gentleman from Alabama [Mr. Bevill] on amendment No. 37.

THE SPEAKER PRO TEMPORE: The Clerk will report the amendment to the motion.

The Clerk read as follows:

> Amendment offered by Mr. Brown to the motion offered by Mr. Bevill: Strike "the Bishop Science Center" and all that follows through "Philadelphia, Pennsylvania" and insert in lieu thereof "making competitive, merit-review awards to academic research facilities, to the extent otherwise authorized by law".

THE SPEAKER PRO TEMPORE: The gentleman from California [Mr. Brown] is recognized for 1 hour.

PARLIAMENTARY INQUIRY

MR. MYERS of Indiana: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. MYERS of Indiana: Mr. Speaker, a Member in opposition to this motion is not entitled to half the time?

THE SPEAKER PRO TEMPORE: On an amendment to a motion, the hour is controlled by the proponent of the amendment.

MR. MYERS of Indiana: I thank the Chair. . . .

THE SPEAKER PRO TEMPORE: Without objection the previous question is ordered.

There was no objection.

Yielding for Amendment

§ 11.23 An amendment to a motion to concur in a Senate amendment with an amendment may not be offered unless the Member having the floor yields for that purpose.

On July 21, 1947,[2] the House was considering amendments of the Senate reported back in disagreement from a conference on H.R. 3123, Department of the Interior appropriations for fiscal 1948. Mr. Robert F. Jones, of Ohio, obtained a division of a motion to recede and concur offered by Mr. Matthew H. Ellsworth, of Oregon. The House voted to recede and Mr. Jones offered a motion to recede and concur with an amendment.

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

THE SPEAKER:[3] The gentleman will state it.

MR. ELLSWORTH: Is an amendment to that motion in order or a substitute for that motion?

THE SPEAKER: Not unless the gentleman from Ohio yields for that purpose.

MR. JONES of Ohio: I do not yield for that purpose.

MR. ELLSWORTH: Is an amendment to that motion in order?

THE SPEAKER: Only if the gentleman from Ohio would yield.[4]

Amendment of Language Not in Disagreement

§ 11.24 After the stage of disagreement between the two Houses has been reached it is not in order by way of a motion to recede and concur with an amendment to amend a part of the bill not in disagreement.

On June 10, 1940,[5] the House was considering Senate amendment No. 78 to H.R. 9209, military establishment appropriations, which had been reported back from conference still in disagreement. Speaker William B. Bankhead, of Alabama, recognized Mr. John B. Snyder, of Pennsylvania:

Mr. Speaker, I move to recede and concur with an amendment which I send to the desk.

The Clerk read as follows:

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2. 93 CONG. REC. 9621, 9622, 80th Cong. 1st Sess.
3. Joseph W. Martin, Jr. (Mass.).
4. See also 109 CONG. REC. 8506, 8509, 88th Cong. 1st Sess., May 14, 1963. The motion would also be amendable if the previous question thereon were defeated.
5. 86 CONG. REC. 7895, 76th Cong. 3d Sess.

Mr. Snyder moves to recede and concur in the Senate amendment No. 78 with an amendment as follows: Strike out the matter inserted by said amendment, and in line 17, page 33 of the House engrossed bill, insert before the period the following: "and, in addition, $470,000 for the acquisition of a site for such building, the design for which shall be prepared under the direction and supervision of the Secretary of War and Surgeon General of the Army, who shall select the architect".

MR. [JOHN] TABER [of New York]: Mr. Speaker, I rise to a point of order. . . .

I shall feel obliged to make a point of order against the part of the amendment beginning with the comma in the first line thereof and continuing through the balance of the language, because it is legislation on an appropriation bill; not authorized by law; and that it is not an amendment to an amendment to which it is offered, it being an amendment to the language on page 37, line 6, to which paragraph the Senate made no amendment whatever. On the further ground that it is an amendment beyond the range of those that might be offered to an amendment in disagreement at this time.

THE SPEAKER PRO TEMPORE:[6] Does the gentleman from Pennsylvania desire to be heard on the point of order?

MR. SNYDER: I concede the point of order, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The Chair sustains the point of order.

6. William P. Cole, Jr. (Md.).

Germaneness of Amendment Contained in Motion

§ 11.25 An amendment contained in a motion to recede and concur in a Senate amendment with an amendment need not be confined to the differences between the House bill and the Senate amendment, but must be germane to such Senate amendment.

On May 29, 1936,[7] the House was considering Senate amendments reported from conference still in disagreement on the agriculture appropriations bill for fiscal 1937. Mr. William M. Colmer, of Mississippi, offered a motion to recede and concur with an amendment. Mr. Thomas L. Blanton, of Texas, rose with a point of order:

Mr. Speaker, I make the point of order that the proposed amendment to the Senate amendment embraces provisions that are not in conference; that the gentleman can propose only such things as are embraced within the jurisdiction of the conference; and the amendment exceeds that matter by releasing restrictions that have already been agreed to by the conferees.

7. 80 CONG. REC. 8341–44, 74th Cong. 2d Sess.

THE SPEAKER:[8] As the Chair reads the amendment offered by the gentleman from Mississippi, it contains exactly the same language as the first portion of the Senate amendment except the amount is $40,000 instead of $80,000.

MR. BLANTON: But, Mr. Speaker, it releases restrictions that have been agreed upon.

THE SPEAKER: In the opinion of the Chair the amendment is germane.

MR. BLANTON: Mr. Speaker, only those matters that were embraced within the jurisdiction of the conferees may be offered as amendments.

THE SPEAKER: This Senate amendment was reported back to the House still in disagreement, as a matter of fact, and is now before the House for such action as the House may see fit to take. The gentleman from Mississippi has offered a motion to recede and concur in the Senate amendment with an amendment. The Chair has held that the amendment is germane and therefore overrules the point of order.[9]

§ 11.26 In considering a Senate amendment in disagreement, a motion to recede from disagreement and concur in the amendment of the Senate with an amendment not relevant to the subject matter, and which in effect sought to amend a part of the bill not in disagreement, was held not germane.

On July 2, 1943,[10] the House was considering the amendments in disagreement to H.R. 2481, agriculture appropriations for fiscal 1944.

MR. [STEPHEN] PACE [of Georgia]: Mr. Speaker, I offer a motion which is at the Clerk's desk.

The Clerk read as follows:

Mr. Pace moves that the House recede and concur in the amendment of the Senate with an amendment as passed by the House (lines 13 to 24 on page 76 and lines 1 and 2 on page 77) and insert the following in lieu thereof:

"FEDERAL CROP INSURANCE ACT

"Administrative and operating expenses: For operating and administrative expenses under the Federal Crop Insurance Act, approved February 16, 1938, as amended (7 U.S.C. 1501–1518; 55 Stat. 255–256) $3,500,000, including the employment of persons and means in the District of Columbia and elsewhere, printing and binding, purchase of lawbooks, books of reference, periodicals, and newspapers, together with the unobligated balance of the appropriation for this purpose for the fiscal year 1943."

8. Joseph W. Byrns (Tenn.).

9. See also 86 CONG. REC. 6184, 6185, 76th Cong. 3d Sess., May 15, 1940; and 81 CONG. REC. 971, 75th Cong. 1st Sess., Feb. 8, 1937.

10. 89 CONG. REC. 7041, 78th Cong. 1st Sess.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, I make the point of order against the language of the motion offered by the gentleman from Georgia that it is not relevant to the subject matter. The motion is offered in part in lieu of language which has not been stricken from the bill and in regard to which the two Houses are not in disagreement.

THE SPEAKER:[11] Does the gentleman from Georgia [Mr. Pace] desire to be heard upon the point of order?

MR. PACE: Mr. Speaker, I think that technically the point of order is good. I ask unanimous consent to have the opportunity to restate the amendment. It will be observed by the Chair that while it does strike out the House language, it immediately reinserts it word for word. It is not in substance a striking out of a single word in the House language, except that it inserts an amendment word for word that incorporates the House language with the suggested changes.

THE SPEAKER: That does not cure the situation. As the matter stands, the gentleman has offered a motion to strike out certain language that the two Houses have agreed to. The Chair sustains the point of order made by the gentleman from Georgia [Mr. Tarver].

Germaneness of Amendment to Motion

§ 11.27 Where there was pending a motion to concur in a Senate amendment to a House amendment to a Senate bill with a further amendment, the Speaker indicated, in response to a parliamentary inquiry, that any amendment offered to the pending motion upon rejection of the previous question thereon must be germane to the amendment contained in the motion.

On Aug. 3, 1973,[12] the House was considering the Senate substitute for the House amendment in the nature of a substitute for S. 1888, the Agriculture and Consumer Protection Act of 1973, which the conferees had reported in total disagreement. Mr. William R. Poage, of Texas, offered a motion to concur in the Senate substitute with an amendment. During the debate on this motion, Mr. William L. Dickinson, of Alabama, raised a parliamentary inquiry:

Mr. Speaker, as I understand the situation now, it is a very delicate parliamentary situation. What we are voting on is a Senate amendment to a House amendment to a Senate bill. That means it has been amended to the first degree, and with the chairman of the Committee on Agriculture adding this innocuous amendment, that is an

11. Sam Rayburn (Tex.).

12. 119 CONG. REC. 28121, 28122, 93d Cong. 1st Sess.

amendment to the second degree, and no more are allowed.

My question is, On the motion for the previous question, if the question is voted down, should a substitute or an amendment be offered to the motion of the chairman, must it be germane to the innocuous amendment?

THE SPEAKER:[13] The amendment proposed by the gentleman from Texas is now before the House. The amendment contained in the motion of the gentleman from Texas would be subject to a germane amendment if the previous question on this motion were rejected.

§ 12. To Insist or Adhere

If both Houses insist or adhere in their positions, the bill fails. Only if they agree to proceed to conference, or to recede from their disagreement, insistence, or adherence, can reconciliation be achieved.[14]

Adherence Distinguished From Insistence

§ 12.1 *Parliamentarian's Note:* Adherence is to be distinguished from insistence in that adherence represents an uncompromising position and may not be accompanied by a request for a conference.

Insistence After Refusal To Recede and Concur

§ 12.2 The House having refused to recede from its disagreement to a Senate amendment and concur therein the motion to further insist may be entertained.

On Apr. 29, 1965,[15] the House was considering Senate amendment No. 15 to H.R. 7091, supplemental appropriations, which had been reported back from conference still in disagreement.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein. . . .

THE SPEAKER PRO TEMPORE:[16] The question is on the motion offered by the gentleman from Texas [Mr. Mahon].

13. Carl Albert (Okla.).
14. *House Rules and Manual* §§ 521, 522, 553, 554 (1997).
15. 111 CONG. REC. 8867, 8871, 89th Cong. 1st Sess.
16. Carl Albert (Okla.).