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House-Senate Relations

A. INTRODUCTORY

§ 1. In General; Messages Between the Houses

The material in this chapter examines messages between the House and Senate and procedures for the disposition of amendments of one House to measures adopted by the other.[1] The material in Chapter 33, infra, examines House-Senate conferences, conference managers (conferees) and conference reports, including the consequences of their adoption or rejection. It is the logical extension of this chapter, and both chapters are necessary for a comprehensive understanding of the procedures which reconcile differences between the Houses. To the extent that the disposal of amendments between the Houses is accomplished by resorting to a conference, some material will appear in both chapters.

The House of Representatives and the Senate communicate and coordinate their activities by sending formal messages to each other. These messages between the two Houses constitute the sole source of official information regarding actions taken by the other House.[2] The reception of a message from the Senate is a highly privileged matter,[3] although such reception is not considered the transaction of business and therefore does not require a quorum.[4] Until the 95th Congress, messages were not read in the absence of a quorum.[5] Under the modern practice, the reading of a message from the Senate or the President

1. For comparable precedents that occurred prior to 1935 consult 5 Hinds' Precedents §§ 6163–6253, 6594, 6599 and 8 Cannon's Precedents §§ 3177–3208.

2. 8 Cannon's Precedents §§ 3342, 3343. See §§ 2.11, 2.14, infra.

3. See § 1.4, infra.

4. See § 1.7, infra; and 8 Cannon's Precedents § 3339.

5. *House Rules and Manual* § 55 (1973); 8 Cannon's Precedents § 3339; 5 Hinds' Precedents §§ 6600, 6650; and 4 Hinds' Precedents § 3522.

does not require the presence of a quorum.[6] Messages may be received even though the originating House may have adjourned.[7] The reception of a message may even interrupt a call of the roll.[8]

Senate bills and House bills with Senate amendments messaged from the Senate to the House go to the Speaker's table, from which they may be referred by the Speaker to the appropriate standing committees in the same manner as public bills introduced by the Members.[9] Those bills and amendments requiring consideration in the Committee of the Whole are placed on the Union Calendar for consideration there, after being reported from the standing committees to which they were referred. However, House bills with Senate amendments not requiring consideration in the Committee of the Whole and Senate bills which do not require consideration there, and which are substantially the same as House bills which were reported by a standing committee, may be disposed of in the House on motion authorized by that committee.[10] In determining whether the bills of the House and Senate are substantially the same, the Chair considers the House bill as reported from the standing committee rather than as originally introduced in the House.[11]

In order for a Senate bill to be eligible to be taken directly from the Speaker's table for consideration in the House under this exception to the general rule, the similar House bill must already be on the House Calendar when the Senate bill is placed on the Speaker's table.[12] If a House bill has already been passed before the similar Senate bill arrives, the Senate bill may still be disposed of when authorized by the appropriate committee.[13]

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6. See *House Rules and Manual* § 55 (1997).

7. See § 1.9, infra, and 8 Cannon's Precedents § 3338. The earlier practice is illustrated at 5 Hinds' Precedents §§ 6601, 6603.

8. *House Rules and Manual* § 767 (1997).

9. Rule XXIV clause 2, *House Rules and Manual* § 882 (1997). See §§ 5.27, 5.28, infra.

10. Rule XXIV clause 2, *House Rules and Manual* §§ 882, 883 (1997). See also § 3.8, infra.

11. 6 Cannon's Precedents §§ 734, 736.

12. 6 Cannon's Precedents §§ 727, 736, 738, 4 Hinds' Precedents § 3096, and § 3.8, infra.

13. 6 Cannon's Precedents §§ 734, 735. See § 3.9, infra.

Senate Informed of House Quorum

§ 1.1 At the beginning of a session of Congress, the House informs the Senate that a quorum of the House has assembled and is ready to proceed with business.

On Jan. 7, 1960,[14] the House sent the following message to the Senate:

> A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, informed the Senate that a quorum of the House is present and that the House is ready to proceed with business.
>
> The message also informed the Senate that a committee of three members had been appointed by the Speaker on the part of the House of Representatives to join with the committee on the part of the Senate to notify the President of the United States that a quorum of each House had assembled and that Congress was ready to receive any communication he might be pleased to make.

Parliamentarian's Note: The House and Senate also notify each other of additional organizational matters—the election of officers,[15] setting the date and time for the President's state of the Union address,[16] arranging for the counting of the electoral vote[17] in January following a Presidential election.

One House Often Uses a Resolution To Inform the Other of Certain Actions

§ 1.2 Senate resolutions are often used to notify the House of matters related to the organization of the Senate.

When a new Congress convenes, each House notifies the other of steps taken to permit legislative activity to begin. The resolutions noted here from the proceedings of Jan. 4, 1989,[18] are typical of those sent to the House to provide official notification of Senate actions.

> AFTER RECESS
>
> The recess having expired, the House was called to order by the Speaker pro tempore [Mr. (Dale E.) Kildee (of Michigan)] at 12 o'clock and 25 minutes p.m.
>
> MESSAGE FROM THE SENATE
>
> A message from the Senate by Mr. Hallen, one of its clerks, announced

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14. 106 CONG. REC. 76, 86th Cong. 2d Sess.

15. 1 Hinds' Precedents §§ 225, 229.

16. See *House Rules and Manual* § 169 (1997).

17. 3 Hinds' Precedents § 1961.

18. 135 CONG. REC. 194, 101st Cong. 1st Sess.

that the Senate had passed resolutions and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

S. RES. 5

Resolved, That the House of Representatives be notified of the election of Robert C. Byrd, a Senator from the State of West Virginia, as President pro tempore.

Refusal To Receive Message From Other House

§ 1.3 The refusal of one House to receive a message from the other is a breach of the practice of comity between the two Houses.

On Oct. 14, 1970,[19] Mr. Leslie C. Arends, of Illinois, was granted unanimous consent to make this statement:

> Mr. Chairman, it is not very often that I have found occasion to criticize the action of the other body. I have always felt that my responsibility here in the House, as is the case with every Member of this body, was to maintain the spirit of comity.
>
> But yesterday and today that spirit was closer to comedy than it was to comity.
>
> In due deliberation and in the regular order yesterday, the House considered and approved the conference report on the farm bill. The official papers on that legislation plus the papers on other bills were carried by a House employee to the other body, in conformity with the normal practice.
>
> Strangely enough, the path was blocked in a fashion reminiscent of the action of Gov. George Wallace who one day stood in the schoolroom door.
>
> This morning the same sorry scene was repeated as our House employee was again abruptly turned away.
>
> Finally, we now hear the farm bill papers have been accepted, but alas, the farm bill is not going to be considered prior to the election recess.
>
> In my time in the House I can recall no instance of this nature—whatever one may think of the farm bill.
>
> What I cannot understand, Mr. Chairman, is why the leadership of the other body would refuse to even consider the farm bill. . . .
>
> I certainly think this whole dismal affair has pointed up very dramatically the need for change in the other body—a change from pettiness to substance

19. 116 CONG. REC. 36675, 91st Cong. 2d Sess.

that will make it both responsible and responsive to public interest.

Privilege of Reception of Senate Message

§ 1.4 The reception of a message from the Senate is a highly privileged matter and may interrupt the consideration of a bill, even though the previous question has been ordered thereon.

On May 3, 1961,[20] the House had just ordered the previous question on H.R. 6441, to amend the Federal Water Pollution Control Act, when a message was received from the Senate.

> A message from the Senate by Mr. McGown, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3935) entitled "An act to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to $1.25 an hour, and for other purposes."

Following receipt of the message, the House proceeded to other privileged business—the consideration of a conference report, the submission of another conference report, the filing of a privileged report from the Committee on Rules—before resuming consideration, as unfinished business, of the bill on which the previous question was ordered.[1]

Privilege of Request for Return of Message

§ 1.5 The request of the Senate for the return of a message is laid before the House by the Speaker as privileged, and it requires only a majority vote to grant such request.

On Aug. 24, 1935,[2] the House and the Senate both approved House Concurrent Resolution 38, providing that both Houses of Congress adjourn *sine die* at the end of the day. However, later that day the following took place in the House:

> THE SPEAKER:[3] . . . The Chair lays before the House the following request from the Senate.

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20. 107 CONG. REC. 7172, 87th Cong. 1st Sess.

1. *Id.* at p. 7195.
2. 79 CONG. REC. 14583, 14645, 14669, 74th Cong. 1st Sess.
3. Joseph W. Byrns (Tenn.).

The Clerk read as follows:

Ordered, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the concurrent resolution (H. Con. Res. No. 38), a concurrent resolution providing for the *sine die* adjournment of the first session of the Seventy-fourth Congress.

THE SPEAKER: The question is on agreeing to the request of the Senate.

The question was taken; and on a division (demanded by Mr. Snell and Mr. Taber) there were—ayes 127, noes 103.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MAPES: May I inquire of the Chair whether to grant this request of the Senate the rules must be suspended, and to agree to the motion will require a two-thirds vote?

THE SPEAKER: No; the request of the Senate is laid before the House and acted upon by a majority of the House. The action taken by the House will determine what shall be done with the request.

MR. MAPES: The Chair rules that it requires only a majority to grant the request?

THE SPEAKER: It requires only a majority.

Time for Reception of Senate Message

§ 1.6 The Speaker may receive a message from the Senate before the approval of the Journal.

On Sept. 13, 1965,[4] the House was debating the motion to approve the Journal when a message arrived from the Senate. After the time of the Member then speaking (Mr. Durward G. Hall, of Missouri) had expired, the Chair[5] recognized the Senate messenger who informed the House of Senate passage of several House bills. Mr. H. R. Gross, of Iowa, then stated a point of order.

Mr. Speaker, a point of order.

THE SPEAKER: For what purpose does the gentleman from Iowa arise?

MR. GROSS: The transacting of business of the House prior to adoption of the reading of the Journal.

THE SPEAKER: The Chair will state it is always proper, as well as courteous, to receive a message from the President of the United States, or from the other body, as quickly as possible.[6]

Receipt of Senate Message Absent House Quorum

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4. 111 CONG. REC. 23604, 89th Cong. 1st Sess.
5. John W. McCormack (Mass.).
6. In the permanent Record, the message from the Senate is shown following completion of the pending business—the approval of the Journal—and not at the point where it was actually received. See 111 CONG. REC. 23607, 89th Cong. 1st Sess.

§ 1.7 A message from the Senate may be received in the absence of a quorum, pending a motion for a call of the House.

On Oct. 8, 1968,[7] the following occurred on the floor of the House:

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:[8] Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

THE SPEAKER: At this time the Chair will receive a message. . . .

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 8781. An act to authorize the Secretary of the Interior to exchange certain lands in Shasta County, Calif., and for other purposes. . . .

A call of the House was ordered.

Effect of Failure of a Quorum Upon Message Received During a Call

§ 1.8 Where a message from the Senate is received during a call of the House, and the House adjourns when a quorum fails to appear on the call, the message is held at the Speaker's table until it next convenes.

On Oct. 11, 1968,[9] the following occurred on the floor of the House:

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll. . . .

During the call of the roll messages were received from the President of the United States and from the Senate.

THE SPEAKER:[10] One hundred eighty-eight Members are present, not a quorum.

The Chair recognizes the gentleman from Oklahoma.

MR. ALBERT: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Saturday, October 12, 1968, at 12 o'clock noon.[11]

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7. 114 CONG. REC. 30091, 90th Cong. 2d Sess.
8. John W. McCormack (Mass.).
9. 114 CONG. REC. 30816, 30817, 90th Cong. 2d Sess.
10. John W. McCormack (Mass.).
11. *Parliamentarian's Note:* While the reception of messages from the President or the Senate is not the transaction of business requiring the presence of a quorum, if they are received during a call of the House, and a quorum does not appear on the call, they are not read until a quorum is present. In this instance, both messages were laid before the House when it met the following day.

When the House met on Oct. 12, 1968, immediately following the approval of the Journal, the following message was laid before the House.[12]

MESSAGE FROM THE SENATE
RECEIVED OCTOBER 11

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title: . . .

The message also announced that the Senate had passed concurrent resolutions of the following titles:

S. Con. Res. 82. Concurrent resolution authorizing the President of the Senate and the Speaker of the House to sign enrolled bills and resolutions; and

S. Con. Res. 83. Concurrent resolution establishing that when the two Houses of Congress adjourn on Friday, October 11, 1968, they stand adjourned sine die.

Receipt of Senate Message After Senate Adjournment

§ 1.9 The House may receive a message from the Senate although that body may have adjourned.

On Aug. 24, 1935,[13] the House approved House Concurrent Resolution 38, which provided that upon adjourning that night, both Houses would stand adjourned *sine die*. Subsequently, the Senate notified the House of the following actions relating to House Concurrent Resolution 38: It agreed to the concurrent resolution; it then requested the House to return its message of agreement to the Senate.[14] It later reconsidered its vote on agreement and again passed the resolution. Mr. James W. Wadsworth, Jr., of New York, was then recognized with a parliamentary inquiry:

Mr. Speaker, in view of the fact the Senate has informed the House that it has rescinded its action in recalling from the House the adjournment concurrent resolution, what is the present situation?

THE SPEAKER:[15] The Chair has been informed that the Senate has taken a recess until Monday at 12 o'clock. The Chair will ask the House to take a recess for a reasonable time until the fact can be ascertained. . . .

A further message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had ordered

12. 114 CONG. REC. 31116, 90th Cong. 2d Sess.

13. 79 CONG. REC. 14583, 14645, 14667, 14669–71, 14673, 74th Cong. 1st Sess.

14. See § 1.14, infra.

15. Joseph W. Byrns (Tenn.).

that the secretary be directed to inform the House of Representatives that the Senate has reconsidered its action in agreeing to House Concurrent Resolution No. 38, providing for the *sine die* adjournment of the first session of the Seventy-fourth Congress.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, I make a point of order against the message from the Senate because the Senate adjourned several minutes ago.

THE SPEAKER: This is a message from the Senate and can be delivered to the House even though the Senate has adjourned. The Chair does not understand that a point of order lies against the reporting of a message from the Senate by a regularly accredited official of the Senate.

"Deeming Resolutions"—Use in the House

§ 1.10 On rare occasions, the House has anticipated legislative actions of the Senate and acted in futuro, deeming certain actions to be taken by the House if and when a message is received showing that the anticipated legislative acts in fact occurred.

On Dec. 18, 1982,[16] as the House approached the end of the session, it was necessary to expedite the conclusion of the further continuing appropriation bill for fiscal year 1983. The measure was still under consideration in the Senate, but the House leadership thought it essential to begin the conference as quickly as possible.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 631, FURTHER CONTINUING APPROPRIATIONS, 1983

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Speaker, I ask unanimous consent that if and when the Clerk receives a message from the Senate indicating that that body has passed the joint resolution (H.J. Res. 631) with amendments, insisted upon its amendments and requested a conference with the House, that the House be deemed to have disagreed to the amendments of the Senate and agreed to the conference asked by the Senate, and that the Speaker be deemed to have appointed conferees.

THE SPEAKER:[17] Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Whitten, Boland, Natcher, Smith of Iowa, Addabbo, Long of Maryland, Yates, Roybal, Bevill, Dicks, Ginn, Sabo, Dixon, Fazio, Conte, McDade, Edwards of Alabama, Myers, Robinson, Coughlin, Kemp, and Lewis.

When the House reconvened on Dec. 19, 1982,[18] the Speaker laid

16. 128 CONG. REC. 32137, 97th Cong. 2d Sess.

17. Thomas P. O'Neill, Jr. (Mass.).

18. 128 CONG. REC. 32401, 97th Cong. 2d Sess.

before the House the following communication from the Clerk:

COMMUNICATION FROM THE CLERK OF THE HOUSE

THE SPEAKER: The Chair lays before the House the following communication:

WASHINGTON, D.C.,
December 19, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, the Clerk received, at 3:22 p.m. on Sunday, December 19, 1982, the following message from the Secretary of the Senate: That the Senate passed with amendments H.J. Res. 631 and requested a conference thereon.

In accordance with action taken by the House on Saturday, December 18, 1982, the Clerk has notified the Senate that the House disagreed to the amendments of the Senate to H.J. Res. 631 and agreed to a conference thereon.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

Parliamentarian's Note: This was the first instance where the House took such an action. The procedure is contrary to the principle in Jefferson's Manual[19] that the House should not take notice of bills in the other body, until the actions are communicated to the House. However, procedural steps such as this are used when necessary under the modern practice.

House Sometimes Anticipates Senate Action and Acts Before Formal Message Is Received

§ 1.11 On occasion, the House anticipates Senate action, and, by unanimous consent, has established the conditions for a conference on a House bill with Senate amendment even before the Senate has acted and messaged its request for a conference to the House.

The unanimous-consent request of Sept. 26, 1984,[20] made by the chairman of the Committee on Appropriations, Jamie L. Whitten, of Mississippi, relating to House Joint Resolution 648, making continuing appropriations for fiscal year 1985, and the Chair's anticipatory appointment of conferees are shown below.

MR. WHITTEN: Mr. Speaker, I ask unanimous consent that if and when the Clerk receives a message from the Senate indicating that that body has passed the joint resolution (H.J. Res.

19. *House Rules and Manual* § 308 (1997).

20. 130 CONG. REC. 27341, 98th Cong. 2d Sess.

648) with amendments, insisted upon its amendments and requested a conference with the House, that the House be deemed to have disagreed to the amendments of the Senate and agreed to the conference asked by the Senate, and that the Speaker be deemed to have appointed conferees.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Mississippi? The Chair hears none and, without objection in this instance, the Chair appoints the following conferees: Messrs. Whitten, Boland, Natcher, Smith of Iowa, Addabbo, Long of Maryland, Yates, Roybal, Bevill, Lehman of Florida, Dixon, Fazio, Hefner, Conte, McDade, Edwards of Alabama, Myers, Robinson, Coughlin, and Kemp.

There was no objection.

When the Senate finally messaged its action to the House on Oct. 5, 1984,[1] the Speaker made a further statement for the Record, confirming that the action which the House had anticipated had in fact occurred.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4966. An act to recognize the organization known as the Women's Army Corps Veterans' Association: . . .

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 648) "Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Hatfield, Mr. Stevens, Mr. Weicker, Mr. McClure, Mr. Garn, Mr. Cochran, Mr. Andrews, Mr. Abdnor, Mr. Kasten, Mr. D'Amato, Mr. Mattingly, Mr. Rudman, Mr. Specter, Mr. Domenici, Mr. Stennis, Mr. Byrd, Mr. Inouye, Mr. Hollings, Mr. Eagleton, Mr. Chiles, Mr. Johnston, Mr. Huddleston, Mr. Burdick, Mr. Leahy, Mr. DeConcini, and Mr. Bumpers to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER REGARDING HOUSE JOINT RESOLUTION 648, CONTINUING APPROPRIATIONS

THE SPEAKER:[2] Pursuant to the order of the House of September 26, 1984, pertaining to the joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes. The House is deemed to have disagreed to the amendments of the Senate and agreed to the conference asked by the Senate and the Speaker to have appointed managers on the part of the House as appointed on that date.

1. *Id.* at p. 30292.

2. Thomas P. O'Neill, Jr. (Mass.).

Reception by Committee of the Whole

§ 1.12 The Committee of the Whole must rise to receive messages from the Senate.

Parliamentarian's Note: On this occasion, Mar. 22, 1961,[3] the Speaker[4] wished to sign enrolled bills, prepared in advance, but which could not be signed by the Speaker until the message announcing their passage by the Senate had been received in the House. Therefore, the Committee of the Whole resolved itself back into the House for the reception of the message from the Senate.

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I move the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Elliott, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5000) to authorize certain construction at military installations, and for other purposes, had come to no resolution thereon.

The Speaker then recognized the Senate clerk, who delivered the following message.

A further message from the Senate by Mr. McGown, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4510) entitled "An act to provide a special program for feed grains for 1961."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4806) entitled "An act to provide for the establishment of a temporary program of extended unemployment compensation, to provide for a temporary increase in the rate of the Federal unemployment tax, and for other purposes."

On motion of Mr. Vinson, the House then again resolved into the Committee of the Whole for further consideration of H.R. 5000.[5]

The Committee of the Whole May Rise Informally

§ 1.13 Under the more modern practice in the House, the Committee rises informally, not by motion, both to receive a message or to permit the Speaker to lay before

3. 107 CONG. REC. 4563, 87th Cong. 1st Sess.
4. Sam Rayburn (Tex.).
5. 107 CONG. REC. 4563, 87th Cong. 1st Sess., Mar. 22, 1961.

the House an enrolled bill which has been signed by the Speaker.

The practice whereby the Committee of the Whole rises without a formal motion is recognized in Jefferson's Manual: "If a message is announced during a committee, the Speaker takes the chair and receives it, because the committee can not."[6] A formal motion that the Committee rise can provoke a vote in Committee, so in the modern practice the informal method of rising is normally employed. The proceedings of Feb. 8, 1995, and Jan. 28, 1980, are illustrative of the current practice.

On Feb. 8, 1995,[7] the Committee rose informally to enable the Speaker to receive a message from the President:

THE CHAIRMAN:[8] The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The Speaker pro tempore (Mr. Lightfoot) assumed the chair.

THE SPEAKER PRO TEMPORE: The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

PARLIAMENTARY INQUIRY

MR. [MELVIN L.] WATT of North Carolina: Mr. Speaker, I have a parliamentary inquiry.

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

MR. WATT of North Carolina: How can we rise out of the Committee of the Whole without a motion to that effect? I did not hear anybody make a motion. It is strictly a technical point, but there are some procedural rules that apply in this body, I thought.

THE SPEAKER PRO TEMPORE: The Chair will inform the gentleman from North Carolina the Committee of the Whole can rise informally just for the purpose of receiving a message.

MR. WATT of North Carolina: Informally.

THE SPEAKER PRO TEMPORE: Yes. A motion is not required just for the purpose of receiving a message.

MR. WATT of North Carolina: I thank the Chair for enlightening me.

THE SPEAKER PRO TEMPORE: The Committee will resume its sitting.

On Jan. 28, 1980,[9] there is an example of the Committee rising informally to lay down an enrolled bill.

6. See portions of Jefferson's Manual carried in §§ 330, 563, *House Rules and Manual* (1997).
7. 141 CONG. REC. 4112, 104th Cong. 1st Sess.
8. Jim Lightfoot (Iowa).
9. 126 CONG. REC. 888, 96th Cong. 2d Sess.

THE CHAIRMAN: The Committee will rise informally in order that the Speaker may sign an enrolled resolution.

The Speaker resumed the chair.

THE SPEAKER:[10] The Chair lays before the House the following enrolled joint resolution:

H.J. Res. 478. Joint resolution to extend by 60 days the expiration date of the Defense Production Act of 1950.

THE SPEAKER: The Committee will resume its sitting.

One House Sometimes Asks the Other for the Return of a Message

§ 1.14 The Senate, by a second message, may request the return of an earlier message informing the House of a legislative action.

On Aug. 24, 1935,[11] the House approved and sent to the Senate House Concurrent Resolution 38, providing for a *sine die* adjournment of both Houses of Congress at the end of the day. A short time later the House received a message from the Senate which included the following:

The message also announced that the Senate agreed to concurrent resolutions of the House of the following titles:

H. Con. Res. 38. Concurrent resolution providing for the *sine die* adjournment of the first session of the Seventy-fourth Congress. . . .

Still later that day the House received this message from the Senate:

A still further message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate requests the House to return to the Senate the concurrent resolution (H. Con. Res. 38) providing for the *sine die* adjournment of the first session of the Seventy-fourth Congress.

Correcting Error in House Engrossment of House Amendment

§ 1.15 Where the House belatedly discovered an error in its amendment of a Senate bill, it adopted a resolution (by unanimous consent) requesting the Senate to return the engrossed House amendment and directed the Clerk to prepare a new engrossment eliminating the error.

House Resolution 534, requesting the Senate to return the engrossed amendment of the House to S. 725, was not reported from

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10. Thomas P. O'Neill, Jr. (Mass.).
11. 79 CONG. REC. 14583, 14645, 14667, 74th Cong. 1st Sess.

a committee but was called up on the floor and considered by unanimous consent. The resolution and the debate explaining the necessity for this action are included here.[12]

MR. [HENRY A.] WAXMAN [of California]: Mr. Speaker, I offer a resolution (H. Res. 534) to correct the engrossment of the amendment of the House of Representatives to the Senate bill (S. 725), and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 534 is as follows:

H. RES. 534

Resolved,

SECTION 1. RETURN.

The Senate is requested to return to the House of Representatives the amendment of the House to the Senate bill (S. 725).

SEC. 2. CORRECTION.

Upon the return of the House amendment to the Senate bill (S. 725), the Clerk of the House of Representatives shall make the following change in the engrossment of the House amendment: Strike section 5 and insert the following:

SEC. 3. STATE STANDARDS. . . .

THE SPEAKER PRO TEMPORE:[13] Is there objection to the request of the gentleman from California?

MR. [CARLOS J.] MOORHEAD [of California]: Mr. Speaker, reserving the right to object, I will not object, but I would like to request that the gentleman from California [Mr. Waxman] explain exactly what this unanimous-consent request includes.

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

MR. MOORHEAD: I yield to the gentleman from California.

MR. WAXMAN: Mr. Speaker, this resolution corrects the engrossment of S. 725, a bill passed by the House. The correction replaces two paragraphs of the Senate-passed bill which were inadvertently omitted in the House-passed version. This will correct, I think, technically what we all tried to accomplish.

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

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

There was no objection. The resolution was agreed to.

A motion to reconsider was laid on the table.

Parliamentarian's Note: The Senate could have amended the House amendment to correct the error, but this would have required a second House action.

Replacing Lost Official Papers

§ 1.16 Where the official papers are lost or destroyed, the House and Senate can authorize their recreation by the Clerk of the House and Secretary of the Senate.

12. See 140 CONG. REC. 24911, 24912, 103d Cong. 2d Sess., Sept. 20, 1994.
13. Alcee L. Hastings (Fla.).

The concurrent resolution carried here was considered by unanimous consent, adopted by the House (and later by the Senate). It authorized the preparation of duplicate original "official papers" where the original ones had been misplaced in the Senate.(14)

MR. [NORMAN Y.] MINETA [of California]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 414) directing the preparation of duplicate conference papers on H.R. 5930.

The Clerk read the title of the concurrent resolution.

THE SPEAKER PRO TEMPORE:(15) Is there objection to the request of the gentleman from California?

MR. [ELLIOTT H.] LEVITAS [of Georgia]: Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from California if he would explain the effect of the concurrent resolution.

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

MR. LEVITAS: I yield to the gentleman from California.

MR. MINETA: Mr. Speaker, this concurrent resolution merely recreates papers which apparently have been lost. It does not approve or constitute approval of the conference report.

I expect to bring that conference report before the House tomorrow.

MR. LEVITAS: Further reserving the right to object, and I will not object, I wanted to make certain that it did not constitute approval of the conference report by the adoption of the concurrent resolution.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 414

Resolved by the House of Representatives (the Senate concurring), That the Secretary of the Senate and the Clerk of the House of Representatives are authorized and directed to prepare and sign official duplicates of the conference papers on the bill (H.R. 5930) to extend the aviation insurance program for five years.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

Modification of Text of Bill Agreed to by Both Houses

§ 1.17 Changes in the text of a bill agreed to by the two Houses may be made by concurrent resolution.

On Feb. 1, 1937,(16) when the House was considering the Senate amendments to the text of House

14. 128 CONG. REC. 26058, 97th Cong. 2d Sess., Sept. 29, 1982.

15. John P. Murtha, Jr. (Pa.).

16. 81 CONG. REC. 646–48, 75th Cong. 1st Sess.

Joint Resolution 81, creating a Joint Congressional Committee on Government Organization, Mr. John E. Rankin, of Mississippi, attempted to offer an amendment to the provisions in the House-passed measure.

THE SPEAKER:[17] The gentleman is not confining himself in his amendment to the Senate amendment, which deals only with the number of Senators on the joint committee; but he goes further down in the paragraph and adds additional matter to the text, to which both Houses have already agreed. . . .

MR. [CLAUDE A.] FULLER [of Arkansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. FULLER: Cannot that be amended by unanimous consent?

THE SPEAKER: The only way under the rules of the House by which this situation could be changed would be by a concurrent resolution, agreed to by both Houses, changing the text of the matter already passed upon by the House and accepted by the Senate.

§ 2. Messages Relating to Bills

Each House informs the other of the passage of a measure and of any subsequent legislative action taken. A House-passed bill is engrossed, attested to by the Clerk of the House and is messaged to the Senate. If the Senate passes the bill without change, that action is formalized, attested to, and the House is notified. If the Senate amends, its amendments are engrossed, attested to by the Secretary and the House is informed. Any further amendments by either House are engrossed as well. If one House disagrees with amendments of the other a conference may result. The request for or agreement to a conference, the appointment of conferees, actions taken on the report or amendments in disagreement—all are certified by the appropriate official of the acting House. The package of actions travels together from one House to the other.

The "bundle" of messages and attested copies of legislative actions are called the "official papers." To act on a measure, the body must be in possession of these papers. The progression of papers from one House to the other normally mirrors the flow of messages.

When the conference meeting is held, the managers of the asking House (having possession of the papers because it received the last message—the agreement to the

17. William B. Bankhead (Ala.).

conference) carries the papers to the conference meeting. When the conference results in agreement, the expectation is that the asking House will yield the papers to the agreeing House which may act first on the report.[18] However, if the managers of the agreeing House release the official papers to the managers of the other House, the sequence of actions may be reversed. No point of order lies against a conference report which is acted on "out of order" so long as the acting House has possession of the papers when the report is considered.[19]

When the conference results in disagreement, the managers of the asking House are justified in retaining the papers so that the body they represent may act first on the amendments in disagreement.[20]

Messages are also used to communicate a request for a return of a bill already transmitted to the other House,[1] to indicate an error in the text of an engrossed bill or amendment, and to inform the other House of unusual legislative actions.[2]

Senate Request for Return of Bill

§ 2.1 The House, by unanimous consent, agreed to a request of the Senate for the return of a Senate bill which had been messaged to the House and referred to a committee thereof.

On Jan. 21, 1960,[3] Speaker Sam Rayburn, of Texas, laid before the House the following message from the Senate:

> *Ordered*, That the House of Representatives be requested to return to the Senate the bill (S. 1282) entitled "An act relating to acreage allotments for Durum wheat."
>
> THE SPEAKER: Without objection, the request is granted.
>
> There was no objection.

Discharge of Senate Bill From House Committee

18. See *Jefferson's Manual* Sec. XLVI, *House Rules and Manual* § 555 (1997).
19. See § 2.19, infra. Once managers have filed a conference report in the Senate, with the official papers attached, retrieval of the papers—to transfer them to the House—required unanimous consent. See § 2.18, infra.
20. See § 2.12, infra.

1. See §§ 2.1, 2.2, infra.
2. See § 1.14, supra, and §§ 2.3–2.5, infra.
3. 106 CONG. REC. 1022, 86th Cong. 2d Sess.

§ 2.2 The House, responding to a request of the Senate, discharged one of its standing committees from consideration of a Senate bill and directed the Clerk to return the bill to the Senate.

On July 10, 1969,[4] the following took place in the House:

THE SPEAKER:[5] The Chair lays before the House a request from the Senate.

The Clerk read as follows:

That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 1583) entitled "An Act to provide that appointments and promotions in the Post Office Department, including the postal field service, be made on the basis of merit and fitness", together with all accompanying papers. . . .

THE SPEAKER: . . . Without objection, the request of the Senate is agreed to, the Committee on Post Office and Civil Service is discharged from further consideration of the bill S. 1583, and the Clerk will return the bill to the Senate.

There was no objection.

Bills Passed in Closing Hours of Previous Session

§ 2.3 At the beginning of a session of Congress, bills are messaged to the Senate that were passed by the House in the closing hours of a previous session of that Congress and not messaged to the Senate before adjournment *sine die.*

On Jan. 7, 1960,[6] the House sent to the Senate a message concerning actions it had taken prior to the adjournment of the first session of that Congress.

The message announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5349. An act to provide for the conveyance to Orange County, Calif., of all right, title, and interest of the United States in and to certain real property situated in Orange County, Calif.; and

H.R. 8289. An act to accelerate the commencing date of civil service retirement annuities, and for other purposes.

Veto Overridden

§ 2.4 When the House passes a bill over a President's veto, it notifies the Senate by message.

On Apr. 2, 1948,[7] this message from the House was received by the Senate:

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4. 115 CONG. REC. 19095, 91st Cong. 1st Sess.
5. John W. McCormack (Mass.).
6. 106 CONG. REC. 76, 86th Cong. 2d Sess.
7. 94 CONG. REC. 4018, 80th Cong. 2d Sess.

IN THE HOUSE OF REPRESENTATIVES, U.S.,
April 2, 1949.

The House of Representatives having proceeded to reconsider the bill (H.R. 4790) entitled "An act to reduce individual income-tax payments, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

"*Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same."

Attest:

JOHN ANDREWS,
Clerk.

House Strikes Enacting Clause of Senate Bill

§ 2.5 Where the House strikes the enacting clause of a Senate bill, the Speaker directs the Clerk to notify the Senate, but the original papers are not returned to the Senate.

On Oct. 4, 1972,[8] the Committee of the Whole recommended that the House strike out the enacting clause of S. 1316, a bill to amend the Federal Meat Inspection Act and Poultry Products Inspection Act.

THE SPEAKER:[9] The question is on the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out.

The question was taken; and there were—yeas 173, nays 169, not voting 88. . . .

So the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out was agreed to. . . .

THE SPEAKER: The Clerk will notify the Senate of the action of the House.

Parliamentarian's Note: The last instance where the House struck the enacting clause of a Senate bill was June 20, 1946.[10] The message from the House to the Senate at that time did not indicate that the original papers were returned to the Senate.

Privilege of Senate Request for Return of a Bill

§ 2.6 A request of the Senate for the return of a bill is treated as privileged in the House.

On Sept. 14, 1959,[11] the Speaker, Sam Rayburn, of Texas, laid before the House a request of

8. 118 CONG. REC. 33785–87, 92d Cong. 2d Sess.

9. Carl Albert (Okla.).

10. 92 CONG. REC. 7211, 79th Cong. 2d Sess.

11. 105 CONG. REC. 19715, 86th Cong. 1st Sess.

the Senate that the House return to the Senate H.R. 8392, to amend the District of Columbia Stadium Act of 1957. Mr. H. R. Gross, of Iowa, then rose:

Mr. Speaker, is that subject to a reservation of any kind?

THE SPEAKER: It is a privileged matter. It is a request of the Senate to return a bill.

§ 2.7 Where the Senate, by message, requests the return of a bill it has passed, the request is considered as privileged in the House and may be disposed of by motion.

On Sept. 9, 1970,[12] the Speaker, John W. McCormack, of Massachusetts, laid before the House the following communication from the Senate relating to a bill which the Senate had passed eight days previously:

IN THE SENATE OF THE UNITED STATES,
September 1, 1970.

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H.R. 16968) entitled "An act to provide for the adjustment of the Government contribution with respect to the health benefits coverage of Federal employees and annuitants, and for other purposes".

Attest:

FRANCIS R. VALEO,
Secretary.

MR. [THADDEUS J.] DULSKI [of New York]: Mr. Speaker, I move that the request of the Senate be agreed to.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, will the gentleman yield?

MR. DULSKI: I yield to the gentleman from Iowa.

MR. GROSS: Mr. Speaker, will the gentleman explain to the House briefly the nature of this legislation and the reason for the Senate asking the papers and this bill be sent back to that body?

MR. DULSKI: . . . It also is our understanding that upon return of the House bill, a motion will be made in the Senate to amend the House bill by inserting the language of the Senate-passed bill. The House bill with the Senate amendment would then be returned to the House for further consideration.

This gives the details of what happened in the Senate.

MR. GROSS: Mr. Speaker, will the gentleman yield further?

MR. DULSKI: I yield to the gentleman from Iowa.

MR. GROSS: Mr. Speaker, in other words, the other body took up the bill, apparently on the call of the calendar, and by unanimous consent, without debate, passed a bill that was faulty and now asks its return by the House.

MR. DULSKI: That would be correct, in substance.

MR. GROSS: I thank the gentleman for yielding. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

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12. 116 CONG. REC. 30850, 30851, 91st Cong. 2d Sess.

§ 2.8 A request of the Senate for the return of a bill is treated as privileged, and the Chair can immediately put the question on the request without debate.

On Dec. 29, 1970,[13] Speaker Pro Tempore Hale Boggs, of Louisiana, laid before the House this request of the Senate:

DECEMBER 28, 1970.

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H.R. 14984) entitled "An Act to provide for the disposition of funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets Nos. 142, 359–363, and for other purposes", together with all accompanying papers.

FRANCIS R. VALEO,
Secretary.

THE SPEAKER PRO TEMPORE: The question is on agreeing to the request of the Senate. . . .

The question was taken; and there were—yeas 235, nays 20, not voting 177. . . .

So the request of the Senate was agreed to.

Receipt and Consideration of Senate Request for Return of a Bill

§ 2.9 A message from the Senate requesting that the House return a bill must be presented to the House for consideration, and the question of complying with the request is treated as privileged.

On Sept. 14, 1959,[14] Speaker Sam Rayburn, of Texas, laid before the House this request of the Senate:

Ordered, That the Secretary of the Senate request the House of Representatives to return to the Senate the bill (H.R. 8392) entitled "An act to amend the District of Columbia Stadium Act of 1957 with respect to motor-vehicle parking areas, and for other purposes," together with accompanying papers.

THE SPEAKER: The question is on agreeing to the request of the Senate. . . .

The question was taken; and the Speaker announced that the ayes had it.

Mr. Gross, of Iowa, then asked if consideration of the Senate's request required unanimous consent. The Speaker stated it was a privileged matter. The Speaker then put the question.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I object to the vote on the ground that a quorum is not present,

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13. 116 CONG. REC. 43776, 91st Cong. 2d Sess.

14. 105 CONG. REC. 19715, 86th Cong. 1st Sess.

and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. [After counting.] Two hundred and thirty-nine Members are present, a quorum.

So the request of the Senate was granted.

House Compliance With Senate Request

§ 2.10 On occasion, the House, acting by unanimous consent, agrees to a request of the Senate for the return of a House bill.

On Nov. 6, 1963,[15] the following request of the Senate was disposed of by the House:

Ordered, That the Secretary of the Senate request the House of Representatives to return to the Senate the bill (H.R. 2985) entitled "An act to amend section 1391 of title 28 of the United States Code, relating to venue generally" together with all accompanying papers.

THE SPEAKER:[16] Without objection, the request is granted.

There was no objection.

A motion to reconsider was laid on the table.[17]

15. 109 CONG. REC. 21122, 88th Cong. 1st Sess.
16. John W. McCormack (Mass.).
17. See also 107 CONG. REC. 20822, 87th Cong. 1st Sess., Sept. 22, 1961; and 106 CONG. REC. 9853, 86th Cong. 2d Sess., May 10, 1960.

Message Requesting Return of Bill

§ 2.11 The two Houses communicate officially by written messages; and when the House receives a message from the Senate asking for the return of a bill previously sent to the House, the message is laid before the House for action. Such requests are frequently agreed to without objection.

When the Senate asked for the return of a Senate bill previously messaged to the House, the Speaker laid the communication before the House for action. The proceedings below show the disposition of such a request.[18]

The Speaker laid before the House the following communication from the Senate of the United States:

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 622) entitled "An Act to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement United States obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of

18. 121 CONG. REC. 30414, 94th Cong. 1st Sess., Sept. 26, 1975.

Federal and State conservation programs consistent with economic recovery", together with all accompanying papers.

THE SPEAKER:[19] Without objection, the request is agreed to.

There was no objection.

Progression of Conference "Official Papers"

§ 2.12 Where conferees report in total disagreement, the papers are normally retained by the asking House so that it may act first on the matter in disagreement; but where the only matter remaining in disagreement is an amendment of the asking House, which cannot amend its own amendment, the papers may be transferred so that the agreeing House may address the disagreement by amending.

The conference agreement brought before the House on Oct. 7, 1975, was the second report dealing with amendments in disagreement on H.R. 8121, the State, Justice, Commerce, and the Judiciary appropriations for fiscal 1976. The second conference was asked by the Senate and the second report dealt with the sole remaining Senate amendment in disagreement, and the conferees agreed to recommend a further amendment to that amendment. Since the Senate—the "asking House" which would normally entitle it to act first—could not amend its own amendment, the report was filed in disagreement, the House retained the papers and acted first on the managers recommendation.

The form of the report, the Senate amendment in disagreement, and the House action thereon are shown in the *Congressional Record* excerpt and the relevant parts of the statement of the managers are carried here:[20]

CONFERENCE REPORT (H. REPT. NO. 94–527)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 8 to the bill (H.R. 8121) "making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes," having met, after further full and free conference, have been unable to agree.

JOHN M. SLACK . . .

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19. Carl Albert (Okla.).

20. 121 CONG. REC. 31510, 94th Cong. 1st Sess., Oct. 2, 1975.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE . . .

TITLE I—DEPARTMENT OF STATE

General provisions—Department of State

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion as follows:

Restore the 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 Canal Zone and in the operation, maintenance, property and defense of the Panama Canal."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

When the report was called up and read on Oct. 7, 1975, the Speaker[1] laid down the amendment in disagreement.[2]

The Clerk read the Senate amendment, as follows:

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

"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 [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 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 Canal Zone and in the operation, maintenance, property and defense of the Panama Canal."

PARLIAMENTARY INQUIRY

MR. [JOHN J.] FLYNT [Jr., of Georgia]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. FLYNT: Mr. Speaker, is a division of the question in order?

THE SPEAKER: Yes, a request for a division of the question is in order.

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

THE SPEAKER: The question will be divided. . . .

The question is on whether the House shall recede from its disagreement to Senate amendment No. 8.

The question was taken; and the Speaker announced that the ayes appeared to have it.[3]

The Speaker later put the question on concurring in the Senate amendment with an amendment.

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1. Carl Albert (Okla.).
2. 121 CONG. REC. 32064, 94th Cong. 1st Sess.
3. *Id.* at p. 32075.

Message Returning a Bill Passed by the Other Body

§ 2.13 Where the House orders a bill returned to the Senate, it notifies the Senate of this fact by a message accompanying the returned bill.

On May 20, 1965,[4] the following resolution was called up as a question of the privileges of the House by the chairman of the Committee on Ways and Means, Wilbur D. Mills, of Arkansas:

H. RES. 397

Resolved, That the bill of the Senate (S. 1734) to conserve and protect domestic fishery resources in the opinion of this House contravenes the first clause of the seventh section of the first article of the Constitution of the United States, and is an infringement of the privileges of this House, and that the said bill be respectfully returned to the Senate with a message communicating this resolution.

The resolution was agreed to. This action was communicated to the Senate as shown by the following Record proceedings of May 21, 1965.[5]

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, notified the Senate that, pursuant to the provisions of House Resolution 397, 89th Congress, the engrossed bill (S. 1734) to conserve and protect domestic fishery resources, was herewith returned to the Senate.

Notice of Senate Proceedings

§ 2.14 The Chair does not take public notice of the proceedings of the Senate unless formally brought to the attention of the House by message from the Senate.

On July 10, 1969,[6] Speaker John W. McCormack, of Massachusetts, directed the Clerk to read a request from the Senate:

That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 1583) entitled "An Act to provide that appointments and promotions in the Post Office Department, including the postal field service, be made on the basis of merit and fitness", together with all accompanying papers.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. GROSS: Mr. Speaker, is this the bill that was passed by the other body on Tuesday morning without any debate whatsoever, the only explanation being the bill as printed in the Record?

4. 111 CONG. REC. 11149, 11150, 89th Cong. 1st Sess.
5. *Id.* at p. 11188.
6. 115 CONG. REC. 19095, 91st Cong. 1st Sess.

THE SPEAKER: The Chair is not aware of what action took place in the other body.

The Chair is aware of the action of the other body which is now before the House.

House Request To Return Message

§ 2.15 The House, by unanimous consent, requested the Senate to return to the House a message by which the Senate had been erroneously informed that the House had concurred in the Senate amendments to a House bill.

On Dec. 19, 1969,[7] Mr. Olin M. Teague, of Texas, was recognized to rectify a mistake made the preceding day, whereby the House had inadvertently notified the Senate that it had concurred in the Senate amendments to H.R. 9634, instead of H.R. 9334, both of which amended title 38 of the United States Code.

MR. TEAGUE of Texas: Mr. Speaker, I also ask unanimous consent that the Clerk be directed to request the Senate to return to the House of Representatives the message on the bill (H.R. 9634) to amend title 38 of the United States Code in order to improve and make more effective the Veterans' Administration program of sharing specialized medical resources.

THE SPEAKER PRO TEMPORE:[8] Is there objection to the request of the gentleman from Texas?

There was no objection.

Effect of Motion To Postpone Indefinitely

§ 2.16 The motion to postpone indefinitely has been used in the House to finally dispose of a Senate measure, passed by the House but identical to a House bill previously passed by both Houses, after the Senate had acquiesced in the House's request for its return.

Where the House had inadvertently passed a Senate joint resolution identical to a House joint resolution passed by both bodies, it requested the Senate return the papers and then put the matter to rest by use of a motion to postpone indefinitely.[9]

Had this action not been taken, the Senate would have enrolled the resolution and two identical

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7. 115 CONG. REC. 40189, 40191, 40215, 91st Cong. 1st Sess.

8. Carl Albert (Okla.).

9. See 135 CONG. REC. 28222, 89th Cong. 1st Sess., Nov. 9, 1989; and 135 CONG. REC. 29587, 89th Cong. 1st Sess., Nov. 16, 1989.

measures would have been sent to the President.

DIRECTING THE CLERK TO REQUEST RETURN OF MESSAGE ON SENATE JOINT RESOLUTION 216

MR. [THOMAS C.] SAWYER [of Ohio]: Mr. Speaker, I ask unanimous consent that the Clerk be directed to request the Senate to return to the House of Representatives the message on the joint resolution (S.J. Res. 216).

THE SPEAKER PRO TEMPORE:[10] Is there objection to the request of the gentleman from Ohio?

There was no objection.

MESSAGE FROM THE SENATE

THE SPEAKER PRO TEMPORE:[11] The Chair lays before the House the following message from the Senate:

Ordered, That the Secretary be directed to return to the House of Representatives its message informing the Senate that the House had passed the joint resolution (S.J. Res. 216) "Joint resolution designating November 12 through 18, 1989, as 'Community Foundation Week'.", in compliance with a request of the House for the return thereof.

THE SPEAKER PRO TEMPORE: Without objection, the Senate joint resolution is indefinitely postponed.

There was no objection.

House Bill Returned by President Pursuant to Senate Request

§ 2.17 Where the Senate by way of a concurrent resolution requests the President to return a House bill sent to him for signature, he returns the bill to the House and the House messages the same to the Senate.

On July 3, 1947,[12] the following occurred on the floor of the House:

The Speaker[13] laid before the House the following message from the President of the United States, which was read by the Clerk:

To the House of Representatives:

In compliance with the request contained in the resolution of the Senate (the House of Representatives concurring therein), I return herewith H.R. 493, an act to amend section 4 of the act entitled "An act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia," approved July 8, 1932 (sec. 22, 3204 D.C. Code, 1940 ed.).

HARRY S. TRUMAN.

THE WHITE HOUSE, July 3, 1947.

Later that day[14] this message from the House was received by the Senate:

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, informed the Senate

10. Ronald Coleman (Tex.).
11. Peter H. Kostmayer (Pa.).
12. 93 CONG. REC. 8260, 80th Cong. 1st Sess.
13. Joseph W. Martin, Jr. (Mass.).
14. 93 CONG. REC. 8203, 80th Cong. 1st Sess.

that the President of the United States having returned to the House of Representatives the enrolled bill (H.R. 493) to amend section 4 of the act entitled "An act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia," approved July 8, 1932 (sec. 22, 3204 D.C. Code, 1940 ed.)," in compliance with the request contained in Senate Concurrent Resolution No. 22; and returned the engrossed copy of said bill to the Senate.

Possession of Official Papers

§ 2.18 Where a conference report had been filed in both Houses and the original papers were at the Senate desk (the Senate having agreed to the House request for a conference and being scheduled to act first), unanimous consent was required (and objected to) in the Senate to transfer the official papers to the House to permit the House to act first on the conference report.

The following proceedings occurred in the Senate on June 28, 1990:[15]

AMERICANS WITH DISABILITIES ACT

MR. [EDWARD M.] KENNEDY [of Massachusetts] addressed the Chair.

THE PRESIDING OFFICER:[16] The Senator from Massachusetts.

MR. KENNEDY: Mr. President, I understand that the papers regarding the conference report on the Americans With Disabilities Act are at the desk; am I correct?

THE PRESIDING OFFICER: The Senator is correct.

MR. KENNEDY: I ask unanimous consent to be able to receive those papers in order to be able to deliver them to the House of Representatives.

THE PRESIDING OFFICER: Is there objection? . . .

MR. [STROM] THURMOND [of South Carolina]: Mr. President, I object.

THE PRESIDING OFFICER: The Senator from South Carolina objects. . . .

MR. [BOB] DOLE [of Kansas]: Mr. President I reserve the right to object to the unanimous-consent request. There is no objection to the Senator from Massachusetts. Perhaps the Senator from Nebraska could first proceed to make a statement on some other matter.

MR. KENNEDY: Mr. President, I will not object. I just would like to inquire of the minority leader what the reluctance is to permit the papers from the Americans With Disabilities Act (ADA) to go over to the House of Representatives, which is now waiting, so that they can take action prior to Fourth of July recess. As we celebrate Independence Day, 43 million disabled Americans would like to have independence from the kind of physical and mental barriers which they have lived with for so long.

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15. 136 CONG. REC. 16249, 101st Cong. 2d Sess.

16. Joseph I. Lieberman (Conn.).

I just inquire of the minority leader, what in the world is the reluctance to release this conference report that bears the signature of every Republican and every Democratic Member of the Senate conference committee? What is the reluctance to permit this conference report to follow the traditional path and be acted on by the House of Representatives if that body is prepared to act.

THE PRESIDING OFFICER: The Senator from Kansas, the Republican leader, has the floor.

MR. DOLE: Mr. President, I do not know that it is any reluctance. They can celebrate the Fourth of July and I am part of 43 million that will be celebrating the Fourth of July.

In any event, this bill cannot be signed by the President until somewhere around the 12th of July, and the primary concern we have—in fact initially I had no concern until I checked with the Parliamentarian—is to preserve the rights of Members on this side—I am not one of them—some Members have some concern with certain provisions of the ADA bill, not one—checking true disability, the so-called Chapman amendment, and we have another amendment, the Grassley amendment.

I am advised by the Parliamentarian and by my staff that they would lose certain rights if in fact the papers went to the House, the House acted, then there would not be any conference. You could not recommit the bill to conference because there would not be any conference left because the House will have acted.

So it is that concern. Certainly we have no problem with the bulk of the legislation. I think it certainly, as the Senator from Massachusetts indicated, is a landmark action by the Congress for millions of disabled Americans. But this happened to be a procedure, and I think if I consent to the request of the Senator from Massachusetts, it would undercut and take away some of the rights of my colleagues on this side of the aisle. I cannot do that. Therefore, I will object. That will take care of it.

Possession and Transfer of Official Papers

§ 2.19 It is customary, at the conclusion of a successful conference, for the House which has asked for the conference to surrender the original papers to the conferees from the other House which has agreed to the conference in order that the latter House may act first on the conference report; but the failure of conferees from the Senate, which had asked for the conference in question, to immediately surrender the original papers to the House conferees at the conclusion of a successful conference, deviated from the customary handling of original papers but did not specifically violate the rules of the House.

The following proceedings relating to H.R. 3982, the Omnibus Reconciliation Act of 1981, occurred in the House on July 31, 1981:[17]

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[18] The gentleman will state it.

MR. VENTO: Mr. Speaker, I inquire of the Chair whether the papers of the reconciliation package, H.R. 3982, are in the possession of the House.

THE SPEAKER PRO TEMPORE: Yes, they are.

MR. VENTO: Mr. Speaker, I would further inquire, is it customary for these papers to remain in the possession of the House at the conclusion of a conference committee, and in this instance, were they retained at the conclusion of the conference committee, or were they more recently delivered to the House?

THE SPEAKER PRO TEMPORE: Yes, the Chair would say to the gentleman, it is customary for the papers to be transferred to the House which agreed to the conference—and is to act first on the report—at the conclusion of a successful conference.

MR. VENTO: In this case, Mr. Speaker, were the papers retained by the House conferees on the matter of the reconciliation conference?

THE SPEAKER PRO TEMPORE: Evidently not, because they were brought back to the House this morning at about 9:15 by a messenger from the other body.

MR. VENTO: Mr. Speaker, in other words, this violated one of the tenets that we have in terms of consideration.

I thank the Chair.

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman that this deviated from custom but did not especially violate the rules of the House.

§ 3. House Action on Senate Bills

Senate bills which are messaged to the House may be subject to a variety of legislative actions. Senate bills may be referred to the appropriate House committees in the same fashion as House-introduced bills,[19] considered in committee, reported to the House with amendments, considered in the House, where appropriate,[20] or in Committee of the Whole.[1] Senate measures may be held at the Speaker's table, awaiting later legislative action.[2] Some Senate bills are never acted on and remain at the rostrum or in committee until *sine die* adjournment.

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17. 127 CONG. REC. 18884, 18885, 97th Cong. 1st Sess.
18. Barney Frank (Mass.).
19. See §§ 3.1, 3.12, infra.
20. See § 3.7, infra.
1. See § 3.14, infra.
2. See §§ 3.3, 3.4, 3.5, infra.

The generally accepted principles of comity between the two Houses fosters the expectation that a bill of the House which acts first on a legislative measure is the numbered bill that is formally enrolled and presented to the President.[3]

Reference to Committee

§ 3.1 The reference of a Senate bill on the Speaker's table is within the discretion of the Chair.

On Mar. 27, 1936,[4] the House declined to grant unanimous consent to consider Senate Concurrent Resolution 238, providing for cancellation of mail contracts.

MR. [FREDERICK R.] LEHLBACH [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[5] The gentleman will state it.

MR. LEHLBACH: Mr. Speaker, unanimous consent for the present consideration of the Senate joint resolution having been refused, is the resolution now referred to the Committee on Merchant Marine and Fisheries?

THE SPEAKER: It is within the discretion of the Chair to refer it.

MR. LEHLBACH: I believe I asked is it now referred?

THE SPEAKER: No; it has not been referred.

Senate Bills Similar to House Bills

§ 3.2 A resolution may provide that upon the passage of a House bill, a similar Senate bill may be taken from the Speaker's table, all after the enacting clause stricken, and in lieu thereof the provisions of the House bill as passed be inserted.

On May 6, 1947,[6] Mr. Clarence J. Brown, of Ohio, called up House Resolution 205, to make in order the consideration of H.R. 2616, to provide for assistance to Greece and Turkey. The resolution contained, *inter alia*, the following provision:

. . . After the passage of the bill H.R. 2616 it shall be in order to take from the Speaker's table the bill S. 938 and to move to strike out all after the enacting clause of said Senate bill and to insert in lieu thereof the provisions contained in H.R. 2616.

§ 3.3 Where the rule under which a bill is being considered in the House provides

3. See §§ 3.4, 3.8, 3.9, 3.13, infra.
4. 80 CONG. REC. 4547, 74th Cong. 2d Sess.
5. Joseph W. Byrns (Tenn.).
6. 93 CONG. REC. 4605, 80th Cong. 1st Sess.

that upon passage of the bill a similar Senate bill at the Speaker's table shall be taken therefrom, making in order a motion to strike all after the enacting clause and insert the provisions of the House bill in lieu thereof, the House proceeds to the disposition of the Senate bill immediately after passage of the House bill.

On May 9, 1947,[7] the House had completed consideration of H.R. 2616, to provide assistance to Greece and Turkey.

THE SPEAKER:[8] The question is on the passage of the [House] bill. . . .

The question was taken; and there were—yeas 287, nays 107, answered "present" 2, not voting 35. . . .

THE SPEAKER: Under the rule, it is now in order to take from the Speaker's table the bill S. 938 and to move to strike out all after the enacting clause of said bill and to insert in lieu thereof the provisions contained in the bill H.R. 2616.

The Clerk will report the Senate bill.

The Clerk read the title of the bill.

MR. [CHARLES A.] EATON [of New Jersey]: Mr. Speaker, I move to strike out all after the enacting clause of the bill S. 938 and to insert in lieu thereof the provisions contained in the bill H.R. 2616.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

Amending Senate Bill, Prior to Stage of Disagreement

§ 3.4 Unanimous consent request making in order, before the stage of disagreement, a debatable motion to take a Senate bill from the Speaker's table, to insert the text of a House-passed bill with the previous question ordered without intervening motion except one motion to recommit.

On several occasions in the 104th Congress, the Senate chose to refer a House-passed bill to committees of the Senate, then later pass its own version of the measure and message the Senate numbered bill to the House. This sequence of events ignores the general practice which recognizes that the numbered bill which is first messaged to the other House is the one which becomes the vehicle for proceeding to conference.

7. 93 CONG. REC. 4975, 4976, 80th Cong. 1st Sess.
8. Joseph W. Martin, Jr. (Mass.).

On May 17, 1995,[9] two Senate bills considered in the Senate after receipt of the corresponding House bills were taken up in the House. S. 4, granting the President power to reduce budget authority (the line-item veto bill), and S. 219, the Regulatory Transition Act of 1995, were called up and amended by motions made in order by such unanimous-consent requests. Both measures passed the House, as amended. The House then insisted on its amendments to the bills and agreed to the conferences with the Senate.[10]

THE SEPARATE ENROLLMENT AND LINE-ITEM VETO ACT OF 1995

MR. [WILLIAM F.] CLINGER [Jr., of Pennsylvania]: Mr. Speaker, I ask unanimous consent that: First, it be in order to consider in the House a motion to take from the Speaker's table the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes, to strike all after the enacting clause of the Senate bill, and to insert the text of H.R. 2 as passed by this House; second, that the motion be debatable for not to exceed 1 hour, to be equally divided and controlled among the chairman and ranking minority members of the Committee on Government Reform and Oversight and the Committee on Rules, and third, that the previous question be ordered on the motion to final adoption without intervening motion except for one motion to recommit.

THE SPEAKER PRO TEMPORE:[11] Is there objection to the request of the gentleman from Pennsylvania? . . .

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

The Clerk read as follows:

> Mr. Clinger moves that the House take from the Speaker's table the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes, strike all after the enacting clause of the Senate bill, and insert the text of H.R. 2, as passed by the House.

THE SPEAKER PRO TEMPORE: The gentleman from Pennsylvania [Mr. Clinger] will be recognized for 15 minutes, the gentleman from West Virginia [Mr. Wise] will be recognized for 15 minutes, the gentleman from Florida [Mr. Goss] will be recognized for 15 minutes, and the gentleman from Ohio [Mr. Hall] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Clinger].

MR. CLINGER: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on February 6 of this year, this House passed H.R. 2, the Line-Item Veto Act, to give the President the power to restrain irresponsible Federal spending through a true line-item veto. On March 23, the Senate followed suit in passing S. 4, which I think we would all agree is a weaker

9. 141 CONG. REC. 13265, 13266, 104th Cong. 1st Sess.

10. *Id.* at p. 24030. S. 4 was the enrolled bill eventually transmitted to the President.

11. Fred Upton (Mich.).

bill, which nonetheless moves toward greater Federal spending control, so both of our bodies have gone on record as saying we encourage and desire to enact something that will act as a restraint on further Federal spending control.

Since that time, however, Mr. Speaker, both bills have been stalled really in parliamentary limbo awaiting further action in preparation for conference. That has been some several months now.

Because of the Senate's unusual handling of the House-passed bill, unfortunately neither body is currently in a position to request the needed conference and the legislation has been at a standstill, just literally in limbo. . . .

REGULATORY TRANSITION ACT OF 1995

MR. CLINGER: Mr. Speaker, I ask unanimous consent that: First, it be in order to consider in the House a motion to take from the Speaker's table the Senate bill (S. 219) to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, to strike all after the enacting clause of S. 219 and to insert in lieu the text of H.R. 450 as passed by the House;

Second, that the motion be debatable for not to exceed 1 hour, to be equally divided and controlled among chairmen and ranking minority members of the Committees on Government Reform and Oversight and the Judiciary; and

Third, that the previous question be ordered on the motion to final adoption without intervening motion except one motion to commit. . . .

THE SPEAKER PRO TEMPORE:[12] Is there objection to the request from the gentleman from Pennsylvania?

There was no objection.

MOTION OFFERED BY MR. CLINGER

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

The Clerk read as follows:

> Mr. Clinger moves to take from the Speaker's table the bill (S. 219) to grant the power to the President to reduce budget authority, and for other purposes, strike all after the enacting clause of the Senate bill, and insert the text of H.R. 450 as passed by the House.

Amending Senate Bill Before Stage of Disagreement

§ 3.5 Proceedings in the House pursuant to a special rule which provided for: (1) taking up a Senate bill; (2) waiving points of order against its consideration; (3) amending the Senate bill in several discrete particulars by one indivisible motion; and (4) making in order a motion to insist and request a conference with the Senate.

House Resolution 197, the special order establishing the procedure for sending to conference the bill S. 395, the Alaska Power Administration Asset Sale and Ter-

12. Bill Emerson (Mo.).

mination Act of 1995, was adopted on July 24, 1995. The rule provided, first, for the consideration of H.R. 70, relating to exports of Alaskan North Slope oil. The proceedings to follow passage of H.R. 70 were carried in section 2 of that resolution, the text of which is set forth here.

SEC. 2. (a) After passage of H.R. 70, it shall be in order to take from the Speaker's table the bill S. 395 and to consider the Senate bill in the House. All points of order against the Senate bill and against its consideration are waived. It shall be in order to consider in the House, any rule of the House to the contrary notwithstanding, the motion to amend described in subsection (b). The motion to amend shall not be subject to a demand for division of the question. The previous question shall be considered as ordered on the motion to amend and on the Senate bill without intervening motion except one motion to recommit the bill with or without instructions. If the motion to amend is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendments to S. 395 and request a conference with the Senate thereon.

(b) The motion to amend the Senate bill made in order by subsection (a) is as follows:

"(1) Strike title I.

"(2) Strike sections 201 through 204 and insert the text of H.R. 70, as passed by the House.

"(3) Strike section 205.

"(4) Strike section 206.

"(5) Strike title III.".

The proceedings in the House on July 25, 1995,[13] following the passage of H.R. 70, are carried here. Noteworthy is the Speaker's appointment of specific conferees from the House for each of the five House amendments.

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

MR. [DON] YOUNG of Alaska: Mr. Speaker, pursuant to section 2 of House Resolution 197, I call up the Senate bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. SHORT TITLE.

This title may be cited as the "Alaska Power Administration Asset Sale and Termination Act". . . .

SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS. . . .

13. 141 CONG. REC. 20286–89, 20298, 104th Cong. 1st Sess.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995". . . .

SEC. 205. RETIREMENT OF CERTAIN COSTS INCURRED FOR THE CONSTRUCTION OF NON-FEDERAL PUBLICLY OWNED SHIPYARDS.

(a) IN GENERAL.—The Secretary of Energy shall—

(1) deposit proceeds of sales out of the Naval Petroleum Reserve in a special account in amounts sufficient to make payments under subsections (b) and (c); and

(2) out of the account described in paragraph (1), provide, in accordance with subsections (b) and (c), financial assistance to a port authority that—

(A) manages a non-Federal publicly owned shipyard on the United States west coast that is capable of handling very large crude carrier tankers . . . .

SEC. 206. OIL POLLUTION ACT OF 1990.

Title VI of the Oil Pollution Act of 1990 (Public Law 101–380; 104 Stat. 554) is amended by adding at the end thereof the following new section:

"SEC. 6005. TOWING VESSEL REQUIRED. . . .

TITLE III

SEC. 301. SHORT TITLE.

This Title may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".

SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT. . . .

AMENDMENTS OFFERED BY MR. YOUNG OF ALASKA

MR. YOUNG of Alaska: Mr. Speaker, pursuant to section 2(b) of House Resolution 197, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Young of Alaska: (1) Strike title I.

(2) Strike sections 201 through 204 and insert the text of H.R. 70, as passed by the House.

(3) Strike section 205.

(4) Strike section 206.

(5) Strike title III.

THE SPEAKER PRO TEMPORE:[14] The question is on the amendments offered by the gentleman from Alaska [Mr. Young].

The amendments were agreed to.

The Senate bill was read a third time and passed, and a motion to reconsider was laid on the table.

The title of the Senate bill was amended so as to read: "A bill to permit exports of certain domestically produced crude oil, and for other purposes."

APPOINTMENT OF CONFEREES

MR. YOUNG of Alaska: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Young moves pursuant to House Resolution 197 that the House insist on its amendment to S. 395 and request a conference with the Senate thereon.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Alaska [Mr. Young].

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. MILLER OF CALIFORNIA

MR. [DAN] MILLER of California: Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

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14. Scott McInnis (Colo.).

Mr. Miller of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendments to the bill S. 395 be instructed to insist upon the provisions of the House amendments which strike Title III of S. 395.

THE SPEAKER PRO TEMPORE: Under the rule, the gentleman from California [Mr. Miller] will be recognized for 30 minutes, and the gentleman from Alaska [Mr. Young] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. Miller]. . . .

After the motion to instruct was agreed to, the Speaker named managers on the part of the House.

Without objection, the Chair appoints the following conferees on S. 395: On House amendment No. 1: Messrs. Young of Alaska, Calvert, Bliley, Miller of California, and Dingell.

On House amendment No. 2: Messrs. Young of Alaska, Calvert, Thomas, Roth, Bliley, Coble, Miller of California, Hamilton, Dingell, and Mineta.

On House amendment No. 3: Messrs. Spence, Kasich, and Dellums.

On House amendment No. 4: Mr. Coble, Mrs. Fowler, and Mr. Mineta.

On House amendment No. 5: Messrs. Young of Alaska, Calvert, and Miller of California.

There was no objection.

§ 3.6 A resolution (reported from the Committee on Rules) making in order the disposition of a Senate bill on the Speaker's table after passage of a House bill reported by the Committee on Post Office and Civil Service, was amended to delete all references to the Senate bill.

On Sept. 9, 1970,[15] Mr. Spark M. Matsunaga, of Hawaii, was recognized on the floor of the House.

MR. MATSUNAGA: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1046 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1046

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16542) to amend title 39, United States Code, to regulate the mailing of unsolicited credit cards, and for other purposes. . . . After the passage of H.R. 16542, it shall then be in order in the House to take from the Speaker's table the bill S. 721 and to move to strike all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 16542 as passed by the House.

THE SPEAKER:[16] The gentleman from Hawaii is recognized for 1 hour.

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15. 116 CONG. REC. 30873, 91st Cong. 2d Sess.
16. John W. McCormack (Mass.).

MR. MATSUNAGA: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Matsunaga: On page 2, strike out all of the last sentence, beginning with "After the passage of" in line 6 and ending with the period in line 11.

THE SPEAKER: The question is on the amendment offered by the gentleman from Hawaii.

The amendment was agreed to.[17]

§ 3.7 By unanimous consent, the House considered a Senate bill under the terms of a resolution adopted for consideration of a similar House bill.

On Mar. 12, 1959,[18] the Committee of the Whole rose and reported to the House that it had come to no resolution on the bill H.R. 4221.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I renew my unanimous-consent request, heretofore made, that it may be in order for the House to consider the bill S. 50, in lieu of the bill H.R. 4221, under the terms and provisions of House Resolution 205 adopted yesterday by the House in relation to the Hawaiian statehood bill.[19]

THE SPEAKER:[20] Is there objection to the request of the gentleman from Massachusetts?

MR. [JOHN R.] PILLION [of New York]: Mr. Speaker, I do not renew my previous objection.

There was no objection.

After some intervening business, the House again resumed consideration of the Hawaiian statehood bill pursuant to the following motion:

HAWAII STATEHOOD

MR. [LEO W.] O'BRIEN of New York: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 50) to provide for the admission of the State of Hawaii into the Union, in lieu of the bill H.R. 4221.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 50, with Mr. Kilday in the chair.

§ 3.8 Senate bills substantially the same as House bills al-

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17. *Parliamentarian's Note:* The Senate bill, S. 721, to amend the "Truth-in-Lending Act," which was *not* similar to H.R. 16542, was then referred to the Committee on Banking and Currency.
18. 105 CONG. REC. 4005, 86th Cong. 1st Sess.
19. H. Res. 205 had been reported from the Committee on Rules on Mar. 10, 1959. The Senate passed its version of the Hawaiian statehood bill (S. 50) on Mar. 11, 1959, too late for the rule to reflect its availability.
20. Sam Rayburn (Tex.).

ready favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, may be disposed of as the House may determine on motion directed to be made by such committee.

On Jan. 1, 1951,[1] the following occurred on the floor of the House:

MR. [LINDLEY] BECKWORTH [of Texas]: Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I call up from the Speaker's table the bill (S. 3295) to amend the Railway Labor Act and to authorize agreements providing for union membership and agreements for deductions from the wages of carriers' employees for certain purposes and under certain conditions, a bill substantially the same (H.R. 7789) being on the House Calendar.

The Clerk read the title of the Senate bill.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I raise the question of consideration.

THE SPEAKER:[2] The gentleman from Virginia raises the question of consideration.

The question is, Will the House consider the bill? . . .

The question was taken; and there were—yeas 286, nays 48, not voting 94. . . .

1. 96 CONG. REC. 17046, 17047, 81st Cong. 2d Sess.
2. Sam Rayburn (Tex.).

Amending Special Rule for Disposition of Senate Bill

§ 3.9 On the day following passage of a House bill, the Committee on Interstate and Foreign Commerce was discharged, by unanimous consent, from further consideration of a similar Senate bill (which had been messaged to the House prior to the reporting of the House bill); the Senate bill was then considered, amended to conform to the provisions of the House bill, passed, and the proceedings whereby the House bill was passed were vacated by unanimous consent.

On May 18, 1961,[3] Mr. Oren Harris, of Arkansas, made the following request:

Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill S. 610, to strengthen the domestic and foreign commerce of the United States by providing for Service within the Department of Commerce and a Travel Advisory Board, strike out all after the enacting clause, and insert the provisions of H.R. 4614 as passed by the House.

The Clerk read the title of the bill.

3. 107 CONG. REC. 8367, 8368, 87th Cong. 1st Sess.

THE SPEAKER:[4] Is there objection to the present consideration of the bill?

There was no objection.

Mr. Harris then offered as an amendment in the nature of a substitute for S. 610 the provisions of H.R. 4614 as passed by the House.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table. . . .

By unanimous consent the proceedings by which the bill (H.R. 4614) was passed were vacated, and that bill was laid on the table.[5]

Passage of Senate Bill Vacated

§ 3.10 By unanimous consent, the House may vacate proceedings whereby it has amended and passed a Senate bill.

On Aug. 31, 1962,[6] Mr. John J. McFall, of California, sought unanimous consent to correct a mistake whereby an amendment to a Senate bill, S. 919, removed certain penalties under the Hatch Act instead of merely modifying those penalties.

MR. MCFALL: Mr. Speaker, I ask unanimous consent that the proceedings whereby the House passed S. 919, with an amendment, be vacated, and that the House proceed to the further consideration of the Senate bill for the purpose of considering an amendment thereto.[7]

THE SPEAKER:[8] Is there objection to the request of the gentleman from California? . . .

There was no objection.

Senate Bill Identical to Provision in Conference Report

§ 3.11 During debate on a conference report, the House by unanimous consent considered and passed a Senate bill which was identical to a provision in the conference report then under consideration.

On Oct. 18, 1972, the House was considering the conference report

4. Sam Rayburn (Tex.).
5. See also 80 CONG. REC. 5897, 5898, 74th Cong. 2d Sess., Apr. 22, 1936. Compare 105 CONG. REC. 15512, 86th Cong. 1st Sess., Aug. 11, 1959, where a similar result was accomplished by use of a special order.
6. 108 CONG. REC. 18300, 87th Cong. 2d Sess.
7. S. 919 had passed the House on the preceding day, Aug. 30, 1962. It had not yet been messaged to the Senate so the House did not have to request the return of the papers before taking this action.
8. John W. McCormack (Mass.).

on S. 3939, authorizing appropriations for the construction of certain highways in accordance with title 23 of the United States Code. Mr. John C. Culver, of Iowa, was then recognized.(9)

MR. CULVER: Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3822) authorizing the City of Clinton Bridge Commission to convey its bridge structures and other assets to the State of Iowa and to provide for the completion of a partially constructed bridge across the Mississippi River at or near Clinton, Iowa, by the State Highway Commission of the State of Iowa.

The Clerk read the title of the Senate bill.

THE SPEAKER:(10) Is there objection to the request of the gentleman from Iowa? . . .

MR. [DURWARD G.] HALL [of Missouri]: It would be redundant if they were both to pass, but the gentleman's concern is we might not be in a position to operate, and if there are no objections to the bill, I have no objection to it. . . .

Mr. Speaker, I have no further objection, and I withdraw my reservation of objection.

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

There was no objection. . . .

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The consideration of the conference report was then resumed.

Referral of Senate Bill After Recommittal of House Bill

§ 3.12 Where a House bill was recommitted, a similar Senate bill (which had been held at the Speaker's table pending disposition of the House measure) was referred by the Speaker to the appropriate committee of the House.

On June 22, 1962,(11) the following entry appeared in the Record:

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3225. An act to improve and protect farm income, to reduce costs of farm programs to the Federal Government, to reduce the Federal Government's excessive stocks of agricultural commodities, to maintain reasonable and stable prices of agricultural commodities and products to consumers, to provide adequate supplies of agricultural commodities for domestic and foreign needs, to conserve natural resources, and for other purposes; to the Committee on Agriculture.

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9. 118 CONG. REC. 37115, 37135–37, 92d Cong. 2d Sess.
10. Carl Albert (Okla.).
11. 108 CONG. REC. 11433, 11434, 87th Cong. 2d Sess.

Parliamentarian's Note: H.R. 11222, the food and agricultural bill of 1962, had been acted on by the House the preceding day and had been recommitted to the Committee on Agriculture.

Resolution Discharging House Committee and Providing for Consideration of Senate Bill Similar to House Measure Already Reported

§ 3.13 The House discharged its committee from further consideration of a Senate bill, considered and passed the bill, and then laid on the table a similar House bill which had been reported by the committee.

On Mar. 29, 1961,[12] Mr. Richard Bolling, of Missouri, by direction of the Committee on Rules, called up House Resolution 238, which provided, *inter alia*:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 153) to further amend the Reorganization Act of 1949, as amended, so that such Act will apply to reorganization plans transmitted to the Congress at any time before June 1, 1963, and all points of order against said bill are hereby waived. . . .
>
> THE SPEAKER:[13] The question is on the resolution.
>
> The resolution was agreed to.

After considering S. 153, the Committee of the Whole reported that bill back to the House.

> THE SPEAKER: The question is on the passage of the bill.
>
> The bill was passed.
>
> A motion to reconsider was laid on the table.
>
> A similar House bill (H.R. 5742) was laid on the table.

Consideration of Private Senate Bill in Committee of the Whole

§ 3.14 The House may adopt a resolution taking a private Senate bill from the Speaker's table and providing for its consideration in Committee of the Whole.

On Mar. 14, 1961,[14] Mr. William M. Colmer, of Mississippi, called up House Resolution 224.

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consid-

12. 107 CONG. REC. 5267, 5268, 5273, 87th Cong. 1st Sess.

13. Sam Rayburn (Tex.).

14. 107 CONG. REC. 3911, 87th Cong. 1st Sess.

eration of the bill (S. 1173) to authorize the appointment of Dwight David Eisenhower to the active list of the Regular Army, and for other purposes.[15]

Senate Bills Included in Omnibus Bills

§ 3.15 Where an omnibus private bill is passed containing House bills similar to Senate bills on the Speaker's table, the Speaker may recognize Members for unanimous-consent requests to take up such Senate bills for consideration.

On Aug. 21, 1935,[16] Speaker Joseph W. Byrns, of Tennessee, made the following statement:

> Permit the Chair to make a statement. In the omnibus bills which were passed on yesterday there were included several bills which had previously passed the Senate and were on the Speaker's table. The Chair feels that those Members who are interested in those particular bills should have an opportunity to ask unanimous consent for the immediate consideration of the Senate bills, so that they can be taken out of the omnibus bills when they are reported to the Senate. The Chair will therefore first recognize Members who have such bills. The Chair understands there are a number of Members on the floor who have such bills.

Parliamentarian's Note: The provisions of Rule XXIV clause 6, provide a procedure for the consideration of private bills and resolutions on the first and third Tuesdays of the month. On the third Tuesday of the month, the Speaker may entertain omnibus bills, which may contain measures objected to when called previously on the Calendar. It was within the context of this rule[17] that the Speaker made the statement carried above.

§ 4. House Action on Senate Resolutions

Senate resolutions, concurrent and joint, are subject to various legislative actions in the House as are Senate-passed bills.[18] Simple

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15. *Parliamentarian's Note:* Since a private Senate bill resulting in the expenditure of public funds (and thus requiring consideration in the Committee of the Whole) is not privileged and cannot be taken from the Speaker's table by motion for direct action by the House, the House adopted a resolution taking the bill from the table and providing for its consideration.
16. 79 CONG. REC. 13993, 74th Cong. 1st Sess.
17. See *House Rules and Manual* § 893 (1997).
18. See §§ 4.2, 4.3, 4.4, infra.

Senate resolutions are sent to the House for information only and are generally held at the Speaker's table and not referred.[19]

Return to Senate

§ 4.1 The House agreed to a request of the Senate for the return of a Senate concurrent resolution with accompanying papers.

On Sept. 14, 1961,[20] the Speaker Pro Tempore, John W. McCormack, of Massachusetts, laid before the House the following request of the Senate:

> *Ordered*, That the House of Representatives be requested to return to the Senate the concurrent resolution (Senate Concurrent Resolution 14) entitled "Concurrent resolution saluting 'Uncle Sam' Wilson, of Troy, N.Y., as the progenitor of America's national symbol of 'Uncle Sam'," with the accompanying papers.
>
> FELTON M. JOHNSTON,
> *Secretary.*

THE SPEAKER PRO TEMPORE: Without objection, the request is granted.

There was no objection.

Consideration Under Five-minute Rule

§ 4.2 A Senate joint resolution at the Speaker's table may be called up by unanimous consent and considered under the five-minute rule.

On July 31, 1967,[1] the following occurred in the House:

> MR. [JAMES C.] CORMAN [of California]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 98) authorizing the National Advisory Commission on Civil Disorders to compel the attendance and testimony of witnesses and the production of evidence.
>
> The Clerk read the title of the Senate joint resolution.
>
> THE SPEAKER:[2] Is there objection to the request of the gentleman from California?
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object, I should like to ask the sponsor of this Senate joint resolution if under this unanimous-consent request the gentleman proposes to yield time, and how much time is to be taken in the consideration thereof. . . .
>
> Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman from Iowa will state his parliamentary inquiry.

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19. See § 1.2, infra.
20. 107 CONG. REC. 19540, 87th Cong. 1st Sess.

1. 113 CONG. REC. 20604, 90th Cong. 1st Sess.
2. John W. McCormack (Mass.).

MR. GROSS: How much time will be taken on this Senate joint resolution?

THE SPEAKER: The Chair will state to the gentleman from Iowa that if the unanimous-consent request is granted, the resolution comes before the House under the 5-minute rule.[3]

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

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

There was no objection.

Consideration in Committee of the Whole

§ 4.3 The House may adopt a resolution providing for the consideration in the Committee of the Whole of a Senate joint resolution which had not been referred to a House committee and on which there was no House report.

On Sept. 24, 1962,[4] Mr. William M. Colmer, of Mississippi, by direction of the Committee on Rules, called up House Resolution 804.

The Clerk read the resolution, as follows:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (S.J. Res. 224) to authorize the President to order units and members in the Ready Reserve to active duty for not more than twelve months, and for other purposes. . . .

THE SPEAKER:[5] The question is on the resolution.

The resolution was agreed to.

Parliamentarian's Note: The Senate joint resolution was held at the Speaker's table and not referred to a committee, since the House Committee on Armed Services reported an identical House joint resolution the same day the Senate joint resolution was messaged to the House.

Provisions of House Resolution Inserted

§ 4.4 By unanimous consent a Senate joint resolution was taken from the Speaker's ta-

3. S.J. Res. 98 was being held at the Speaker's table. While it had not been referred to a House committee, it was a measure that if reported in the House would have been placed on the Union Calendar. Where the House grants unanimous consent for consideration of a measure that would be on the Union Calendar if reported, the bill is considered in the House as in the Committee of the Whole. See proceedings of Apr. 6, 1966, at 112 CONG. REC. 7749, 89th Cong. 2d Sess. and Jefferson's Manual, *House Rules and Manual* § 424 (1997).

4. 108 CONG. REC. 20489, 20494, 87th Cong. 2d Sess.

5. John W. McCormack (Mass.).

ble, the preamble and all after the resolving clause stricken; and preamble and provisions of a similar House joint resolution were then inserted by amendment.

On Jan. 8, 1964,[6] after the House considered House Joint Resolution 871, providing for renaming the National Cultural Center the John F. Kennedy Center for the Performing Arts, the following occurred:

THE SPEAKER:[7] The question is on the passage of the [House] joint resolution.

The joint resolution was passed.

A motion to reconsider was laid on the table.

MR. [ROBERT E.] JONES of Alabama: Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate Joint Resolution 136, a similar joint resolution to House Joint Resolution 871 just passed; strike out all after the enacting clause of Senate Joint Resolution 136, and insert the provisions of House Joint Resolution 871.

The Clerk read the title of the joint resolution.

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

MR. JONES of Alabama: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jones of Alabama: Strike out the preamble and all after the resolving clause of Senate Joint Resolution 136 and insert the preamble and provisions of House Joint Resolution 871 as passed.

THE SPEAKER: The question is on the amendment offered by the gentleman from Alabama.

The amendment was agreed to.

Deletion of Senate Amendment to House Bill

§ 4.5 By unanimous consent, the House considered and agreed to a Senate concurrent resolution authorizing the Clerk, in the enrollment of a House bill, to delete a Senate amendment thereto.

On Sept. 28, 1971,[8] Speaker Carl Albert, of Oklahoma, recognized Mr. B. F. Sisk, of California:

Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 42), providing for a deletion in the enrollment of H.R. 4713. . . .

THE SPEAKER: The Clerk will report the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 42

Resolved by the Senate (House of Representatives concurring), That the

6. 110 CONG. REC. 145, 146, 88th Cong. 2d Sess.

7. John W. McCormack (Mass.).

8. 117 CONG. REC. 33715, 92d Cong. 1st Sess.

enrollment of H.R. 4713, the Clerk of the House of Representatives be authorized to delete Senate amendment numbered 5, which inserts at page 3, after the second line following line 6, a new section 7.

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

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

Parliamentarian's Note: The Senate had adopted several numbered amendments to the House bill, and the House had agreed to Senate amendment number 5. The Senate then decided to recede from that amendment, which it could not do except by concurrent action of the two Houses in correcting the enrollment of the bill.

§ 5. House Action on Senate Amendments

House measures with Senate amendments which do not require consideration in the Committee of the Whole are privileged for consideration in the House and may at once be disposed of on motion or as the House may otherwise determine.[9] If any Senate amendment requires consideration in the Committee of the Whole, a motion to act on the Senate amendment is *not* privileged, and the rules provide that the entire measure be referred to the appropriate standing committee.[10] Upon being reported from that committee the measure is placed on the Union Calendar for consideration in the Committee of the Whole. However, as a practical matter this procedure is rarely used and such measures are either considered under the provisions of resolutions reported from the Committee on Rules ("special rules")[11] or by unanimous consent.[12] The motion to suspend the rules may also be used to dispose of such Senate amendments.

Motions for the disposal of these Senate measures or Senate amendments to House bills requiring consideration in Committee of the Whole become privileged after the stage of disagreement is

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9. Rule XXIV clause 2, *House Rules and Manual* § 882 (1997).
10. Rule XX clause 1, *House Rules and Manual* § 827 (1997) and Rule XXIV clause 2, *House Rules and Manual* §§ 882, 883 (1997).
11. See §§ 5.5, 5.30, 5.31, 5.33, 5.54, infra.
12. See § 5.7, infra.

reached on that particular measure.[13] This stage is not reached until one House informs the other that it disagrees to some provision of that measure.[14] However, when these measures are considered under the provisions of a special rule, or by unanimous consent, motions for their disposal are thereby privileged (under the provisions of either the special rule or unanimous-consent agreement) despite the fact that the stage of disagreement may not have been reached. These measures are often sent to conference by unanimous consent,[15] pursuant to the provisions of a special rule from the Committee on Rules,[16] or pursuant to a committee-authorized motion to request or agree to a conference.[17] The provision in Rule XX, clause 1, now permits a motion to send a House bill with Senate amendments to conference, if the Speaker in his discretion recognizes a Member authorized by the committee having jurisdiction over the bill, to make such motion. However, motions for the disposal of these amendments in the House itself are still not privileged at this stage, and they require unanimous consent. While a privileged motion to go to conference under Rule XX clause 1 is pending, preferential motions to concur or to concur with amendments are not in order (the stage of disagreement not having been reached).[18]

Senate amendments must be read in full prior to their being taken from the Speaker's table.[19] They are debated in the House under the hour rule[20] or under the five-minute rule if in Committee of the Whole.[1] They are considered in their entirety either in the House[2] or in Committee of the Whole.[3]

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13. See § 5.4, infra; and 8 Cannon's Precedents § 3194.

14. 6 Cannon's Precedents §§ 756, 757.

15. *Id.* at § 732. See §§ 5.6–5.9, infra.

16. See precedents in Ch. 33, § 2, infra.

17. Rule XX clause 1, *House Rules and Manual* § 827 (1997), as amended by H. Res. 8, 89th Cong. 1st Sess. (1965) at p. 21.

18. *House Practice* (104th Cong.), § 11, Senate Bills; Amendments Between the Houses, p. 820, 124 CONG. REC. 38724, 95th Cong. 1st Sess., Dec. 7, 1977.

19. 8 Cannon's Precedents §§ 2400, 3232.

20. See § 5.56, infra.

1. *House Rules and Manual* § 828 (1997). See also § 5.50, infra.

2. See § 5.42, infra.

3. 5 Hinds' Precedents § 6194.

Amendment of Text to Which Both Houses Have Agreed

§ 5.1 During House consideration of Senate amendments to a House bill, it is not in order to enlarge the Senate amendment to change the text of the bill to which both Houses have agreed.

On June 10, 1940,[4] the House was considering Senate amendments to H.R. 9209, appropriations for the military. Mr. J. Buell Snyder, of Pennsylvania, offered a motion to recede and concur with an amendment. Mr. John Taber, of New York, rose with 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 not an amendment to an amendment to which it is offered, it being an amendment to the language on page 37, line 6 [of the House text], to which paragraph the Senate made no amendment whatever. . . .
>
> THE SPEAKER PRO TEMPORE:[5] 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.

Amending Text Previously Agreed to By Both Houses

§ 5.2 Where a Senate amendment struck language in a House bill and inserted a new provision, the House concurred with an amendment striking the insertion and altering other portions of the House engrossment, thus amending its own agreed-upon text. In the Senate, the motion to concur in the House action was agreed to.

Under section XLV of his Manual of Parliamentary Practice, Jefferson states that "the Commons resolved that it is unparliamentary to strike out, at a conference, anything in a bill which hath been agreed and passed by both Houses."[6] In the modern practice, the further principle has been established in the House of Representatives that it may not, even in the slightest degree, change the text to which both Houses have agreed.[7]

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4. 86 CONG. REC. 7895, 76th Cong. 3d Sess.
5. William P. Cole, Jr. (Md.).
6. See *House Rules and Manual* § 527 (1997).
7. See 5 Cannon's Precedents § 6180; 8 Cannon's Precedents § 3257; and

While technically at variance with these principles, the House has permitted, by sufferance and by special procedures (under suspension or pursuant to a special order), the type of amendment illustrated below as a way of expediting consideration of amendments between the Houses.[8]

MR. [MARK O.] HATFIELD [of Oregon]: Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 115, a joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1 and 2 to the joint resolution (H.J. Res. 115) entitled "Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.".

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid joint resolution with the following amendment:

Delete the matter proposed by said amendment, and beginning on page 15, line 1 of the House engrossed joint resolution (H.J. Res. 115), strike all down to and including line 7, on page 36, and redesignate title IV as title III, and renumber sections accordingly.

MR. HATFIELD: Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

THE PRESIDING OFFICER:[9] The question is on agreeing to the motion.

So the motion was agreed to.

MR. HATFIELD: I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Receding From a House Amendment With a New House Amendment to Senate Text

§ 5.3 While under section XLV of Jefferson's Manual,[10] the House may not recede from its amendment to a Senate measure with an amendment, the House may, by unanimous consent, recede from its amendment and then amend the Senate text anew with another amendment.

House Rules and Manual § 527 (1997).

8. 141 CONG. REC. 32194, 104th Cong. 1st Sess., Nov. 13, 1995.

Similarly, on Oct. 14, 1986, the House agreed to a resolution considered under suspension of the rules, agreeing to a Senate amendment which inserted text in a House bill, with an amendment changing the text of the original House bill. See 132 CONG. REC. 30729, 99th Cong. 2d Sess. (H. Res. 589).

9. Charles E. Grassley (Iowa).

10. *House Rules and Manual* § 526 (1997).

On June 21, 1982,[11] it became essential that the House proceed to act first on Senate Concurrent Resolution 92, the first concurrent resolution on the budget for fiscal year 1983. The conference report on the resolution had been filed, showing that the conferees had reported in complete disagreement for technical reasons.

The unanimous-consent request proposed by the chairman of the Committee on the Budget, James R. Jones, of Oklahoma, was designed to permit the House to "act first" on the resolution by a rather unorthodox—and rarely used—procedure.

Mr. Jones of Oklahoma submitted the following conference report and statement on the Senate concurrent resolution (S. Con. Res. 92) setting forth the recommended congressional budget for the U.S. Government for the fiscal years 1983, 1984, and 1985, and revising the congressional budget for the U.S. Government for the fiscal year 1982:

CONFERENCE REPORT (H. REPT. NO. 97–614)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 92) setting forth the recommended congressional budget for the United States Government for the fiscal years 1983, 1984, and 1985, and revising the congressional budget for the United States Government for the fiscal year 1982, having met, after full and free conference, have been unable to agree on a conference report because the conference decisions have changed certain budget figures outside the scope of conference. As set forth in the accompanying joint explanatory statement, the conferees do propose a congressional budget incorporated in a further amendment for the consideration of the two Houses. . . .

MR. JONES of Oklahoma: Mr. Speaker, I ask unanimous consent that it shall be in order tomorrow or any day thereafter to consider a motion by the chairman of the Committee on the Budget to recede from the House amendment, reported from conference in disagreement, to Senate Concurrent Resolution 92, and to amend the Senate concurrent resolution with the text of the amendment in the nature of a substitute printed in the joint statement of managers in the conference report as submitted in the House of Representatives, that debate on said motion shall continue not to exceed 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, that said motion shall not be subject to a demand for a division of the question, and that the previous question shall be considered as ordered on said motion to final adoption without intervening motion.

THE SPEAKER PRO TEMPORE:[12] Is there objection to the request of the gentleman from Oklahoma?

11. 128 CONG. REC. 14470, 14481, 14482, 97th Cong. 2d Sess.

12. James C. Wright, Jr. (Tex.).

MR. [TOM] LOEFFLER [of Texas]: Mr. Speaker, reserving the right to object, and I shall not object, I do so solely for the purpose of clarification.

As I understand the request of the distinguished chairman of the Budget Committee, this would only allow us to expedite consideration of the budget resolution conference report, which was reported in disagreement because of some minor-scope problems. This motion would, as I understand it, allow the House to proceed first to the consideration of the conference agreement. . . .

MR. LOEFFLER: Mr. Speaker, I thank the gentleman for his response, and I wish to inform the body that this unanimous-consent request has also been cleared by the Republican leadership.

Mr. Speaker, I withdraw my reservation of objection.

When Privileged for Consideration

§ 5.4 After the stage of disagreement on a House bill with Senate amendments has been reached, the consideration of the amendments are privileged.

On May 22, 1936,[13] Speaker Joseph W. Byrns, of Tennessee, had ruled out on a point of order the conference report on H.R. 9496, relating to losses suffered by the federal government through delivery of checks by mail, whereupon the Senate amendments thereto were again before the House for consideration.

MR. [FREDERICK R.] LEHLBACH [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. LEHLBACH: Are amendments put on a House bill by the Senate privileged?

THE SPEAKER: After the stage of disagreement has been reached they are. For this reason it is necessary that the House take some action upon the amendments at this time.

Consequences of Objection to Unanimous-consent Request To Consider Senate Amendments

§ 5.5 Should objection be made to a unanimous-consent request to take from the Speaker's table a House bill with Senate amendments, and to disagree to the amendments and agree to a conference, the Speaker is not required by Rule XXIV clause 2 to send the bill and amendments directly to the legislative committee having jurisdiction thereof, but may hold the bill on the table until the Committee on Rules

13. 80 CONG. REC. 7790–92, 74th Cong. 2d Sess.

has an opportunity to act or until the House takes other action.

On Mar. 29, 1961,[14] during the pendency of a unanimous-consent request of Mr. Harold D. Cooley, of North Carolina, to take from the Speaker's table H.R. 5463, amending the Sugar Act of 1948, with Senate amendments thereto, Mr. Walter E. Rogers, of Texas, raised the following parliamentary inquiry:

> If an objection is made, does the bill go back to the committee having jurisdiction?
>
> THE SPEAKER:[15] It does not; and the Committee on Rules, I am sure, would be called together immediately and asked to report a rule to send the bill to conference.[16]

Consideration by Unanimous Consent

§ 5.6 A motion to take from the Speaker's table a House bill with Senate amendments (requiring consideration in the Committee of the Whole) for consideration in the House is not privileged before the stage of disagreement is reached, and such action requires unanimous consent.

On May 27, 1946,[17] Speaker Sam Rayburn, of Texas, recognized Mr. Clarence J. Brown, of Ohio, to pose a parliamentary inquiry regarding the consideration of H.R. 4908, a bill to provide for the appointment of fact-finding boards to investigate labor disputes:

> Would it be in order for a Member to move to take from the Speaker's desk H.R. 4908 for consideration at this time?
>
> THE SPEAKER: The motion is not a privileged motion at this stage of the proceedings.
>
> MR. BROWN of Ohio: Would it be within the discretion of the Speaker?
>
> THE SPEAKER: It would not. It requires unanimous consent.

§ 5.7 The House may, by unanimous consent, take from the Speaker's table a House bill with Senate amendments and consider

14. 107 CONG. REC. 5288, 87th Cong. 1st Sess.
15. Sam Rayburn (Tex.).
16. See also 107 CONG. REC. 21475, 87th Cong. 1st Sess., Sept. 25, 1961 (Calendar Day). The motion to send a bill and amendments to conference was not made part of the rules until the 89th Congress. See H. Res. 8, 111 CONG. REC. 21, 89th Cong. 1st Sess., Jan. 4, 1965.
17. 92 CONG. REC. 5864, 79th Cong. 2d Sess.

those amendments in the House.

On Dec. 20, 1963,[18] Speaker John W. McCormack, of Massachusetts, recognized Mr. Wayne N. Aspinall, of Colorado:

> Mr. Speaker, I ask unanimous consent to take from the Speaker's table and consider in the House the bill (H.R. 5945) to establish a procedure for the prompt settlement, in a democratic manner, of the political status of Puerto Rico, with Senate amendments thereto.
>
> The Clerk read the title of the bill.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Colorado?
>
> There was no objection.
>
> THE SPEAKER: The Clerk will report the first Senate amendment.[19]

The motion to dispose of each Senate amendment was debatable for one hour.

§ 5.8 A House bill, with Senate amendments that require consideration in Committee of the Whole, may be taken from the Speaker's table for consideration, for agreement to the Senate amendments, or sent to conference, by unanimous consent.

On Aug. 13, 1957,[20] Mr. Kenneth B. Keating, of New York, made this inquiry about the consideration of a civil rights bill:

> Specifically with regard to the bill H.R. 6127, which is now on the Speaker's desk, I wish the Speaker would advise whether a unanimous-consent request is necessary from some Member to dispose of it in some manner as a preliminary to its being sent to the Committee on Rules?
>
> THE SPEAKER:[1] It requires unanimous consent to take it up for consideration, send it to conference, or to agree to the amendments of the Senate.

§ 5.9 A House bill, with Senate amendments requiring consideration in Committee of the Whole, was, by unanimous consent, taken from the Speaker's table for consideration; certain of the amendments were agreed to; and the House disagreed to the remaining amendments and agreed to a conference requested by the Senate.

On July 31, 1961,[2] Speaker Sam Rayburn, of Texas, recognized Mr. Thomas J. Steed, of Oklahoma, to make this request:

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18. 109 CONG. REC. 25365, 88th Cong. 1st Sess.
19. See also 111 CONG. REC. 27412, 89th Cong. 1st Sess., Oct. 19, 1965 (H.R. 168).
20. 103 CONG. REC. 14568, 85th Cong. 1st Sess.
1. Sam Rayburn (Tex.).
2. 107 CONG. REC. 14050, 87th Cong. 1st Sess.

Mr. Speaker, I ask unanimous consent to take from the Speaker's table and consider the bill (H.R. 7208) making appropriations for the legislative branch for the fiscal year ending June 30, 1962, and for other purposes, with Senate amendments thereto.

The Clerk read the title of the bill.

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

There was no objection.

MR. STEED: Mr. Speaker, I ask unanimous consent that the House concur in the amendments of the Senate numbered 1 through 41, inclusive, and in amendments numbered 43 and 49; that the House disagrees to the amendments of the Senate numbered 42, 44, 45, 46, 47, 48, 50, 51, and 52; and that the House agree to the conference asked by the Senate.

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

The Chair hears none and appoints the following conferees:

Messrs. Steed, Kirwan, Cannon, Horan, and Taber.[3]

Where Unanimous-consent Request Is Pending, Alternative Motions Not in Order

§ 5.10 When a unanimous-consent request to take from the Speaker's table a House bill with Senate amendments thereto (which require consideration in the Committee of the Whole) is pending, no motion for the disposal of those amendments is in order.

On Mar. 29, 1961,[4] Speaker Sam Rayburn, of Texas, recognized Mr. Harold D. Cooley, of North Carolina:

MR. COOLEY: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill—H.R. 5463—to amend and extend the Sugar Act of 1948, as amended, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

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

MRS. [CATHERINE D.] MAY [of Washington]: Mr. Speaker, reserving the right to object, may I propound a parliamentary inquiry?

THE SPEAKER: The gentlewoman will state it.

MRS. MAY: Mr. Speaker, may I offer a preferential motion?

THE SPEAKER: There is nothing before the House except the unanimous-consent request of the gentleman from North Carolina [Mr. Cooley].

§ 5.11 If objection is made to a unanimous-consent request to take a House bill with

3. See also 108 CONG. REC. 15854, 15856, 87th Cong. 2d Sess., Aug. 8, 1962.

4. 107 CONG. REC. 5288, 87th Cong. 1st Sess.

Senate amendment from the Speaker's table and concur in the amendment, the Speaker has no authority to automatically put the question on concurring to a vote.

The recurring procedural distinctions between unanimous-consent requests to concur or to consider a Senate amendment, before the stage of disagreement, was again the subject of an inquiry on June 29, 1976.[5]

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10051) to amend section 815 of the Internal Revenue Code to allow a life insurance company to disregard (for purposes of that section) a distribution during the last month of its taxable year, determined to have been made out of the policyholders surplus account, if such distribution is returned to the company not later than the due date for filing its income tax return (including extensions thereof) for that year, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, after line 5, insert:

SEC. 2. EXCLUSION FROM INCOME UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM. . . .

THE SPEAKER:[6] Is there objection to the request of the gentleman from Oregon?

There was no objection.

THE SPEAKER: Is there objection to the request of the gentleman from Oregon (Mr. Ullman) to concur in the Senate amendments?

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, reserving the right to object, is the question being put on consideration of the bill?

THE SPEAKER: On Senate amendments, to concur in the Senate amendments. The question was put.

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

MR. BAUMAN: Reserving the right to object, I yield to the gentleman from Oregon.

MR. ULLMAN: Mr. Speaker, the unanimous-consent request is to agree to the Senate amendments. I attempted to explain what the Senate amendments do. This was a House-passed bill which we have already voted on, and we are agreeing by this action to the Senate amendments.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. BAUMAN: Mr. Speaker, if an objection is lodged to the request, can the Chair then put the question?

If an objection is lodged to the request to agree to the Senate amendments, would the Chair then be able to put the question?

5. 122 CONG. REC. 21140, 21141, 94th Cong. 2d Sess.

6. Carl Albert (Okla.).

THE SPEAKER: No.

MR. BAUMAN: In other words, there is no manner in which a Member can obtain a rollcall vote on this?

THE SPEAKER: Not on this request.

MR. BAUMAN: It either passes by unanimous consent or not at all?

THE SPEAKER: Yes.

MR. BAUMAN: The gentleman from Maryland thinks that is unfortunate, and withdraws his reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

Interruption of Amendments in Disagreement for Other Business

§ 5.12 The House interrupted the consideration of amendments in disagreement on a general appropriation bill to take up, pursuant to a unanimous-consent request, a continuing appropriation measure, making in order one indivisible motion to concur in all Senate amendments.

Following a record vote on a motion to dispose of one of the amendments in disagreement to the Department of Veterans' Affairs and Housing and Urban Development appropriation bill, fiscal 1990 (H.R. 2916), the chairman of the Committee on Appropriations was recognized to offer a unanimous-consent request, providing for consideration and disposition of the final continuing appropriation bill for fiscal 1990. The request and the motion made pursuant thereto, as excerpted from the *Congressional Record* of Oct. 25, 1989,[7] are carried here.

MAKING IN ORDER OFFERING OF MOTION FOR CONSIDERATION OF SENATE AMENDMENTS ON HOUSE JOINT RESOLUTION 423, FURTHER CONTINUING APPROPRIATIONS, 1990

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I ask unanimous consent that it be in order to offer an indivisible motion to take from the Speaker's table the joint resolution (H.J. Res. 423) making continuing appropriations for fiscal year 1990, and for other purposes, with Senate amendments numbered 1 through 13 thereto, and to concur in such Senate amendments; that such motion be debatable for 1 hour equally divided and controlled by myself and the gentleman from Massachusetts [Mr. Conte] and that the previous question be considered as ordered on such motion to final adoption without intervening motion.

THE SPEAKER PRO TEMPORE:[8] Is there objection to the request of the gentleman from Mississippi?

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7. 135 CONG. REC. 25887–90, 101st Cong. 1st Sess.
8. Frank McCloskey (Ind.).

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, reserving the right to object, I understand that we are taking up the continuing resolution with this. Does that mean that we have now accepted the Senate amendments?

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

MR. WALKER: I am happy to yield to the gentleman from Mississippi.

MR. WHITTEN: Mr. Speaker, it means we accept the Senate amendments as we have participated in working this out by telephone during the day. The Senate amendment carries with it what we thought we needed in addition to what we passed yesterday. . . .

PARLIAMENTARY INQUIRY

MR. [CHALMERS P.] WYLIE [of Ohio]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. WYLIE: Mr. Speaker, concerning the HUD–VA appropriation bill, will we get back to that this evening?

THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman from Ohio that the House will continue with that later today. It will be temporarily interrupted.

MR. WYLIE: I thank the Chair.

FURTHER CONTINUING APPROPRIATIONS, 1990

MR. WHITTEN: Mr. Speaker, pursuant to the order of the House just agreed to, I move to take from the Speaker's table the joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990, and for other purposes, with Senate amendments numbered 1 through 13 thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 2, line 2, strike out "section" and insert "sections".

Page 2, line 11, after "Fund" insert: "and to remain available until expended".

Page 2, lines 11 and 12, strike out "120(f)(1) and".

Page 2, line 13, strike out all after "Fund" down to and including "1990" in line 16.

Page 2, line 23, after "activities" insert ": *Provided,* That during fiscal year 1990, and within the resources available to carry out Section 7(b) of the Small Business Act, as amended, gross obligations for new direct loans shall not exceed $1,813,250,000".

Page 3, line 4, after "authorized" insert: "Federal". . . .

Page 3, after line 10, insert:

"SEC. 109. Section 102(c) shall not apply to sections 107, 108, 109, 110, 111, 112, and 113."

Page 3, after line 10, insert:

"SEC. 110. Notwithstanding section 120(f) of title 23, United States Code, the Federal share payable on account of any project on the Interstate and other Federal-aid highway system resulting from Hurricane Hugo, September 1989, or the Loma Prieta Earthquake of October 17, 1989, with funds made available to carry out section 125 of such title shall be 100 percent for costs incurred in the 180-day period beginning on the date of such natural disaster.". . . .

THE SPEAKER PRO TEMPORE: The gentleman from Mississippi [Mr. Whitten] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. Conte] will be recognized for 30 minutes. . . .

MR. WHITTEN: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud of our committee and of the Congress. We have proved that we can act in a hurry.

Eight days after the worst earthquake since 1906, which wreaked havoc on the people of California, with deaths totaling more than 80 and destruction of billions of dollars worth of valuable property, we on the Committee on Appropriations have worked out a resolution enabling the people of the area to go full speed ahead with efforts to relieve the suffering and to return, so far as possible, to orderly business and lives. . . .

Mr. Speaker, moving promptly on Friday, October 20, I introduced House Joint Resolution 423 for myself and on behalf of the delegations of the State of California, the State of South Carolina, and other areas affected by natural disasters on a national scale. On Monday, at 7:15 p.m. the committee reported the resolution.

Yesterday the House passed House Joint Resolution 423 which extends the present continuing resolution, Public Law 101–100, from October 25 to November 15, 1989. The existing resolution expires tonight at midnight. . . .

Mr. Speaker, the Senate earlier today adopted a resolution with 13 amendments. May I say in an effort to expedite this matter, we did work it out and reached an agreement by telephone where the Senate provision includes amendments we think important. So, it is a combination bill where we have gotten together in advance. I am glad to tell my colleagues that is the situation.

Distinction Between Unanimous Consent To Concur or Consider Senate Amendment

§ 5.13 A request to concur in a Senate action may lead to the final disposition of the matter, while a request to "consider" may permit a variety of motions and result in a vote on the motion offered.

Amendments between the Houses are often disposed of in the House by a properly phrased unanimous-consent request. The distinction between a request to "concur" in a Senate amendment and one to "consider" the amendment are shown by the following requests and inquiries:[9]

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9524) to extend the Emergency Petroleum Allocation Act of 1973, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert:

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9. 121 CONG. REC. 30415–17, 94th Cong. 1st Sess., Sept. 26, 1975.

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Petroleum Allocation Act of 1975". . . .

PARLIAMENTARY INQUIRY

MR. [WILLIAM L.] ARMSTRONG [of Colorado]: Mr. Speaker, reserving the right to object, I wonder if I could propound a parliamentary inquiry.

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

MR. ARMSTRONG: Mr. Speaker, the effect of granting this unanimous-consent request will be not only that the bill will be considered, but it will be by granting the request adopted?

THE SPEAKER: There will be an agreement by the House to the Senate amendment.

MR. ARMSTRONG: And to adopt the bill?

THE SPEAKER: It is simply an amendment to the House bill, which would automatically be agreed to if there is no objection.

MR. ARMSTRONG: Well, Mr. Speaker, if I may ask, is there a way to divide that question? My interest does not preclude the consideration of this matter. My interest is to have a vote on the issue.

THE SPEAKER: This is not a divisible question. This is a unanimous-consent request. . . .

MR. ARMSTRONG: Mr. Speaker, further reserving the right to object, do I understand the gentleman's explanation that if the unanimous-consent request is agreed to, the effect is final action by the House; there would be no debate?

THE SPEAKER: That would be final action by the House.

MR. ARMSTRONG: Well, then, Mr. Speaker, reluctantly and not because I desire to delay consideration of this issue, but because I think a matter of this importance deserves the effort, I will, therefore, object to the unanimous-consent request.

THE SPEAKER: Objection is heard.

MR. STAGGERS: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9524) to extend the Emergency Petroleum Allocation Act of 1973, with a Senate amendment thereto, and consider the Senate amendment in the House.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Petroleum Allocation Act of 1975". . . .

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

There was no objection.

THE SPEAKER: Is there objection to consideration of the Senate amendment in the House?

MR. ARMSTRONG: Mr. Speaker, reserving the right to object, perhaps I am in doubt of our status. The information just given me is that upon the adoption of this amendment the bill

10. Carl Albert (Okla.).

will then be before the House in the Committee of the Whole.

THE SPEAKER: No.

MR. ARMSTRONG: Then I have been given the wrong information. I thank the Speaker for helping me. I withdraw my reservation of objection.

THE SPEAKER: Is there objection to consideration of the Senate amendment? The Chair hears none. The question is on the adoption of the Senate amendment.

MR. ARMSTRONG: 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: 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 342, nays 16, not voting 75. . . .

§ 5.14 In response to a parliamentary inquiry, the Speaker stated the distinction between a unanimous-consent request to concur in Senate amendments and a request to consider such amendments in the House: only the second alternative permits debate and a vote.

Where a request was made to take from the Speaker's table a House measure with the Senate's amendments thereto, and concur in those amendments, an inquiry was directed to the Chair as shown in the following proceedings:[11]

MR. PHILLIP BURTON [of California]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 549) to approve the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America," and for other purposes, with Senate amendments thereto, and concur in the Senate amendments. . . .

THE SPEAKER:[12] Is there objection to the request of the gentleman from California?

MR. [M. G. (GENE)] SNYDER [of Kentucky]: Mr. Speaker, further reserving the right to object, I have a parliamentary inquiry on the reservation. What was the unanimous-consent request, to take it up or to agree to the Senate amendments?

THE SPEAKER: To concur in the Senate amendments.

MR. SNYDER: A further inquiry on my reservation, Mr. Speaker: If that unanimous-consent request then is granted, am I precluded from asking for a vote?

THE SPEAKER: Yes; the request is not for the immediate consideration of the Senate amendments. It is a unanimous consent to concur in the Senate amendments. . . .

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11. 122 CONG. REC. 6147, 6148, 94th Cong. 2d Sess., Mar. 11, 1976.

12. Carl Albert (Okla.).

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. SNYDER: Mr. Speaker, I wonder if it would be possible for the gentleman from California to phrase his unanimous-consent request in such a way so that we could have a vote on it and dispose of it? I do not wish to unduly delay the proceedings but could that be done?

THE SPEAKER: The Chair will state that the only way that that could be done would be if the gentleman from California (Mr. Burton) had asked unanimous consent for the immediate consideration of the Senate amendments in the House; if that had been done, then the Senate amendments could have been debated. . . .

MR. SNYDER: I would merely like to be able to register a vote against the matter.

THE SPEAKER: The Chair will state that the procedure we are presently following is in order.

MR. SNYDER: I understand that.

THE SPEAKER: The Chair will further state that Members through the whip's notice have been advised that there would be no more voting today, so that the Chair would not entertain a unanimous-consent request for the consideration of the Senate amendments at this time.

Unusual Unanimous-consent Procedure Providing for En Bloc Amendment of Five Senate Amendments to Five House Bills on a Related Subject

§ 5.15 Where the Senate had added components of the comprehensive National Energy Act (H.R. 8444, 95th Congress) to five private House bills, the House, acting by unanimous consent, amended four of the private bills by concurring in the germane amendments added by the Senate to each of them, and concurring in the energy-related amendments added by the Senate to each bill with a further amendment consisting of the entire text of the House-passed bill.

The Senate had anticipated the House action described above and had laid the foundation by amending the four private bills to set the stage for a possible need to invoke cloture. From the perspective of the House, adding the complete text of the House-passed measure to the portion of the energy regulatory programs added by the Senate put the House in a position to have the various aspects of the regulatory provisions of H.R. 8444 in conference so that House conferees would not be confined in negotiating a compro-

mise bill between the Senate language and existing law.

After amending the Senate energy-related amendments to the four bills, the House insisted on its amendments thereto, requested a conference on each, and appointed managers on the part of the House.

The tax portion of H.R. 8444, which was in title II of that bill, was addressed by a Senate amendment to a private relief tariff measure, which had been reported in the House by the Committee on Ways and Means (H.R. 5263) which the House sent to conference on Nov. 3, 1977.

All five private bills became public laws (Public Laws 95–617 through 95–621).

The pertinent proceedings in the House of Oct. 13, 1977,[13] are set out below:

SENATE AMENDMENTS TO H.R. 5037, FOR THE RELIEF OF JACK R. MISNER

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5037) for the relief of Jack R. Misner, with Senate amendments thereto and concur in Senate amendments No. 1 and No. 2 and concur in Senate amendment No. 3 with an amendment.

The Clerk read the title of the bill.

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

Strike out the text of the Senate amendment numbered 3 and insert in lieu thereof the text of H.R. 8444 as passed the House (other than title II thereof and items in the table of contents relating thereto) as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Energy Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and statement of purposes.
Sec. 3. National energy goals.
Sec. 4. References to Federal Power Commission and Federal Energy Administration.

TITLE I—PRICING, REGULATORY, AND OTHER NONTAX PROVISIONS . . .

THE SPEAKER:[14] Is there objection to the request of the gentleman from West Virginia? . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, germaneness is out the window but I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5037, FOR THE RELIEF OF JACK R. MISNER

13. 123 CONG. REC. 33646, 33647, 33687, 33688, 95th Cong. 1st Sess.

14. Thomas P. O'Neill, Jr. (Mass.).

MR. STAGGERS: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5037) for the relief of Jack R. Misner, with the House amendment to the Senate amendment thereto numbered 3, insist on the House amendment, and request a conference with the Senate thereon.

THE SPEAKER: Is there objection to the request of the gentleman from West Virginia? The Chair hears none and appoints the following conferees: Messrs. Staggers, Ashley, Ullman, Bolling, Foley, Dingell, Rogers, Eckhardt, Sharp, Moffett, Charles Wilson of Texas, Reuss, Rostenkowski, Vanik, Corman, Waggonner, Rangel, Anderson of Illinois, Brown of Ohio, Horton, Wydler, Brown of Michigan, Steiger, Collins of Texas, and Archer. . . .

HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 5289, FOR THE RELIEF OF JOE CORTINA OF TAMPA, FLA.

MR. STAGGERS: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla., with Senate amendments thereto, concur in Senate amendments numbered 1, 2, 3, 4, 5, 6, and 7, and concur in the Senate amendment numbered 8 with an amendment.

The Clerk read the title of the bill.

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

> Strike out the text of the Senate amendment and insert in lieu thereof the text of H.R. 8444 as passed by the House (other than title II thereof and items, in the table of contents relating thereto). . . .

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

MR. BAUMAN: Mr. Speaker, reserving the right to object, the gentleman has repeatedly asked permission to agree to certain Senate amendments and to disagree with a substitute amendment to others. The Senate amendments we have been asked to agree to, are all these germane to the different bills, or do they also deal with other matters?

MR. STAGGERS: They are all technical changes to conform to what the House has passed.

MR. BAUMAN: They do not deal with any substantive matters?

MR. STAGGERS: That is correct.

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

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

There was no objection.

A motion to reconsider was laid on the table.

The procedure was similar with the other two private bills, the House concurring in the Senate amendments relating to the private claims and concurring with amendment in the energy-related Senate amendment with a further amendment.

Referral of House Bill and Senate Amendments

§ 5.16 The Speaker's reference of a House bill with Senate amendments to a committee

is entered in the Record after the proceedings of the day.

The following entry appeared in the Record of July 26, 1951:[15]

> Under clause 2, of rule XXIV, the following bill with Senate amendments thereto, was taken from the Speaker's table and referred as follows:
>
> > H.R. 2416. An act relating to the exclusion from gross income of income from discharge of indebtedness, to the Committee on Ways and Means and ordered to be printed with the amendments of the Senate numbered.

§ 5.17 The Speaker announced to the House that he had referred a general appropriation bill with Senate amendments thereto to the Committee on Appropriations.

On July 2, 1945,[16] Speaker Sam Rayburn, of Texas, made this announcement:

> The Chair desires to announce that he has referred the bill H.R. 3368, the war agencies bill, with Senate amendments thereto, to the Committee on Appropriations.

Use of Special Order To Prevent Amendment of Motion To Concur

§ 5.18 The House has on occasion utilized a special order to take from the Speaker's table a House bill, with Senate amendment thereto, and concur in the amendment with a further House amendment "without intervening motion," thus precluding a motion to recommit the Senate amendment.

The House bill, H.R. 1643, dealing with the extension of most-favored-nation treatment to Bulgaria, had been returned to the House with an amendment which was not germane, since it addressed the subject of continuing appropriations for the government to avoid a "shutdown" during a period of budget impasse. The motion included in the report of the Committee on Rules addressed the subject matter of the Senate amendment and added further provisions related to the operations of government.

Parliamentarian's Note: The special order was within the competence of the Committee on Rules and did not violate the restriction placed on the authority of that committee by Rule XI clause 4(b), that prohibits a rule precluding a motion to recommit from being made as provided in Rule XVI

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15. 97 CONG. REC. 8987, 82d Cong. 1st Sess.
16. 91 CONG. REC. 7142, 79th Cong. 1st Sess.

clause 4. That restriction applies to recommittal motions after the previous question is ordered on the passage of a bill or joint resolution. This distinction is discussed in § 729c, *House Rules and Manual,* 104th Congress.

The proceedings of Jan. 5, 1996,[17] were as follows:

MR. [DAVID] DREIER [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 334 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 334

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1643) to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria, with the Senate amendment thereto, and to consider in the House the motion printed in the report of the Committee on Rules accompanying this resolution. The Senate amendment and the motion shall be considered as read. All points of order against the motion are waived. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

THE SPEAKER PRO TEMPORE:[18] The gentleman from California [Mr. Dreier] is recognized for 1 hour. . . .

The question is on ordering the previous question [on the resolution].

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

MR. [JOHN JOSEPH] MOAKLEY [of Massachusetts]: 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 228, nays 187, not voting 18, as follows: . . .

THE SPEAKER PRO TEMPORE: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Later, pursuant to the resolution, Mr. Robert Livingston, of Louisiana, called up the bill H.R. 1643, and then offered the specified motion to amend the Senate amendment. After debate and unsuccessful attempts to modify the motion by unanimous consent, pursuant to the resolution, the Speaker announced that the previous question was considered as ordered, and the question was then put on the motion.

17. 142 CONG. REC. 332, 341, 342, 104th Cong. 2d Sess.

18. Jim Bunning (Ky.).

§ 5.19 A special rule can make in order a single motion to concur in several Senate amendments (even before the stage of disagreement is reached), specify the control of the debate on the motion, and order the previous question thereon without intervening motion.

In considering and passing the House-passed bill H.R. 1833, to amend title 18, United States Code, relating to partial-birth abortions, the Senate added six discrete amendments on that subject. The special order carried here was crafted to maintain the relationship between the amendments and prevent amendments to them. The rule and the motion made in order thereby were both passed by the House on Mar. 27, 1996.[19]

SENATE AMENDMENTS TO H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT

MRS. [ENID] WALDHOLTZ [of Utah]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 389 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House a single motion to concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

THE SPEAKER PRO TEMPORE:[20] The gentlewoman from Utah [Mrs. Waldholtz] is recognized for 1 hour.

MRS. WALDHOLTZ: . . . Mr. Speaker, House Resolution 389 provides for consideration of the Senate amendments to the Partial-Birth Abortion Ban Act, H.R. 1833. The rule provides for 1 hour of debate on a single motion to concur in each and all of the Senate amendments. The rule further provides that the previous question is considered as ordered on the motion for final adoption.

Mr. Speaker, this rule will allow the House to consider amendments adopted by the Senate to the partial-birth abortion ban including an amendment offered by Senator Dole that ensures doctors will be able to use this procedure when the life of a woman is in danger. . . .

So the resolution was agreed to.

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19. 142 CONG. REC. 6632, 104th Cong. 2d Sess.

20. Harold Rogers (Ky.).

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MR. [CHARLES T.] CANADY of Florida: Mr. Speaker, pursuant to House Resolution 389, I move to take from the Speaker's table the bill (H.R. 1833), to amend title 18, United States Code, to ban partial-birth abortions with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Page 2, line 9, strike out [Whoever] and insert: *Any physician who*

Page 2, line 12, after "both." insert: *This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: Provided, That no other medical procedure would suffice for that purpose. This paragraph shall become effective one day after enactment.*

Page 2, line 13, strike out [As] and insert: *(1) As*

Page 2, after line 16, insert:

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provision of this section.

Page 2, line 17, strike out [(c)(1) The father,] and insert: *(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure,*

Page 3, strike out lines 12 through 20.

MOTION OFFERED BY MR. CANADY

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

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

The Clerk read the motion.

Mr. Canady of Florida moves to concur in each of the six Senate amendments to H.R. 1833.

THE SPEAKER PRO TEMPORE: Pursuant to the rule, the gentleman from Florida [Mr. Canady] and the gentlewoman from Colorado [Mrs. Schroeder] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. Canady].

Acting on Senate Amendments Before Stage of Disagreement

§ 5.20 Example of the form of motion used where a special order has provided for one indivisible motion to dispose of three Senate amendments to a House bill, before the stage of disagreement.

Motions to dispose of Senate amendments, before the stage of disagreement, are not privileged, unless given that status by a unanimous-consent agreement or a resolution reported from the Committee on Rules and adopted by the House. In the proceedings

of Nov. 26, 1991,[1] carried here, the report of the Committee on Rules on the special order specified the amendments to the Senate amendments which would be included in the nondivisible motion.

PROVIDING FOR DISPOSITION OF SENATE AMENDMENTS TO H.R. 3807, CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

MS. [LOUISE MCINTOSH] SLAUGHTER of New York: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 316 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 316

Resolved, That upon adoption of this resolution it shall be in order to consider a nondivisible motion to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with the Treaty of Conventional Armed Forces in Europe, with the Senate amendments thereto, and to concur in the Senate amendments with amendments printed in the report of the Committee on Rules accompanying this resolution. The motion and the Senate amendments shall be considered as having been read. Debate on said motion shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The previous question shall be considered as having been ordered on the motion to final adoption without intervening motion. All points of order against the motion are hereby waived.

THE SPEAKER PRO TEMPORE:[2] The question is, Will the House now consider House Resolution 316?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 316.

THE SPEAKER PRO TEMPORE: The gentlewoman from New York [Ms. Slaughter] is recognized for 1 hour.

MS. SLAUGHTER of New York: . . . Mr. Speaker, this House resolution makes in order a nondivisible motion to take H.R. 3807 from the Speaker's table, and agree to the Senate amendments with three House amendments. The House amendments are printed in the report to accompany the rule, and all points of order are waived against the motion. Finally, the rule provides 1 hour of debate on the motion. . . .

During its deliberations last night the Senate added three amendments relating to nuclear weapons destruction and emergency humanitarian assistance for the Soviet Union. Members of the Foreign Affairs and Armed Services Committees have met with their counterparts in the Senate and devised language which is mutually agreeable to all parties and—as I understand it—will be agreed to by the Senate once we have returned the legislation to that body. . . .

1. 137 CONG. REC. 35487–90, 102d Cong. 1st Sess.

2. Steny H. Hoyer (Md.).

MOTION OFFERED BY MR. FASCELL

MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, pursuant to House Resolution 316, I move to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, with Senate amendments thereto, and concur in the Senate amendments with amendments.

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

The text of the motion and the text of the House amendments are as follows:

Mr. Fascell moves to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, with Senate amendments thereto, and concur in the Senate amendments with amendments, as follows:

Amendment to Senate amendment numbered 1:

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

TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION. . . .

Amendment to Senate amendment numbered 2:

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

TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301. AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT. . . .

Amendment to Senate amendment numbered 3:

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

TITLE IV—ARMS CONTROL AND DISARMAMENT ACT

SEC. 401. ARMS CONTROL AND DISARMAMENT AGENCY.

Agreement to Senate Amendment Pursuant to Special Order

§ 5.21 A special order can provide either for consideration of a motion to concur in a Senate amendment with an amendment (as in the preceding precedent), or it can "self-execute" the concurrence, so that the only vote is on the special order itself,

obviating the necessity for further debate and a second vote implementing the terms of the motion.

On Jan. 5, 1996,[3] H. Res. 338, making in order H.R. 1358, conveying a National Marine Fisheries laboratory to Gloucester, Massachusetts, was called up in the House. The Senate amendment to H.R. 1358 was not germane, since it also addressed continuing appropriations of the government. As in the preceding precedent noted in this section, the special order precluded a motion to recommit without expressly so stating.

MR. [DAVID] DREIER [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 338 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 338

Resolved, That upon adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill (H.R. 1358) to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts, with the Senate amendment thereto, and to have concurred in the Senate amendment with an amendment consisting of the text printed in the report of the Committee on Rules accompanying this resolution.

The text of the Senate amendment and the House amendment to the Senate amendment is as follows:

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

MR. DREIER: . . . Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution. . . .

THE SPEAKER PRO TEMPORE:[4] The question is on the resolution.

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

RECORDED VOTE

MR. [MARTIN] FROST [of Texas]: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 344, noes 24, not voting 65, as follows: . . .

So the resolution was agreed to.

Disposing of Amendment by Resolution Offered Under Suspension of Rules

§ 5.22 The Speaker recognized a Member to offer a resolution, under suspension of the rules, which provided for concurring in a Senate amendment to a House bill

3. 142 CONG. REC. 454, 465, 466, 104th Cong. 2d Sess.

4. Bill Emerson (Mo.).

on the Speaker's table with a further amendment which was stated in the text of the resolution.

On Dec. 20, 1973,[5] Speaker Carl Albert, of Oklahoma, recognized Mr. Wright Patman, of Texas, to move to suspend the rules and agree to House Resolution 753:

> 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 is hereby, agreed to with an amendment as follows:
>
> "Strike out title III of the Senate amendment in the nature of a substitute."

Parliamentarian's Note: The resolution being drafted with this language, the Member did not need to offer a motion from the floor which would spell out the text of the amendment to the Senate amendment. Had the suspension motion merely made in order the offering of a motion to amend the Senate amendment, the Speaker would have directed the reading of the proposed motion after the suspension motion was agreed to.

§ 5.23 The Speaker recognized a Member to offer a resolution, under suspension of the rules, which provided for concurring in two Senate amendments to a House bill on the Speaker's table and for concurring in another Senate amendment with a further amendment.

On Dec. 20, 1973,[6] Speaker Carl Albert, of Oklahoma, recognized Mr. Charles C. Diggs, Jr., of Michigan, to move to suspend the rules and agree to House Resolution 754:

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5. 119 CONG. REC. 42883, 42884, 93d Cong. 1st Sess.

6. 119 CONG. REC. 42917, 93d Cong. 1st Sess.

Mr. Speaker, I move to suspend the rules and agree to the House resolution (H. Res. 754) to take from the Speaker's table the bill (H.R. 6186) to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions, with Senate amendments thereto, and agree to the Senate amendments numbered 1 and 2 and agree to Senate amendment numbered 3, with an amendment.

The Clerk read as follows:

H. RES. 754

Resolved, That immediately upon the adoption of this resolution the bill H.R. 6186, with the Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that (1) Senate amendments numbered 1 and 2 be, and the same are hereby, agreed to; and (2) Senate amendment numbered 3 be, and the same is hereby, agreed to with an amendment as follows: . . .

Reading of the lengthy amendment carried in the text of the resolution was dispensed with by unanimous consent; after the motion was seconded, the resolution was debated and approved.

The Speaker did not state for the Record that the Senate amendments were disposed of pursuant to the terms of the resolution, nor did the Record carry the text of the Senate amendments Nos. 1 and 2.(7)

§ 5.24 The House adopted a motion to suspend the rules and agree to a resolution which provided for taking a House joint resolution with a Senate amendment from the Speaker's table and agreeing to the Senate amendment.

On Oct. 14, 1972,(8) Speaker Carl Albert, of Oklahoma, recognized Mr. Wright Patman, of Texas, to move to suspend the rules and agree to House Resolution 1165:

Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1165) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act.

The Clerk read as follows:

H. RES. 1165

Resolved, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 1301) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act, together with the Sen-

7. See § 5.50, where the text of amendments concurred in were printed. In this instance, the Journal did carry the texts.
8. 118 CONG. REC. 36408, 36409, 92d Cong. 2d Sess.

ate 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 is hereby, agreed to.

THE SPEAKER: Is a second demanded?

MR. [STEWART B.] MCKINNEY [of Connecticut]: Mr. Speaker, I demand a second.

THE SPEAKER: Without objection, a second will be considered as ordered.

There was no objection. . . .

THE SPEAKER PRO TEMPORE:[9] The question is on the motion offered by the gentleman from Texas (Mr. Patman) that the House suspend the rules and agree to House Resolution 1165.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

§ 5.25 The Speaker recognized the Chairman of the Committee on Interstate and Foreign Commerce to move to suspend the rules and agree to a resolution taking a House bill with a Senate amendment from the Speaker's table and agreeing to the Senate amendment.

On Aug. 27, 1962,[10] Speaker John W. McCormack, of Massachusetts, recognized Mr. Oren Harris, of Arkansas, to offer a motion relating to H.R. 11040, the Communications Satellite Act of 1962:

Mr. Speaker, I move to suspend the rules and agree to House Resolution 769.

The Clerk read the resolution as follows:

H. RES. 769

Resolved, That immediately upon the adoption of this resolution the bill H.R. 11040, 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 is hereby, agreed to.

THE SPEAKER: Is a second demanded?

MR. [WILLIAM L.] SPRINGER [of Illinois]: Mr. Speaker, I demand a second.

MR. [WILLIAM FITTS] RYAN [of New York]: Mr. Speaker, I demand a second. . . .

THE SPEAKER: Without objection, a second will be considered as ordered.

There was no objection. . . .

The question was taken; and there were—yeas 372, nays 10, not voting 53. . . .

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was passed.

Parliamentarian's Note: The resolution was introduced by the chairman of the committee when he was recognized to move to suspend the rules and agree to the amendment. Prior introduction would, under the rules, have re-

9. Hale Boggs (La.).
10. 108 CONG. REC. 17671, 17681, 87th Cong. 2d Sess.

quired reference to the Committee on Rules.

Motion To Suspend Rules Not Subject to Amendment

§ 5.26 When a motion to suspend the rules and concur in a Senate amendment is pending, a motion to concur in such amendment with an amendment is not in order.

On July 27, 1946,[11] Speaker Sam Rayburn, of Texas, recognized Mr. Hatton W. Sumners, of Texas:

> Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the joint resolution (H.J. Res. 225) to quiet the titles of the respective States, and others, to lands beneath tidewaters and lands beneath navigable waters within the boundaries of such States and to prevent further clouding of such titles. . . .
>
> THE SPEAKER: Is a second demanded?
>
> MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, I demand a second. . . .
>
> MR. SUMNERS of Texas: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Texas?
>
> There was no objection.
>
> MR. HOBBS: Mr. Speaker, I offer an amendment.
>
> THE SPEAKER: No amendment is in order.
>
> MR. HOBBS: Mr. Speaker, I move to concur in the Senate amendment with an amendment.
>
> THE SPEAKER: That motion is not in order.
>
> MR. HOBBS: Mr. Speaker, I have an agreement with the gentleman from Texas that I would be permitted to offer an amendment to the Senate amendment.
>
> THE SPEAKER: The Chair knows nothing about that agreement. An amendment to this motion is not in order.
>
> The gentleman from Texas [Mr. Sumners] is recognized for 20 minutes and the gentleman from Alabama [Mr. Hobbs] is recognized for 20 minutes.

Speaker's Authority To Refer House Bill and Senate Amendments to Committee

§ 5.27 If objection is made to a unanimous-consent request to take a House bill with Senate amendments from the Speaker's table, disagree to the amendments and agree to a conference, the Speaker may hold the bill on the table for a reasonable length of time, may refer it to the legislative committee having jurisdiction over it, or may await a rule from the Committee on Rules.

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11. 92 CONG. REC. 10310, 79th Cong. 2d Sess.

Parliamentarian's Note: The events in this and following precedents occurred before the 1989 amendment to Rule XX clause 1, which permits a privileged motion to send a Senate or House bill with amendments of the other House to conference.[12]

On July 6, 1937,[13] Mr. Marvin Jones, of Texas, requested unanimous consent to take from the Speaker's table the farm tenancy bill, H.R. 7562, with Senate amendments thereto, disagree to the amendments and agree to the conference requested by the Senate. Mr. Charles W. Tobey, of New Hampshire, objected, and Mr. Scott W. Lucas, of Illinois, made the following inquiry:

> In the event objection is made to the request of the gentleman from Texas, am I correct in my understanding that then the bill will be referred back to the Rules Committee?
>
> THE SPEAKER:[14] Will the gentleman from Illinois kindly restate his parliamentary inquiry?
>
> MR. LUCAS: If objection is made to the unanimous-consent request submitted by the distinguished gentleman from Texas, my inquiry is what will then happen to the bill as presented to the House?
>
> THE SPEAKER: In answer to the inquiry, the Chair will state that it is within the discretion of the Chair to allow the bill to lie on the Speaker's table for a reasonable length of time, or to refer the bill and Senate amendments to the Committee on Agriculture.
>
> MR. JONES: Mr. Speaker, may I answer the question further by a parliamentary inquiry? Would it not be in order for the chairman of the Committee on Agriculture to apply to the Rules Committee for a rule to send the bill to conference?
>
> THE SPEAKER: Undoubtedly.

§ 5.28 The Speaker has referred a House bill with Senate amendments to a standing committee instead of the Committee of the Whole.

On Aug. 26, 1935,[15] Speaker Joseph W. Byrns, of Tennessee, recognized Mr. James P. Buchanan, of Texas, and the following occurred:

> MR. BUCHANAN: Mr. Speaker, as chairman of the Appropriations Committee of the House, I request the Speaker to refer the third deficiency bill—H.R. 9215—now on the Speaker's table, to the Appropriations Committee of the House. This bill passed the

12. *House Rules and Manual* § 827 (1997); 111 CONG. REC. 21, 89th Cong. 1st Sess., Jan. 4, 1965. See also § 5.48 (*Parliamentarian's Note*), infra.
13. 81 CONG. REC. 6815, 6816, 75th Cong. 1st Sess.
14. William B. Bankhead (Ala.).
15. 79 CONG. REC. 14757–59, 74th Cong. 1st Sess.

House on Thursday, August 22, and, as usual, was promptly sent to the Senate, and was held there until 8 o'clock on the evening of Saturday, August 24, when it was messaged to the House, together with the resolution providing for the *sine die* adjournment of Congress at 12 o'clock on the same day, thus requiring action by the House on this bill within 4 hours, notwithstanding the fact that the Senate had placed amendments on the bill involving a possible outlay by the Government of from $800,000,000 to $2,000,000,000 by way of loans which were not in the bill as passed by the House and which had never received any consideration by the Appropriations Committee of the House or Senate and about which no Member of either branch of Congress was fully informed. Manifestly, if we are going to apply business methods to the conduct of the Government involving such vast outlays of public funds, hearings should be held by some committee of Congress in which all the facts should be developed in order to permit an intelligent determination of the soundness of the policy involved, the approximate obligations incurred, and whether or not the Government could raise the money without financial embarrassment or in any way affecting its credit. . . .

THE SPEAKER: The bill (H.R. 9215) making appropriations for deficiencies, known as the "third deficiency appropriation bill," is now on the Speaker's table. It is, of course, within the discretion of the Chair, under the rules of the House, to send it to the Committee on Appropriations. The ordinary course of procedure is to send it to conference, under a unanimous-consent request. The chairman of the committee having jurisdiction of the bill having made no such request, the Chair feels in view of the request of the chairman of the Committee on Appropriations and the importance of the questions involved, both of legislation and appropriation, as set forth briefly by the gentleman from Texas [Mr. Buchanan], that this bill should be referred to the committee having charge of the bill, in order that that committee may conduct such hearings and take such measures looking to recommendations as it may choose. The Chair accordingly refers the bill to the Committee on Appropriations under the established practice of the House which requires the Chair to take that course. [Applause.] In taking this action the Chair is following a similar action taken by a former Speaker of the House on January 23, 1931 (Record, p. 2975), when Mr. Speaker Longworth referred the Interior Department appropriation bill to the Committee on Appropriations.

MR. [CARL] VINSON of Georgia: Mr. Speaker, I rise to a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. VINSON of Georgia: Why is it not in order that the House consider this appropriation bill in the Committee of the Whole House on the state of the Union?

THE SPEAKER: That will be in order if the Committee on Appropriations reports it, as is required under the established practice of the House.

MR. VINSON of Georgia: But before the Speaker announced his decision, it would have been in order for the House by substitute motion to have referred

this bill to the Committee of the Whole House on the state of the Union?

THE SPEAKER: It would not, because that motion would not have been privileged, as the Chair ruled on Saturday. When a House bill with Senate amendments involving new matter of appropriations comes from the Senate it may be sent to conference by unanimous consent; otherwise, the duty of the Chair under the established practice of the House is to refer to it the standing committee having jurisdiction of it. The Chair has taken that course in this instance, and no motion of the kind referred to by the gentleman from Georgia is in order as a matter of privilege.

HOUSE BILL REFERRED

A bill of the House of the following title was taken from the Speaker's table, with Senate amendments thereto, and under the rule, referred as follows:

H.R. 9215. An act making appropriations to provide urgent supplemental appropriations for the fiscal year ending June 30, 1936, to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1935, and for prior fiscal years, and for other purposes; to the Committee on Appropriations.

§ 5.29 A Senate amendment to a House bill may be referred to a House committee having jurisdiction of the subject matter addressed in part of the amendment, even though the House bill was reported from another committee.

On Mar. 26, 1981,[16] the Speaker, pursuant to the authority granted him in Rule X clause 2, and Rule XXIV clause 2, referred the Senate amendment to the bill H.R. 31, amending the Truth in Lending Act, to the Committee on Energy and Commerce, for consideration of a portion of the Senate amendment within that committee's jurisdiction.

The bill itself had been reported from the Committee on Banking, Finance and Urban Affairs. The portion of the Senate amendment which was controversial dealt with the qualifications of the Surgeon General of the United States, a matter within the competence of the Committee on Energy and Commerce. The Speaker's referral was for a time certain.

The referral statement of the Speaker is carried here, and a portion of the proceedings of Apr. 8, 1981,[17] as well, to show the discharge of the Committee on Energy and Commerce from further consideration of the matter. Conferees were appointed from both of the committees.

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16. 127 CONG. REC. 5397, 97th Cong. 1st Sess.
17. *Id.* at p. 6826.

The excerpt from the Mar. 26 *Congressional Record* follows:

REFERRAL OF SENATE AMENDMENT UNDER TIME LIMITATION

Pursuant to clause 5, rule X and clause 2, rule XXIV, the Senate amendment to the bill (H.R. 31) to amend the Truth in Lending Act to encourage cash discounts, and for other purposes, was referred from the Speaker's table to the Committee on Energy and Commerce for a period ending not later than April 8, 1981, solely for consideration of such provisions of section 303 of the Senate amendment as fall within the jurisdiction of that committee under clause 1(h), rule X.

The pertinent proceedings of Apr. 8 are set out below:

MR. [FRANK] ANNUNZIO [of Illinois]: Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate amendment to the bill (H.R. 31) to amend the Truth in Lending Act to encourage cash discounts, and for other purposes, and that the House disagree to the Senate amendment to H.R. 31 and request a conference with the Senate thereon. . . .

THE SPEAKER:[18] Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees:

Solely for consideration of all the provisions of the Senate amendment in the nature of a substitute except section 303, and modifications thereof committed to conference, the following Members on the part of the House: Messrs. St Germain, Annunzio, Gonzalez, Minish, Stanton of Ohio, Evans of Delaware, and Wylie; and

Solely for the consideration of section 303 of the Senate amendment in the nature of a substitute, and modifications thereof committed to conference, the following Members on the part of the House: Messrs. Dingell, Waxman, Scheuer, Broyhill, and Madigan.

Initiating Action on Special Order To Dispose of Senate Amendments

§ 5.30 Any Member may request that the chairman of the Committee on Rules call a meeting of that committee to consider reporting a resolution making in order disposition of a House bill, with Senate amendments that require consideration in the Committee of the Whole, notwithstanding Rule XXIV clause 2.

On Aug. 13, 1957,[19] after objections had been made to two requests relating to H.R. 6127, the Civil Rights Act of 1957, and Senate amendments thereto, Mr. Kenneth B. Keating, of New York,

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18. Thomas P. O'Neill, Jr. (Mass.).

19. 103 CONG. REC. 14568, 85th Cong. 1st Sess.

was recognized with a parliamentary inquiry:

> Would the Speaker advise what action is necessary now in order to get the bill to the Committee on Rules?
>
> THE SPEAKER:[20] Anyone can make the request of the chairman of the Committee on Rules to call a meeting of the committee to consider the whole matter.
>
> MR. KEATING: Mr. Speaker, a further parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. KEATING: Mr. Speaker, if that were done, would the bill which is now on the Speaker's desk be before the Rules Committee?
>
> THE SPEAKER: It would not be before the Committee on Rules. The Committee on Rules could consider the matter of what procedure to recommend to the House for the disposition of this whole matter.

Authority of the Committee on Rules

§ 5.31 The Committee on Rules has jurisdiction to report resolutions providing for the disposition of Senate amendments.

On May 29, 1968,[1] the House was considering the bill, H.R. 5037, the Law Enforcement and Criminal Justice Assistance Act of 1968, and the Senate amendments thereto. Mr. Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, had asked for unanimous consent to take the bill and Senate amendments thereto from the Speaker's table, disagree with the amendments, and request a conference with the Senate. Mr. Richard H. Poff, of Virginia, then posed a series of parliamentary inquiries including the following:

> If the motion to go to conference is not adopted by the House, in such case would it be in order for the Committee on Rules to report a resolution making it in order to move to recede and concur?[2]
>
> THE SPEAKER:[3] Under the rules of the House, it is within the authority and jurisdiction of the Committee on Rules to report a resolution providing for the disposition of the Senate amendments.

Use of Special Order To Send Multiply-referred Bill to Conference

§ 5.32 Where the authorization of four House committees

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20. Sam Rayburn (Tex.).

1. 114 CONG. REC. 15499, 90th Cong. 2d Sess.

2. The stage of disagreement not having been reached, the proper motion was "to concur," not to "recede and concur."

3. John W. McCormack (Mass.).

was required to authorize the motion to go to conference under Rule XX clause 1, the Committee on Rules reported, and the House adopted, a special order providing that the House disagree with the Senate amendment and request a conference.

On July 30, 1979,[4] the House agreed to a resolution sending H.R. 111, the Panama Canal Act of 1979, to conference, a unanimous-consent request to accomplish this step having been objected to. Following the adoption of the resolution, a motion was made to instruct the managers at the conference to "adhere" to the House position set forth in certain sections of the House text.

PROVIDING FOR SENDING H.R. 111 TO CONFERENCE

MR. [LEO C.] ZEFERETTI [of New York]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 390 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 390

Resolved, That upon the adoption of this resolution the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, with the Senate amendments thereto, is taken from the Speaker's table to the end that the House disagrees to the Senate amendments and requests a conference with the Senate thereof.

THE SPEAKER PRO TEMPORE:[5] The gentleman from New York (Mr. Zeferetti) is recognized for 1 hour.

MR. ZEFERETTI: . . . [L]ast week on a motion to send House Resolution 111 to conference an objection was raised by an opponent of the measure. In this instance it would require the four committees who have jurisdiction over this bill to meet and vote on whether to direct the chairmen of these respective committees to offer a motion on the floor to request a conference. Unfortunately, such a procedure would require a significant amount of time and would have delayed further consideration of this bill.

The Rules Committee has been informed by the chairman of the Merchant Marine and Fisheries Committee that it is imperative for the House and Senate conferees to begin deliberation immediately so as to effectively come to agreement at the earliest possible date. . . .

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

4. 125 CONG. REC. 21298, 21302, 21309, 96th Cong. 1st Sess.

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

MOTION OFFERED BY MR. BAUMAN

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bauman moves that the conferees on the part of the House on the disagreeing votes of the two Houses on the bill H.R. 111, be instructed to adhere to the language of sections 101, 102, 103, 104, 105, 110 of chapter 1; sections 231, 232, 233, 234, 235, 236, and 250 of chapter 5; sections 371, 372, 373, and 374 of chapter 9 of H.R. 111 as passed by the House with respect to the matters considered therein.

THE SPEAKER PRO TEMPORE: The gentleman from Maryland (Mr. Bauman) is recognized for 1 hour. . . .

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

The previous question was ordered. . . .

So the motion was agreed to.

Parliamentarian's Note: While the House cannot "adhere and ask a conference," since adherence is inconsistent with the request for a conference[6] and the willingness to negotiate, the form of the motion to instruct conferees did not render it subject to a point of order, and none was raised. See 8 Cannon's Precedents §§ 3230, 3237, which indicate that consistency in motions to instruct is for the House, not the Chair, to decide.

6. See 5 Hinds' Precedents § 6303.

Special Order To Refer House Bill and Senate Amendments

§ 5.33 The Chair indicated that the Committee on Rules could report out a resolution, taking a House bill with Senate amendments (requiring consideration in the Committee of the Whole) from the Speaker's table and sending it to the legislative committee of the House having jurisdiction thereof.

On the legislative day of Sept. 26, 1961,[7] Speaker Pro Tempore John W. McCormack, of Massachusetts, recognized Mr. Albert Thomas, of Texas, and the following discussion of the treatment of House bills with Senate amendments ensued:

MR. THOMAS: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9169) making supplemental appropriations for the fiscal year ending June 30, 1962, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate.

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

7. 107 CONG. REC. 21475, 21476, 87th Cong. 1st Sess., Sept. 25, 1961 (Calendar Day).

MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, reserving the right to object, and I do so in order to propound a parliamentary inquiry.

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

MR. BOW: Mr. Speaker, my parliamentary inquiry is this: If an objection is made to sending this to conference, the supplemental appropriation bill, whether or not the Speaker will then refer the bill to the committee having charge of the bill and that committee return the bill to the House in the Committee of the Whole House for the consideration of the Senate amendments as provided in "Cannon's Precedents" on page 115, and whether or not the House then can work its will in the Committee of the Whole House on each amendment of the Senate under the 5-minute rule, report the bill back to the House, and then move to send the bill to conference?

THE SPEAKER PRO TEMPORE: The parliamentary inquiry involves several different fields, related, but nevertheless separate.

MR. BOW: Mr. Speaker, I shall be glad to state them separately.

THE SPEAKER PRO TEMPORE: The gentleman is clearly within his rights. In the first place, this is a procedure that the present occupant of the chair has no recollection of ever having taken place during his period of service in this body, and the Chair is informed, for many years prior thereto.

When objection is made the leadership of the House is confronted with the problem as to what action should be taken in order to get the bill to conference as quickly as possible. The Chair, while not answering the parliamentary inquiry with reference to the committee and committee action and coming back to the House, and then to the Committee of the Whole, would frankly state to the gentleman that the present occupant of the chair would employ every method under the rules in order to get the bill from the Speaker's desk to conference.

MR. BOW: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. BOW: Mr. Speaker, inasmuch as these amendments of the Senate are in the nature of charges against the Treasury of the United States, I will ask this parliamentary inquiry:

Is it not then necessary under the rules and procedures as found in volume 5 of the Procedure of the House of Representatives that the bill be sent to the committee and then considered in the Committee of the Whole before sending it to conference?

THE SPEAKER PRO TEMPORE: It is the opinion of the Chair that the answer which the Chair gave to the first part of the gentleman's parliamentary inquiry also answers this inquiry: that if objection is made, the Chair would feel constrained, insofar as the Chair is capable of accomplishing it, to have the bill taken from the Speaker's desk and sent to conference under the rules without reference to the committee.

MR. BOW: I thank the Chair, and withdraw my reservation.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, further reserving the right to

object, if the conference report[8] should go to the Rules Committee for a rule, would it be possible for the Rules Committee to vote out a rule sending the bill to committee?

THE SPEAKER PRO TEMPORE: The answer is in the affirmative to that parliamentary inquiry.

Uses of Special Order Before Stage of Disagreement

§ 5.34 Before the stage of disagreement has been reached, a motion to take a House bill with a Senate amendment thereto which requires consideration in the Committee of the Whole from the Speaker's table and concur in the amendment is not privileged; but by adoption of a special order the House can: (1) bestow privilege to such a motion; (2) limit other options for disposition of the Senate amendment; and (3) prevent amendment of the motion to concur.

As the time for *sine die* adjournment of the 95th Congress, 1st Session, approached, the passage of a continuing appropriations bill became a high priority. As with the Labor-HEW appropriation bill, which remained in disagreement because of a restriction on abortion funding, the continuing appropriation bill also had a similar restriction remaining in disagreement.

On Dec. 7, 1977,[9] the House considered and adopted the following resolution reported from the Committee on Rules:

Mr. Dodd, from the Committee on Rules, reported the following privileged resolution (H. Res. 928, Rept. No. 95–833), which was referred to the House Calendar and ordered to be printed:

H. RES. 928

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider a motion to take from the Speaker's table the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, with the Senate amendments thereto, and concur in the Senate amendments, without any intervening motion, and at the conclusion of the debate thereon the previous question shall be considered as ordered, and the question shall be put on the motion to concur without any intervening motion.

MR. [CHRISTOPHER J.] DODD [of Connecticut]: Mr. Speaker, by direction of the Committee on Rules, I call up

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8. Mr. Gross apparently intended to refer to the House bill with Senate amendments, because a conference report does not require a rule from the Committee on Rules for its consideration.

9. 123 CONG. REC. 38721, 38722, 95th Cong. 1st Sess.

House Resolution 928 and ask for its immediate consideration.

THE SPEAKER PRO TEMPORE:[10] The Clerk will report the resolution.

The Clerk read the resolution.

THE SPEAKER PRO TEMPORE: The question is, will the House now consider House Resolution 928?

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a parliamentary inquiry.

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

MR. BAUMAN: Mr. Speaker, does not the consideration of this resolution require a two-thirds vote?

THE SPEAKER PRO TEMPORE: The Chair will state that that is correct.

MR. BAUMAN: Is there no debate permitted on consideration of the question?

THE SPEAKER PRO TEMPORE: The Chair will state that no debate is permitted on consideration of the question.

The question is, will the House now consider House Resolution 928?

The question was taken.

MR. BAUMAN: 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 251, nays 86, not voting 97. . . .

So (two-thirds having voted in favor thereof) the House agreed to consider House Joint Resolution 662.

The result of the vote was announced as above recorded.

Later on the same day,[11] the resolution was adopted and the prescribed action undertaken:

MR. DODD: Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

THE SPEAKER PRO TEMPORE: The question is on the resolution.

The question was taken and on a division (demanded by Mr. Bauman) there were—yeas 54; nays 40.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER PRO TEMPORE: The Chair recognizes the gentleman from Texas (Mr. Mahon).

MOTION OFFERED BY MR. MAHON

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, pursuant to the rule just adopted, I offer a motion.

The Clerk read as follows:

> Mr. Mahon moves to take from the Speaker's table the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

THE SPEAKER PRO TEMPORE: The Clerk will report the title of the joint

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10. K. Gunn McKay (Utah).

11. 123 CONG. REC. 38723, 38724, 38728, 38729, 95th Cong. 1st Sess.

resolution and the Senate amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

(1) Page 2, lines 15 and 16, strike out "as modified by the House of Representatives on August 2, 1977".

(2) Page 2, line 17, after "resolution" insert: "*Provided, however,* that none of the funds provided for in this paragraph shall be used to perform abortions: except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

"Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

"The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced."

PARLIAMENTARY INQUIRIES

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

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

MR. BAUMAN: Mr. Speaker, if the motion offered to concur in the Senate amendments is defeated, is it still not in order for a Member to be recognized to offer a motion to concur in the Senate amendments with an amendment?

THE SPEAKER PRO TEMPORE: The Chair will inform the gentleman that it would take unanimous consent.

MR. BAUMAN: Because of the rule that was adopted, that would not be in order?

THE SPEAKER PRO TEMPORE: No, it would not.

MR. BAUMAN: So, Mr. Speaker, the rule totally precludes any possibility of offering an amendment?

THE SPEAKER PRO TEMPORE: The gentleman is correct, other than by unanimous consent or by the adoption of another rule.

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

Under the normal order of procedure, which the rule has changed, such a motion would be first in order now instead of the pending motion, would it not?

The rule mentions nothing about precluding a motion to concur in the Senate amendments with an amendment. Would that not have been in order if this motion were defeated?

THE SPEAKER PRO TEMPORE: The rule makes in order one motion to concur and nothing else. Rejection of that motion would not at that stage permit other privileged motions in the House to dispose of the Senate amendment.

MR. BAUMAN: Mr. Speaker, I understand, and I thank the Chair.

THE SPEAKER PRO TEMPORE: The gentleman from Texas (Mr. Mahon) is recognized for 1 hour. . . .

All time has expired.

Under the rule, the previous question is ordered.

The question is on 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. MAHON: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 171, nays 178, answered "present" 1, not voting 84. . . .

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

When the motion made in order by the special order was defeated, the Committee on Rules met once more and reported a new resolution, not specifying the text of a motion but permitting consideration of the Senate amendments in the House.[12]

Mr. Dodd, from the Committee on Rules, reported the following privileged resolution (H. Res. 929, Rept. No. 95–834), which was referred to the House Calendar and ordered to be printed:

H. RES. 929

Resolved, That immediately upon the adoption of this resolution it shall be in order to take from the Speaker's table the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, together with the Senate amendments thereto, and to consider the Senate amendments in the House.

MR. DODD: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 929 and ask for its immediate consideration.

THE SPEAKER PRO TEMPORE:[13] The Clerk will report the resolution.

The Clerk read the resolution.

THE SPEAKER PRO TEMPORE: The question is, Will the House now consider House Resolution 929?

The question was taken; and on a division (demanded by Mr. Bauman) there were—yeas 110, nays 31.

MR. BAUMAN: 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 240, nays 109, not voting 85. . . .

So (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 929.

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE: The gentleman from Connecticut (Mr. Dodd) is recognized for 1 hour. . . .

MR. DODD: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MR. MAHON: Mr. Speaker, pursuant to the rule just adopted in the House, I move to take from the Speaker's table

12. *Id.* at pp. 38780–82.

13. W. C. (Dan) Daniel (Va.).

the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, together with the Senate amendments thereto, and to consider the Senate amendments in the House.

The Clerk read the title of the joint resolution.

SENATE AMENDMENTS

THE SPEAKER:[14] The Clerk will report the first Senate amendment.

The Clerk read as follows:

Senate amendment No. 1: Page 2, lines 15 and 16, strike "as modified by the House of Representatives on August 2, 1977".

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

The Clerk read as follows:

Mr. Mahon moves that the House concur in the amendment of the Senate numbered 1.

MR. MAHON: Mr. Speaker, this is purely a technical amendment. It should be clear that the continuing resolution provides for the operation of the Departments of Labor and HEW at the conference rate and also that these departments operate under the provisions of the conference agreement on the Labor-HEW bill. I do not know of any other conflict on this.

The motion was agreed to.

THE SPEAKER: The Clerk will report the second Senate amendment.

The Clerk read as follows:

Senate amendment No. 2; page 2, line 17, after "resolution" insert: "*Provided, however,* That none of the funds provided for in this paragraph shall be used to perform abortions: except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

"Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

"The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.".

THE SPEAKER: The Chair recognizes the gentleman from Illinois (Mr. Michel).

MOTION OFFERED BY MR. MICHEL

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Michel moves that the House concur in the amendment of the Senate numbered 2 with an amendment, as follows: "*Provided,* That none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would

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14. Thomas P. O'Neill, Jr. (Mass.).

result if the pregnancy were carried to term when so determined by two physicians.

"Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

"The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.".

THE SPEAKER: The gentleman from Illinois (Mr. Michel) is recognized for 1 hour.

MR. MICHEL: Mr. Speaker, I yield 30 minutes to the chairman of our committee, the gentleman from Texas (Mr. Mahon), and pending that I will proceed for just a few moments.

The motion offered to the second Senate amendment, relating to abortion restrictions, was agreed to. Later in the same day, the Senate concurred in the House action and H.J. Res. 662, providing further continuing appropriations for fiscal 1978, was cleared for presentation to the President.

Special Orders (Resolutions) for Consideration of Senate Amendments

§ 5.35 Before the stage of disagreement is reached, a motion to concur in a Senate amendment to a House bill is not privileged; but a special order can be adopted which makes such a motion in order, divides debate time, and protects the motion from amendment or being displaced by a more privileged motion to dispose of the Senate amendment.

A special order which provides for concurrence in a Senate amendment can take several forms. The choice is whether to make in order a motion to concur, which is then debatable when offered and which permits a vote on the motion, or to "self-execute" the concurrence: "Upon the adoption of this resolution, the Senate amendment is hereby agreed to." The resolution is carried here to illustrate one of the approaches which can be utilized to dispose of a Senate amendment before the stage of disagreement:[15]

MR. [BUTLER] DERRICK [of South Carolina]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 251 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 251

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House a motion to take from the Speaker's table the bill (H.R. 20) to amend title 5, United

15. 139 CONG. REC. 21805, 21806, 103d Cong. 1st Sess., Sept. 21, 1993.

States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes, with a Senate amendment thereto, and to concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

THE SPEAKER PRO TEMPORE:[16] The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour. . . .

MR. DERRICK: Mr. Speaker, House Resolution 251 provides for consideration of H.R. 20, the Federal Employees Political Activities Act. The rule provides for a motion to take H.R. 20 from the Speaker's table with a Senate amendment and to concur in the Senate amendment. The rule provides that the Senate amendment shall be considered as read. The rule further provides that the motion will be debatable for 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service. . . .

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MR. [WILLIAM L.] CLAY [of Missouri]: Mr. Speaker, pursuant to House Resolution 251, I move to take from the Speaker's table the bill (H.R. 20) to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

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

The Clerk read as follows:

Mr. Clay moves to take from the Speaker's table the bill, H.R. 20, with a Senate amendment thereto, and to concur in the Senate amendment.

THE SPEAKER PRO TEMPORE: Pursuant to the rule, the Senate amendment is considered as read.

The text of the Senate amendment is as follows:

Amendment:
Strike out all after the enacting clause and insert:

That this Act may be cited as the "Hatch Act Reform Amendments of 1993".

Parliamentarian's Note: In this instance, the Committee on Rules chose to make the motion to concur in order, rather than a "hereby" resolution, to avoid a possible point of order under section 308 of the Budget Act (requiring a CBO estimate of cost in the report on any bill or resolution containing new budget au-

16. Barney Frank (Mass.).

thority. On Feb. 24, 1993,[17] a discussion occurred in the House about the susceptibility of a special order providing for the consideration of a House bill and "self-executing" the adoption of an amendment to such a Budget Act point of order. The Chair ruled on that occasion that a special order for the consideration of a House bill that "self-executes" the adoption of an amendment providing new budget authority into the bill to be subsequently considered does not, itself, provide the new budget authority and is not subject to the point of order.

§ 5.36 Although House rules preclude dividing a Senate amendment which strikes House text and inserts new language, such a division can be made in order by a special order reported from the Committee on Rules and adopted by the House.

When the Senate considered for amendment H.R. 9209, the Emergency Unemployment Compensation Act Amendments of 1993, it struck out all after the enacting clause of the House bill and added a new text, consisting of seven sections. The House wished to address section 7 of the Senate amendment, which dealt with congressional pay, by a separate vote. The following special order was reported from the Committee on Rules, debated and agreed to on Mar. 4, 1993.[18] The rule, pertinent debate, and the procedure in the House are carried here.

EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. Moakley, from the Committee on Rules, submitted a privileged report (Rept. No. 103–26) on the resolution (H. Res. 115) providing for the consideration of the Senate amendment to the bill (H.R. 920) to extend the emergency unemployment compensation program, and for other purposes, which was referred to the House Calendar and ordered to be printed:

H. RES. 115

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House, any rule of the House to the contrary notwithstanding, a motion to take from the Speaker's table the bill (H.R. 920) to extend the emergency unemployment compensation program, and for other purposes, with the Senate amendment thereto, and to concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee

17. See 139 CONG. REC. 3554, 3555, 103d Cong. 1st Sess.

18. 139 CONG. REC. 4157–59, 103d Cong. 1st Sess.

on Ways and Means or their respective designees. The previous question shall be considered as ordered on the motion to final adoption without intervening motion. The motion shall be divided for a separate vote on concurring in section 7 of the Senate amendment, any rule of the House to the contrary notwithstanding.

MR. [JOHN JOSEPH] MOAKLEY [of Massachusetts]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 115 and ask for its immediate consideration.

The Clerk read the resolution. . . .

THE SPEAKER PRO TEMPORE:[19] The gentleman from Massachusetts [Mr. Moakley] is recognized for 1 hour.

MR. MOAKLEY: Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. Quillen], pending which I yield myself such time as I may consume. . . .

The rule provides 1 hour of general debate. The rule also automatically divides the question, allowing a separate vote on the last section of the bill, elimination of cost of living adjustment for Members of Congress in 1994. Mr. Speaker, the division is in order any rule of the House to the contrary notwithstanding. . . .

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table. . . .

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19. Romano L. Mazzoli (Ky.).

MR. [ROBERT T.] MATSUI [of California]: Mr. Speaker, pursuant to House Resolution 115, I move to take from the Speaker's table the bill (H.R. 920) "An act to extend the emergency unemployment compensation program, and for other purposes," with the Senate amendment thereto, and to concur in the Senate amendment.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: Under the rule, the Senate amendment is considered as read.

The text of the Senate amendment is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Unemployment Compensation Amendments of 1993".

SEC. 2. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) GENERAL RULE.—Sections 102(f)(1) and 106(a)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) are each amended by striking "March 6, 1993" and inserting "October 2, 1993". . . .

SEC. 7. ELIMINATION OF COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS IN 1994.

(a) COST OF LIVING ADJUSTMENT.—Notwithstanding section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)), the cost of living adjustment (relating to pay for Members of Congress) which would become effective under such provision of law during calendar year 1994 shall not take effect.

(b) SEVERABILITY.—If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance, is held to be invalid, the re-

mainder of this Act, or an amendment made by this Act, or the application of such provision to other persons or circumstances, shall not be affected.

THE SPEAKER PRO TEMPORE: Under the rule, the gentleman from California [Mr. Matsui] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. Santorum] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. Matsui].

§ 5.37 Before the stage of disagreement is reached, a motion to take from the Speaker's table a House bill, with the Senate amendment thereto, and concur in the Senate amendment, is not privileged; but the motion can be made in order by a special order which provides for debate time and prohibits any intervening motion.

On Apr. 22, 1993,[20] in an attempt to conclude consideration of an emergency supplemental appropriation bill, fiscal 1993 (H.R. 1335), the chairman of the Committee on Appropriations made a unanimous-consent request in the following form.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT OF 1993

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, I ask unanimous consent that it be in order today to consider in the House, any rule of the House to the contrary notwithstanding, a motion to take from the Speaker's table the bill, H.R. 1335, making emergency supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes, with a Senate amendment thereto, and to concur in the Senate amendment; that the Senate amendment be considered as read; that the motion be debatable for 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations or their designees; and that the previous question be considered as ordered on the motion to final adoption without intervening motion.

THE SPEAKER PRO TEMPORE:[1] Is there objection to the request of the gentleman from Kentucky? . . .

There was no objection.

For text of H.R. 1335, see proceedings of the House of March 18, 1993, at page H 1508.

MOTION OFFERED BY MR. NATCHER

MR. NATCHER: Mr. Speaker, pursuant to the order of the House, I offer a motion.

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

The Clerk read as follows:

Mr. Natcher moves to take from the Speaker's table the bill (H.R. 1335) making emergency supplemen-

20. 139 CONG. REC. 8108, 103d Cong. 1st Sess.

1. G. V. (Sonny) Montgomery (Miss.).

tal appropriations for the fiscal year ending September 30, 1993, and for other purposes, with a Senate amendment thereto, and to concur in the Senate amendment.

THE SPEAKER PRO TEMPORE: The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

SENATE AMENDMENT

Strike out all after the enacting clause and insert:

"That the following sum is appropriated out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes, namely:

"DEPARTMENT OF LABOR

"ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

"For an additional amount for "Advances to the unemployment trust fund and other funds", $4,000,000,000, to remain available until September 30, 1994.".

THE SPEAKER PRO TEMPORE: Pursuant to the order of the House of today, the gentleman from Kentucky [Mr. Natcher] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. McDade] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. Natcher].

MR. NATCHER: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the Members know, late on March 18, this body passed H.R. 1335. The House-passed version of this bill included $16.2 billion of new emergency funding and $3.2 billion in obligation ceiling increases for transportation programs that the President recommended to help get our country moving again. The Senate completed action on this bill yesterday and amended it so that only $4 billion for unemployment benefits remain in the bill.

Motion To Dispose of Senate Amendments, En Bloc, Before Stage of Disagreement

§ 5.38 Example of the use of a special order to permit the House to consider one privileged motion to dispose of Senate amendments to a House bill, waiving all points of order against the motion and specifying that the motion is not subject to a demand for division of the question unless demanded by the Majority Leader or his designee.

On Nov. 10, 1995,[2] the Committee on Rules called up House Resolution 261, permitting disposition of amendments on a continuing appropriations bill.

The chairman of the Committee on Appropriations[3] offered the motion permitted by the special

2. 141 CONG. REC. 32112, 32113, 104th Cong. 1st Sess.
3. Robert Livingston (La.).

order later on that same day.[4] The Senate amendment numbered 3 proposed to strike a portion of the House bill and insert a new provision. This motion to strike out and insert not being subject to a division, Mr. Livingston's amendment proposed to delete the Senate's insertion and then to strike the portions of the House text—thus removing from the bill all provisions dealing with the use of federal subsidies or grants to lobby government officials or agencies.

The rule, the motion, and a portion of the debate on both are carried here.

MR. [DAVID] DREIER [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 261 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 261

Resolved, That upon adoption of this resolution it shall be in order without intervention of any point of order to take from the Speaker's table the joint resolution (H.J. Res. 115) making further continuing appropriations for the fiscal year 1996, and for other purposes, with any Senate amendment thereto, and to consider in the House a motion offered by the majority leader or his designee to dispose of all Senate amendments. Any Senate amendments and motions shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the majority leader and the minority leader or their designees. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question except any such demand made by the majority leader or his designee.

THE SPEAKER PRO TEMPORE:[5] The gentleman from California [Mr. Dreier] is recognized for 1 hour. . . .

MR. DREIER: Mr. Speaker, this rule provides for consideration in the House, without intervening point of order, of a motion if offered by the majority leader or his designee to dispose of Senate amendments to House Joint Resolution 115, a continuing resolution making appropriations for fiscal year 1996 through December 1, 1995.

This rule provides for 1 hour of debate equally divided between the majority leader and the minority leader or their designees, and further provides that the previous question is ordered to adoption of the motion without intervening motion or demand for a division of the question unless the demand is made by the majority leader or his designee. . . .

MR. LIVINGSTON: Mr. Speaker, pursuant to House Resolution 261, I call up the joint resolution (H.J. Res. 115), making further continuing appropriations for the fiscal year 1996, and for other purposes, with Senate amendments thereto, and I offer a motion.

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4. 141 CONG. REC. 32135–37, 104th Cong. 1st Sess.

5. John D. Hayworth, Jr. (Ariz.).

The Clerk read the title of the joint resolution.

THE SPEAKER PRO TEMPORE:[6] Pursuant to House Resolution 261, the Senate amendments are considered as read.

The text of the Senate amendments is as follows:

Senate amendments:

Page 2, line 20, after "1948," insert: *section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236),*

Page 10, line 19, after "resolution." Insert: *Included in the apportionment for the Federal Payment to the District of Columbia shall be an additional $15,000,000 above the amount otherwise made available by this joint resolution, for purposes of certain capital construction loan repayments pursuant to Public Law 85–451, as amended.*

Page 15, strike out line 1 and all that follows over to and including line 7 on page 36, and insert:

TITLE III

PROHIBITION ON SUBSIDIZING POLITICAL ORGANIZATIONS WITH TAXPAYER FUNDS

SEC. 301. (a) LIMITATIONS.—(1) Notwithstanding any other provision of law, any organization receiving Federal grants in an amount that, in the aggregate, is greater than $125,000 in the most recent Federal fiscal year, shall be subject to the limitations on lobbying activity expenditures under section 4911(c)(2)(B) of the Internal Revenue Code of 1986, except that, if exempt purpose expenditures are over $17,000,000 then the organization shall also be subject to a limitation on lobbying of 1 percent of the excess of the exempt purpose expenditures over $17,000,000 unless otherwise subject to section 4911(c)(2)(A) based on an election made under section 501(h) of the Internal Revenue Code of 1986. . . .

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

The text of the motion is as follows:

Mr. Livingston moves:

(1) That the House concur in the amendment of the Senate numbered 1,

(2) That the House concur in the amendment of the Senate numbered 2,

(3) That the House concur in the amendment of the Senate numbered 3 with an amendment as follows:

Delete the matter proposed by said amendment, and beginning on page 15, line 1 of the House engrossed joint resolution, H.J. Res. 115, strike all down to and including line 7, on page 36, and redesignate Title IV as Title III, and renumber sections accordingly.

THE SPEAKER PRO TEMPORE: Pursuant to House Resolution 261, the gentleman from Louisiana [Mr. Livingston] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. Obey] will be recognized for 30 minutes. . . .

MR. LIVINGSTON: . . . Mr. Speaker, I am offering a motion to dispose of these amendments. The first two are not controversial and make improvements to the CR and my motion is to concur with these amendments, for they are fine. The modification to the Simpson-Istook-McIntosh language unfortunately is technically insufficient and therefore, is not acceptable. There is agreement that we can not get an acceptable version on this matter agreed to on this CR. Therefore, my motion is to delete

6. David Dreier (Calif.).

the Senate proposed modification and to delete the underlying Simpson-Istook-McIntosh language, so that it hopefully will be addressed at another time.

Special Order To Make Particular Disposition of Senate Amendment Only Option

§ 5.39 Before the stage of disagreement, a request to take a House bill, with a Senate amendment and concur in the amendment is not privileged; and where other options for disposition of the Senate amendment are to be avoided, a special order is sometimes employed.

The special order reported from the Committee on Rules and a summary of the explanation, as excerpted from the *Congressional Record* of Aug. 25, 1980,[7] are carried here as well as the procedural steps which followed the adoption of the resolution.

MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1979

MR. [GILLIS W.] LONG of Louisiana: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 764 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 764

Resolved, That upon the adoption of this resolution it shall be in order to consider a motion to take from the Speaker's table the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes, with the Senate amendment thereto, and to concur in the Senate amendment with an amendment printed in the *Congressional Record* of August 21, 1980, by Representative Thompson of New Jersey, without any intervening motion, and at the conclusion of debate thereon the previous question shall be considered as ordered on said motion to final adoption without intervening motion. . . .

MR. LONG of Louisiana: Mr. Speaker, I yield the usual 30 minutes to the gentleman from Tennessee (Mr. Quillen) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 764 makes in order the consideration of H.R. 3904, the Multiemployer Pension Plan Amendments of 1980, as amended by the Senate. The rule provides for a motion to concur in the Senate amendment with an amendment, as printed in the *Congressional Record* of August 21 by Representative Thomp-

7. 126 CONG. REC. 23003, 23008, 23038, 23049, 96th Cong. 2d Sess.

son, without intervening motion. Upon conclusion of debate, the previous question shall be considered as ordered on the final adoption of the motion, also without intervening motion.

In effect, this rule allows the House to vote on a motion to return H.R. 3904 to the Senate, in essentially the same form it overwhelmingly passed this body by a vote of 374 to 0 on May 22. It was the hope at that time that the Senate would act quickly on the matter. Instead the Senate waited until July 29 to consider the measure. Though the bill reported in the Senate was generally consistent with the aims of H.R. 3904, several nongermane amendments were added on the Senate floor. . . .

The resolution was agreed to.

MOTION OFFERED BY MR. THOMPSON

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Speaker, pursuant to House Resolution 764, I move to take from the Speaker's table the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment printed in the *Congressional Record* of August 21, 1980.

The Clerk read the title of the bill.

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

> In lieu of the matter proposed to be inserted by the Senate amendment to the bill (H.R. 3904), insert the following:
>
> SECTION 1. SHORT TITLE.
>
> This Act may be cited as the "Multiemployer Pension Plan Amendments Act of 1980". . . .

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

THE SPEAKER PRO TEMPORE:[8] Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey (Mr. Thompson) is recognized for 1 hour.

MR. THOMPSON: Mr. Speaker, I yield myself such time as I may consume. . . .

Mr. Speaker, my amendment, in its broad outlines, does the following:

It deletes the crippling nongermane amendments. It restores certain House provisions of H.R. 3904. Some of these are essential to better protect the interests of retirees of our inflation ravaged society. Other provisions reflect compromises between the majority and minority members of both committees. Finally certain provisions inserted by the other body at the 11th hour, re-

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8. George E. Danielson (Calif.).

quired technical changes to make them workable. . . .

Mr. Speaker, I yield back the balance of my time.

THE SPEAKER PRO TEMPORE: Pursuant to House Resolution 764, the previous question is ordered.

The question is on the motion offered by the gentleman from New Jersey (Mr. Thompson).

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

MR. THOMPSON: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 0, not voting 69.

Intervening Motion Precluded by Special Rule

§ 5.40 The House may agree to a resolution reported from the Committee on Rules, providing for disagreeing to Senate amendments to a House bill on the Speaker's table and for messaging of the House's action to the Senate without intervening motion.

On Nov. 29, 1973,[9] Mr. Claude Pepper, of Florida, by direction of the Committee on Rules, called up House Resolution 721, which the House approved:

> *Resolved,* That immediately upon the adoption of this resolution the bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974, together with the Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table, to the end that the Senate amendments be, and the same are hereby disagreed to, and the Clerk is hereby directed to message that action of the House to the Senate without any intervening motion.

Parliamentarian's Note: The Senate had added amendments to H.R. 11104—relating to election campaign financing and establishing an election reform commission—which were not germane to the House bill, a measure dealing with the public debt. The leadership decided to send the amendments back to the Senate in order to expedite enactment of the debt-limit bill. To accomplish that end, and to avoid a possible motion to send the bill to conference, the resolution was drafted to provide for the disagreement to, and immediate return of, the Senate amendments. A motion to agree to the conference requested by the Senate would have been privileged and could have been offered immediately upon the adoption of

9. 119 CONG. REC. 38675, 93d Cong. 1st Sess.

House Resolution 721, had it not precluded all intervening motions, since the stage of disagreement would then have been reached and the amendments would have been before the House.

Providing for Consideration of Senate Amendments Before Stage of Disagreement and Before Receipt of Papers

§ 5.41 The House adopted a special order, by unanimous consent, making it in order for the Majority Leader or his designee to move to concur, with one indivisible motion, in various Senate amendments to a House-passed bill (which had not yet been messaged to the House).

H.R. 3660, the Government Ethics Reform Act of 1989, passed the House on Nov. 16, 1989;[10] the Senate acted on the following day.[11] The request of Mr. Steny H. Hoyer, of Maryland, was made just before a late-night recess on Nov. 17;[12] the message of the Senate action was received in the House after midnight on that same legislative day.[13] The House concurred, pursuant to the special order carried here, in the early morning hours of Nov. 18, 1989.[14]

MAKING IN ORDER AT ANY TIME MOTION TO CONSIDER SENATE AMENDMENTS TO H.R. 3660, GOVERNMENT ETHICS REFORM ACT OF 1989

MR. HOYER: Mr. Speaker, I ask unanimous consent that it be in order to consider at any time a motion, if offered by the majority leader, or his designee, after consultation with the minority leader, to take from the Speaker's table the bill (H.R. 3660), and for other purposes, with the Senate amendment or amendments thereto, and to dispose of the Senate amendment or amendments; that such motion be debatable for not to exceed 1 hour, equally divided and controlled by the majority leader and the minority leader, or their designees; that the previous question be considered as ordered on the motion to final adoption without intervening motion; that all points of order against the motion be waived; that such motion shall be considered as having been read; and that such motion not be subject to a demand for a division of the question.

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10. See 135 CONG. REC. 29513, 101st Cong. 1st Sess.
11. See 135 CONG. REC. 29679, 101st Cong. 1st Sess., Nov. 17, 1989.
12. *Id.* at p. 29982.
13. *Id.* at p. 30011.
14. 135 CONG. REC. 30029, 101st Cong. 1st Sess.

THE SPEAKER PRO TEMPORE:[15] Is there objection to the request of the gentleman from Maryland?

There was no objection. . . .

RECESS

THE SPEAKER PRO TEMPORE: The House will now stand in recess subject to the call of the Chair.

Members will be given an hour's notice before any legislative business by the whip system, and bells will be rung 15 minutes prior to reconvening.

The House is now in recess.

Accordingly (at 9 o'clock and 45 minutes p.m.) the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 1 o'clock and 20 minutes a.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3660. An act to amend the Rules of the House of Representatives and the Ethics in Government Act of 1978 to provide for governmentwide ethics reform, and for other purposes.

GOVERNMENT ETHICS REFORM ACT OF 1989

MR. [VIC] FAZIO [of California]: Mr. Speaker, pursuant to the order of the House of earlier today, I move to take from the Speaker's table the bill (H.R. 3660) to amend the Rules of the House of Representatives and the Ethics in Government Act of 1978 to provide for governmentwide ethics reform, and for other purposes, with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments: Page 2, strike out lines 1 to 4, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics Reform Act of 1989". . . .

MRS. [LYNN] MARTIN of Illinois: Mr. Speaker, I reserve the balance of my time.

MR. FAZIO: Mr. Speaker, I yield back the balance of my time.

MRS. MARTIN of Illinois: Mr. Speaker, I yield back the balance of my time.

THE SPEAKER:[16] Pursuant to the order of the House of earlier today, the previous question is ordered.

The question is on the motion offered by the gentleman from California [Mr. Fazio].

The motion was agreed to.

A motion to reconsider was laid on the table.

Debate on Motion Before Stage of Disagreement

§ 5.42 Where a motion to consider and dispose of Senate amendments is made, prior

15. Gillespie V. (Sonny) Montgomery (Miss.).

16. James C. Wright, Jr. (Tex.).

to the stage of disagreement, the proponent of the motion is entitled to one hour and may yield time as he sees fit.

Rule XXVIII clause 2(a),[17] providing for a division of time between the majority and the minority parties is applicable only to conference reports and amendments in disagreement. While there have been occasions where the Speaker has allocated time, without objection, on an initial motion to dispose of Senate amendments in the House, the practice prescribed in the standing rules is as carried here.[18]

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. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes, with Senate amendments thereto, and consider the Senate amendments in the House.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Senate amendments:

In subsection 101(b), after "the Senate as of October 1, 1990," insert "or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990,".

In section 103, strike out "$262,969,000,000" and insert "$265,369,000,000".

In subsection 108(c), strike out "October 20, 1990" and insert "October 19, 1990". . . .

There being no objection to the request, the chairman of the Committee on Appropriations was recognized to offer a motion.

MOTION OFFERED BY MR. WHITTEN

MR. WHITTEN: Mr. Speaker, I move to concur in Senate amendments Nos. 1, 2, 3, 4, and 5.

THE SPEAKER:[19] The Clerk will report the motion.

The Clerk read as follows:

Mr. Whitten moves to concur in Senate amendments Nos. 1, 2, 3, 4, and 5. . . .

THE SPEAKER: The gentleman from Mississippi [Mr. Whitten] is recognized for 1 hour.

MR. WHITTEN: Mr. Speaker, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. Conte] for purpose of debate only pending which I yield myself such time as I may consume.

Division of Time Before Stage of Disagreement

§ 5.43 The Chair has on occasion divided debate time under the hour rule into 20-

17. *House Rules and Manual* § 912a (1997).

18. See 136 CONG. REC. 28013, 101st Cong. 2d Sess., Oct. 8, 1990.

19. Thomas S. Foley (Wash.).

minute segments on a motion relating to Senate amendments before the stage of disagreement, following the formula for debate on a motion to dispose of an amendment in disagreement prescribed in Rule XXVIII clause 2(b).

On Nov. 17, 1989,[20] the House was considering Senate amendments to H.R. 3566, the Labor and Health and Human Services appropriation bill for fiscal year 1990. Consideration was pursuant to a unanimous-consent agreement permitting individual motions to dispose of seven Senate amendments. The last amendment was controversial and time for debate was demanded. The proceedings and the Chair's allocation of the time are carried here.

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

The text of the amendment is as follows:

Senate Amendment No. 7: Page 74, after line 7, insert:

SEC. 521. RESTORATION AND CORRECTION OF DIAL-A-PORN SANCTIONS.

(1) AMENDMENT.—Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended by striking subsection (b) and inserting the following: . . .

MOTION OFFERED BY MR. NATCHER

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House disagree to the amendment of the Senate numbered 7.

MR. [SILVIO O.] CONTE [of Massachusetts] (during the reading): Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Massachusetts.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Reserving the right to object, Mr. Speaker, I would propound first a parliamentary inquiry.

PARLIAMENTARY INQUIRY

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

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. WALKER: Mr. Speaker, it is our desire at this point to attempt to defeat this particular motion; so I assume at this point that we would object to the unanimous-consent request and then an hour would be allocated for debate on the motion; is that correct?

THE SPEAKER PRO TEMPORE: Does the gentleman wish debate time?

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20. 135 CONG. REC. 29904, 29905, 101st Cong. 1st Sess.

1. Brian J. Donnally (Mass.).

MR. WALKER: Yes, we do wish debate time, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman from Kentucky [Mr. Natcher] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. Conte] will be recognized for 30 minutes.

MR. WALKER: Mr. Speaker, if they are both in favor, the time could be allocated, 20 minutes to the various sides, is that correct?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. CONTE: We have no objection to that, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Is the gentleman from Massachusetts in favor of the motion?

MR. CONTE: Yes, Mr. Speaker, I am in favor of the motion.

THE SPEAKER PRO TEMPORE: If that is the case, the Chair will allocate the time three ways. The gentleman from Kentucky [Mr. Natcher] will be recognized for 20 minutes, the gentleman from Massachusetts [Mr. Conte] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. Walker] will be recognized for 20 minutes.

Amending Special Order Providing for Disposition of Senate Amendments

§ 5.44 If the previous question is voted down on a resolution providing for agreeing to Senate amendments to a House bill, the resolution is open to amendment.

On June 17, 1970,[2] Mr. Spark M. Matsunaga, of Hawaii, by direction of the Committee on Rules, called up House Resolution 914:

Resolved, That, immediately upon the adoption of this resolution, the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, with Senate amendments thereto, be, and the same hereby is, taken from the Speaker's table, to the end that the Senate amendments are, and the same are hereby, agreed to.

THE SPEAKER:[3] The gentleman from Hawaii is recognized for 1 hour.

After one hour of debate, Mr. Matsunaga moved the previous question on the resolution.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Speaker, a "no" vote on the previous question does give an opportunity for one of those who led the fight against the resolution to amend the resolution now pending before the House?

THE SPEAKER: The Chair will state in response to the parliamentary inquiry of the gentleman from Michigan that if the previous question is voted down, the resolution is open to amendment.

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2. 116 CONG. REC. 20159, 20198–200, 91st Cong. 2d Sess.
3. John W. McCormack (Mass.).

Effect of Rejection of Special Rule

§ 5.45 The Chair indicated that should a resolution providing for concurring in Senate amendments to a House bill be rejected, the bill and amendments would remain on the Speaker's table for further action by the House.

On June 17, 1970,[4] the House was considering House Resolution 914, which provided for the taking of H.R. 4249, to extend the Voting Rights Act of 1964, with Senate amendments thereto, from the Speaker's table, to the end that those amendments be agreed to. Mr. Albert W. Watson, of South Carolina, raised a parliamentary inquiry:

> Mr. Speaker, if this resolution is voted down then, further, it will mean we will follow the orderly procedure and let this matter go to conference and reconcile the differences?
>
> THE SPEAKER:[5] The Chair will state that if the resolution is voted down the matter will lie on the Speaker's desk until the House determines what it wants to do with the matter.
>
> MR. WATSON: I thank the Speaker.

4. 116 CONG. REC. 20159, 20198–200, 91st Cong. 2d Sess.
5. John W. McCormack (Mass.).

Reading of Senate Amendment

§ 5.46 Where the House has before it a resolution providing for concurrence in a Senate amendment, such Senate amendment may be read by unanimous consent.

On Mar. 31, 1950,[6] Mr. John E. Lyle, Jr., of Texas, by direction of the Committee on Rules, called up House Resolution 531:

> *Resolved*, That immediately upon the adoption of this resolution the bill (H.R. 1758) to amend the Natural Gas Act approved June 21, 1938, as amended, with 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 is hereby, agreed to. . . .
>
> MR. LYLE: Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. Allen].
>
> MR. [LEO E.] ALLEN of Illinois: Mr. Speaker, I yield myself such time as I may desire.
>
> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, will the gentleman yield for a parliamentary inquiry?
>
> MR. ALLEN of Illinois: I yield to the gentleman from Illinois.
>
> MR. YATES: Mr. Speaker, under the terms of this rule we are asked to approve an amendment which has been added by the other body. Is it in order to request that that amendment, which

6. 96 CONG. REC. 4553, 4554, 81st Cong. 2d Sess.

has not been read to the House, be read at this time?

THE SPEAKER: It may be done by unanimous consent.

MR. YATES: Mr. Speaker, I ask unanimous consent that the amendment added by the other body be read to the House at this time.

THE SPEAKER: That will come out of the time of the gentleman from Illinois [Mr. Allen].

MR. ALLEN of Illinois: I yield for that purpose, Mr. Speaker.

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

There was no objection.

Senate Amendment Printed in Record

§ 5.47 Where the House adopts a resolution taking from the Speaker's table a House joint resolution with a Senate amendment and agreeing to the Senate amendment, the text of the Senate amendment is printed in the Record after the vote agreeing to the resolution.

On Sept. 25, 1972,[7] Mr. William M. Colmer, of Mississippi, of the Committee on Rules, called up House Resolution 1133:

Resolved, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 1227) approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms, 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 is hereby, agreed to. . . .

THE SPEAKER:[8] The question is on the resolution. . . .

The question was taken; and there were—yeas 308, nays 4, answered "present" 2, not voting 116. . . .

So the resolution was agreed to. . . .

A motion to reconsider was laid on the table.

The Senate amendment, concurred in, reads as follows:[9]

Strike out all after the resolving clause and insert:

That the Congress hereby endorses those portions of the Declaration of Basic Principles of Mutual Relations Between the United States of America and the Union of Soviet Socialist Republics signed by President Nixon

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7. 118 CONG. REC. 31995–99, 92d Cong. 2d Sess.

8. Carl Albert (Okla.).

9. An effort is made in the House to assure that where the House concurs, or concurs with a further amendment, the Senate amendment is printed in the Record proceedings. If the Senate amendment is lengthy and has already been printed in the proceedings of that body, the House Record may refer to the Senate proceedings rather than reprinting.

and General Secretary Brezhnev at Moscow on May 29, 1972, which relate to the dangers of military confrontation and which read as follows: . . .

Initial Consideration of Senate Amendments; in House or in Committee of the Whole

§ 5.48 *Parliamentarian's Note:* Any amendment of the Senate to a House bill is subject to the point of order that it must first be considered in the Committee of the Whole House on the State of the Union, if, originating in the House, it would be subject to that point. However, a motion to disagree with the amendments of the Senate to a House bill or resolution and to request or agree to a conference with the Senate, or a motion to insist on the House amendments to a Senate bill or resolution and request or agree to a conference with the Senate, is always in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made by direction of the committee having jurisdiction of the subject matter of the bill or resolution.[10] And House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine.[11]

Timing of Point of Order That Senate Amendment Requires Committee of the Whole Consideration

§ 5.49 A point of order under Rule XX clause 1 that a particular Senate amendment should have been considered in the Committee of the Whole comes too late after conferees have been appointed and have reported.

On Oct. 20, 1966,[12] the House was considering the conference report on H.R. 13103, a bill to amend the Internal Revenue Code of 1954. Mr. Howard W. Smith, of Virginia, rose to a point of order against title III of the conference

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10. Rule XX clause 1, *House Rules and Manual* § 827 (1997); and *Deschler's Procedure* (93d Cong.), Ch. 32 § 5.1.
11. Rule XXIV clause 2, *House Rules and Manual* § 882 (1997); and *Deschler's Procedure* (93d Cong.), Ch. 32 § 5.1.
12. 112 CONG. REC. 28240, 28241, 89th Cong. 2d Sess.

report, which consisted entirely of a Senate amendment:

> Mr. Speaker, I just want to ask this question:
>
> If that amendment had been offered when the bill was under consideration in the House it would have had to be under rule XX, and considered under rule XX that I have just read.
>
> Now, because it is a bill which is an appropriation bill we cannot consider it except in the Committee of the Whole House on the State of the Union. This rule provides that if there is put on it a Senate amendment and it comes back it is subject to a point of order that it has not been considered in the Committee of the Whole House on the State of the Union. . . .
>
> THE SPEAKER:[13] The Chair is prepared to rule.
>
> The gentleman from Virginia makes the point of order that title III of the conference report contravenes the first sentence of rule XX:
>
> > Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the State of the Union, if, originating in the House, it would be subject to that point:[14]
>
> Without passing upon the germaneness of the amendment, because that point was not raised, the Chair calls attention to the fact that the Senate amendment went to conference by unanimous consent. Where unanimous consent was obtained, the effect of that is to circuit rule XX, in other words, to waive or vitiate that portion of rule XX.
>
> If objection had been made at the point when the unanimous-consent request was made to send the bill to conference, then the bill could have been referred to the proper standing committee, and then, if and when reported out of the committee would have been brought up for consideration in the Committee of the Whole House on the State of the Union.
>
> At this point, and under the parliamentary situation, the bill was sent to conference by unanimous consent; and this applies to all bills that go to conference by unanimous consent, if there be provisions therein that might be subject to the first sentence of rule XX. If there is no objection made at that time the bill goes to conference; which in this case had the effect of suspending that portion of rule XX. Therefore, it is properly before the House at the present time as part of the conference report and the Chair overrules the point of order.

—Debate in Committee of the Whole

§ 5.50 Senate amendments to an appropriation bill are considered in the Committee of the Whole under the five-minute rule.

13. John W. McCormack (Mass.).
14. The pertinent part of Rule XX clause 1, quoted by the Speaker, had been part of the rules since 1880. See *House Rules and Manual* § 827 (1997).

On July 12, 1945,[15] the following occurred in the House:

NATIONAL WAR AGENCIES APPROPRIATION BILL, 1946

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3368) making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes, with Senate amendments. Pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate.

THE SPEAKER:[16] Is there objection to the request of the gentleman from Missouri?

MR. [JOHN] TABER [of New York]: Mr. Speaker, reserving the right to object, that is satisfactory to me. That would not mean, of course, that there could be no debate on amendments?

MR. CANNON of Missouri: Amendments will be considered under the 5-minute rule.[17]

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

There was no objection.

THE SPEAKER: The question is on the motion of the gentleman from Missouri.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3368) making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes, with Senate amendments, with Mr. Sparkman in the chair.

The Clerk read the title of the bill.

THE CHAIRMAN:[18] The Clerk will report the first Senate amendment.

The Clerk read the Senate amendment, as follows:

Senate amendment No. 1: Page 1, line 9, insert:

"COMMITTEE ON FAIR EMPLOYMENT PRACTICE

"Salaries and expenses: For all expenses necessary to enable the Committee on Fair Employment Practice to carry out any functions lawfully vested in it by Executive Orders Nos. 8802 and 9346, including salary of a Chairman at not to exceed $8,000 per annum and 6 other members at not to exceed $25 per diem when actually engaged; travel expenses (not to exceed $63,800); expenses of witnesses in attendance at Committee hearings, when necessary; printing and binding (not to exceed $4,800); purchase of newspapers and periodicals (not to exceed $500); not to exceed $694 for deposit in the general fund of the Treasury for cost of penalty mail as required by section 2 of the act of June 28, 1944 (Public Law 364); and the temporary employment of persons, by contract or otherwise, without regard to section

15. 91 CONG. REC. 7474, 7493, 7494, 79th Cong. 1st Sess.

16. Sam Rayburn (Tex.).

17. For an example of the procedure in considering Senate amendments to a general appropriation bill in Committee of the Whole, see 91 CONG. REC. 7474, 7493, 7494, 79th Cong. 1st Sess., July 12, 1945.

18. John J. Sparkman (Ala.).

3709 of the Revised Statutes and the civil-service and classification laws (not to exceed $8,900); $250,000: *Provided,* That no part of the funds herein appropriated shall be used to pay the compensation of any person to initiate, investigate, or prosecute any complaint against any defendant where such defendant does not have the same right to appeal an adverse decision of the Committee on Fair Employment Practice to the President of the United States, or to refer said complaint to the President of the United States for final disposition, as is asserted by or allowed the said Committee on Fair Employment Practice in cases where persons complained against refuse to abide by its orders: *Provided further,* That no part of this appropriation shall be used to pay the compensation of any person to initiate, investigate, or prosecute any proceedings against any person, firm, or corporation which seeks to effect the seizure or operation of any plant or other property of such person, firm, or corporation by Federal authority for failure to abide by any rule or regulation of the Committee on Fair Employment Practice, or for failure to abide by any order passed by the Committee on Fair Employment Practice: *Provided further,* That no part of the funds herein appropriated shall be used to pay the compensation of any person employed by said Committee on Fair Employment Practice who issues or attempts to enforce any rule, regulation, or order which repeals, amends, or modifies any law enacted by the Congress."

MR. CANNON of Missouri: Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Mr. Cannon of Missouri moves that the House concur in Senate amendment No. 1 with an amendment as follows:

"Strike out the matter proposed to be inserted by said amendment and insert the following in lieu thereof:

"'COMMITTEE ON FAIR EMPLOYMENT PRACTICE

"'Salaries and expenses: For completely terminating the functions and duties of the Committee on Fair Employment Practice, including such of the objects and limitations specified in the appropriation for such agency for the fiscal year 1945 as may be incidental to its liquidation, $250,000: *Provided,* That if and until the Committee on Fair Employment Practice is continued by an act of Congress, the amount named herein may be used for its continued operation until an additional appropriation shall have been provided.'"

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Colmer to the amendment offered by Mr. Cannon of Missouri: On line 7 of the committee substitute after the word "if", strike out the words "and until".

MR. COLMER: Mr. Chairman, this is a very important amendment. We might just as well understand that to begin with. If my amendment is adopted it means that the funds appropriated must be used for the liquidation of the FEPC. If my amendment is rejected it means that the $250,000 thus appropriated can be used for the continued operation of the FEPC. . . .

THE CHAIRMAN: The time of the gentleman from Missouri has expired. All time has expired.

The question recurs on the amendment as amended by the amendment offered by the gentleman from Missouri.

The amendment as amended was agreed to.

MR. CANNON of Missouri: Mr. Chairman, I think there is no disagreement on the remaining amendments.

In order to conserve the time of the House and get the conference report back this afternoon, I ask unanimous consent that the remaining Senate amendments be taken up en bloc and that they be considered as read.

THE CHAIRMAN: Is there objection to the request of the gentleman from Missouri? . . .

MR. [ANDREW J.] MAY [of Kentucky]: . . . What I am trying to get at is this: Did your statement to the effect that this is the only way by which a bill could be enacted which would take care of the several war agencies for which appropriations are carried in this bill, mean that the other body at the other end of the Capitol is so obstinate about the one proposition of the FEPC that it will block all of the war agencies rather than take it out?

MR. CANNON of Missouri: May I say to the gentleman from Kentucky that the intransigents were not confined to any one House.

MR. MAY: Then the gentleman proposes to surrender without a reason?

MR. CANNON of Missouri: We are not surrendering; we are winning.

MR. [HOWARD W.] SMITH of Virginia: Reserving the right to object, Mr. Chairman, I would like to understand from the gentleman from Missouri whether his unanimous-consent request is that we consider the amendments en bloc and disagree to the Senate amendments and send them to conference? We do not agree by this to any Senate amendment?

MR. CANNON of Missouri: When we have secured consent to consider them simultaneously, I will then move to disagree to the Senate amendments and agree to the conference asked by the Senate.

MR. [VITO A.] MARCANTONIO [of New York]: Mr. Chairman, reserving the right to object, in reply to the gentleman from Virginia, so as to clear up any misunderstanding, we are not disagreeing to the Senate amendment on FEPC except by the action taken in the Committee of the Whole. The gentleman's motion refers merely to the remaining Senate amendments?

MR. CANNON of Missouri: The request refers to the remaining amendments only.

THE CHAIRMAN: Is there objection to the request of the gentleman from Missouri?

There was no objection.

MR. CANNON of Missouri: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with Senate amendments, with recommendation in accordance with action taken by the Committee.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Sparkman, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate amendments to the bill (H.R. 3368) making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes,

directed him to report the same back to the House with the recommendation that the House concur in Senate amendment numbered 1, with an amendment, and that the House disagree to Senate amendments numbered 2 to 33, inclusive, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon.

MR. CANNON of Missouri: Mr. Speaker, I move the previous question.

THE SPEAKER: The Clerk will report the first recommendation of the Committee.

The Clerk read as follows:

> The Committee of the Whole House on the State of the Union recommends that the House concur in Senate amendment No. 1, with the following amendment:
>
> "Strike out the matter proposed to be inserted by Senate amendment No. 1 and insert in lieu thereof the following:
>
> " 'COMMITTEE ON FAIR EMPLOYMENT PRACTICE
>
> " 'Salaries and expenses: For completely terminating the functions and duties of the Committee on Fair Employment Practice, including such of the objects and limitations specified in the appropriation for such agency for the fiscal year 1945 as may be incidental to its liquidation, $250,000: *Provided,* That if and until the Committee on Fair Employment Practice is continued by an act of Congress, the amount named herein may be used for its continued operation until an additional appropriation shall have been provided: *Provided further,* That in no case shall this fund be available for expenditure beyond June 30, 1946.' "

THE SPEAKER: The question is on agreeing to the recommendation.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: As I understand it, this entire amendment, beginning on line 9, page 1, and ending on line 14, page 3, as amended, is a Senate amendment. It is brought in here as a Senate amendment. Now the question is on adopting that Senate amendment, the entire amendment; not adopting the amendment offered by the gentleman from Missouri to the amendment, but on adopting the entire FEPC amendment?

THE SPEAKER: The question is on the motion agreed to in Committee of the Whole. That is, to agree to the Senate amendment with an amendment. There is no division of the question, if that is what the gentleman is asking.

MR. RANKIN: Then we have a right to vote on whether or not we will adopt the Senate amendment as amended.

THE SPEAKER: There is just one question before the House. That is, to concur in the recommendation of the Committee of the Whole.

MR. RANKIN: Mr. Speaker, I demand a separate vote on this entire Senate amendment. The rules of the House provide that when an amendment is brought in, even though it is amended in Committee of the Whole, when we get back to the House we do not vote on amendments to the amendment but we vote on the amendment as amended.

THE SPEAKER: We vote on the recommendation which the Committee of the Whole made to the House. That is

all there is before the House at this time.

MR. RANKIN: That is that the amendment as amended be adopted?

THE SPEAKER: That is the question. . . .

The yeas and nays were refused.

So the recommendation of the Committee of the Whole was agreed to.

On motion of Mr. Cannon of Missouri a motion to reconsider was laid on the table.

THE SPEAKER: The question is on the remainder of the recommendation of the Committee of the Whole that the House disagree to the Senate amendments numbered from 2 to 33, inclusive, and agree to the conference asked by the Senate.

The recommendation was agreed to and a motion to reconsider was laid on the table.

—Voting on Recommendation of Committee of the Whole in the House

§ 5.51 The recommendation of the Committee of the Whole that the House concur in a Senate amendment with an amendment may not be divided for a vote in the House.

On July 12, 1945,[19] the Committee of the Whole, having considered H.R. 3368, war agency appropriations for fiscal 1946, with Senate amendments thereto, recommended that the House concur in Senate amendment No. 1 with an amendment.

THE SPEAKER:[20] The question is on agreeing to the recommendation.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: As I understand it, this entire amendment, beginning on line 9, page 1, and ending on line 14, page 3, as amended, is a Senate amendment. It is brought in here as a Senate amendment. Now the question is on adopting that Senate amendment, the entire amendment; not adopting the amendment offered by the gentleman from Missouri to the amendment, but on adopting the entire FEPC amendment?

THE SPEAKER: The question is on the motion agreed to in Committee of the Whole. That is, to agree to the Senate amendment with an amendment. There is no division of the question, if that is what the gentleman is asking.

MR. RANKIN: Then we have a right to vote on whether or not we will adopt the Senate amendment as amended.

THE SPEAKER: There is just one question before the House. That is, to concur in the recommendation of the Committee of the Whole.

MR. RANKIN: Mr. Speaker, I demand a separate vote on this entire Senate amendment. The rules of the House provide that when an amendment is brought in, even though it is amended in Committee of the Whole, when we

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19. 91 CONG. REC. 7494, 79th Cong. 1st Sess.

20. Sam Rayburn (Tex.).

get back to the House we do not vote on amendments to the amendment but we vote on the amendment as amended.

THE SPEAKER: We vote on the recommendation which the Committee of the Whole made to the House. That is all there is before the House at this time.

—*If House Rejects Committee of the Whole Recommendation*

§ 5.52 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,(1) the Committee of the Whole recommended that the House concur with an amendment to a Senate amendment to H.R. 3368, war agency appropriations for fiscal 1946. Speaker Sam Rayburn, of Texas, recognized Mr. Joseph W. Martin, Jr., of Massachusetts, to pose a parliamentary inquiry:

> 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? . . .
>
> THE SPEAKER: The Senate amendment itself will be in order for consideration.

—*Senate Amendments Sent to Conference Do Not Thereafter Require Consideration in Committee of the Whole*

§ 5.53 Amendments between the Houses that have been sent to conference do not require consideration in the Committee of the Whole in the event the conference report is ruled out of order.

On Aug. 19, 1937,(2) the conference report on H.R. 7646, relating to flood walls and drainage structures in the Ohio River Basin, was ruled out on a point of order. Mr. Bertrand H. Snell, of New York, was recognized by Speaker William B. Bankhead, of Alabama, to raise a point of order:

> When a conference report has been thrown out on a point of order is it not the same as if it had been rejected by the House?
>
> THE SPEAKER: The gentleman from New York makes a parliamentary inquiry as to whether, when a point of order to a conference report is sustained ipso facto, the Senate amendments come before the House for fur-

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

2. 81 CONG. REC. 9376–79, 75th Cong. 1st Sess.

ther consideration. Is that the parliamentary inquiry?

MR. SNELL: Yes.

THE SPEAKER: In reply to the gentleman the Chair calls the gentleman's attention to section 3257, volume 8, Cannon's Precedents:

> When a conference report is ruled out of order, the bill and amendments are again before the House as when first presented, and motions relating to amendments and conference are again in order.

MR. SNELL: When this first came back from the Senate there was an important matter that should have gone before the committee for consideration because it entailed expenditure of large amounts of money, and is it a privileged motion to move to consider that in the House at the present time?

THE SPEAKER: It is in the opinion of the Chair, because by sending the bill and Senate amendments to conference, the provisions of the rules requiring consideration in Committee of the Whole were waived.

Consideration of Senate Amendments in the House

§ 5.54 The House may adopt a resolution taking a House bill with Senate amendments thereto from the Speaker's table and making it in order to consider the amendments in the House, rather than in Committee of the Whole, as required by Rule XX clause 1.

On July 2, 1960,[3] Mr. Richard Bolling, of Missouri, reported House Resolution 596:

> Mr. Bolling, from the Committee on Rules, reported the following privileged resolution (H. Res. 596—Rept. No. 2085), which was referred to the House Calendar and ordered to be printed:
>
> *Resolved*, That immediately upon the adoption of this resolution, the bill H.R. 12740 making supplemental appropriations for the fiscal year ending June 30, 1961, and for other purposes, with the Senate amendments thereto, shall be taken from the Speaker's table and the Senate amendments considered in the House.

MR. BOLLING: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 596 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved,* That immediately upon the adoption of this resolution, the bill H.R. 12740 making supplemental appropriations for the fiscal year ending June 30, 1961, and for other purposes, with the Senate amendments thereto, shall be taken from the Speaker's table and the Senate amendments considered in the House.

THE SPEAKER:[4] The question is, Will the House now consider the resolution?

The question was taken; and the Speaker announced that the yeas had it.

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3. 106 CONG. REC. 15775, 15785, 15786, 86th Cong. 2d Sess.
4. Sam Rayburn (Tex.).

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GROSS: Mr. Speaker, does not consideration require unanimous consent?

THE SPEAKER: It requires a two-thirds vote.

MR. GROSS: 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: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 291, nays 79, not voting 62. . . .

So (two-thirds having voted in favor thereof) the House agreed to consider the resolution.(5)

Debate then occurred on the resolution, it was agreed to, and the Senate amendments were considered.

§ 5.55 House bills with Senate amendments which do not require consideration in the Committee of the Whole may at once be disposed of as the House may determine and are privileged matters on the Speaker's table.

On Feb. 1, 1937,(6) Speaker William B. Bankhead, of Alabama, recognized Mr. John J. O'Connor, of New York:

> Mr. Speaker, I call up House Joint Resolution 81, to create a Joint Congressional Committee on Government Organization, with a Senate amendment, for immediate consideration as a privileged resolution. . . .
>
> MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. SNELL: I understood the gentleman called this up as a privileged matter. On what ground is this a privileged matter?
>
> THE SPEAKER: In reply to the inquiry of the gentleman from New York [Mr. Snell], under paragraph 2 of rule XXIV of the House Manual it is stated: . . .
>
> > But House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills.
>
> MR. SNELL: I appreciate that, and I have no objection to the consideration of this matter, but I wonder if it was a matter that could be taken up without

5. *Parliamentarian's Note:* A two-thirds vote was required to consider this resolution from the Committee on Rules on the same day on which it was reported to the House. Only a majority vote was required for its adoption.

6. 81 CONG. REC. 644, 645, 75th Cong. 1st Sess.

being referred back to the committee for consideration.

THE SPEAKER: Under the rule which the Chair has just read, the Chair is clearly of the opinion that it may be brought up in this manner.(7)

Debate in House

§ 5.56 Senate amendments considered in the House are debatable under the hour rule.

On Feb. 1, 1937,(8) Mr. John J. O'Connor, of New York, had called up, and the House was considering, House Joint Resolution 81, to create a Joint Committee on Government Organization, with a Senate amendment thereto. Speaker William B. Bankhead, of Alabama, recognized Mr. John E. Rankin, of Mississippi:

If this matter is debatable, I want to be heard in opposition.

MR. O'CONNOR of New York: How much time does the gentleman desire?

MR. RANKIN: How much time has the gentleman at his disposal?

THE SPEAKER: The gentleman from New York [Mr. O'Connor] is entitled to 1 hour, and he may yield such part as he desires.(9)

Amendments Considered in Their Entirety

§ 5.57 Senate amendments are considered in their entirety and it is not in order to consider separate items contained therein.

On May 20, 1936,(10) the House was considering the Senate amendments to the Interior Department appropriations bill for 1937 which had been reported back from conference in disagreement. After the Clerk read one amendment which contained seven separate projects, Mr. Fred Cummings, of Colorado, raised a parliamentary inquiry:

Will a motion be in order to consider these items separately?

THE SPEAKER:(11) No; there is only one Senate amendment.

—Unless Special Rule Permits Division

§ 5.58 Although House rules preclude dividing a Senate amendment which strikes House text and inserts new language, such a division can be made in order by a special order reported from the

7. See also 106 CONG. REC. 18357, 86th Cong. 2d Sess., Aug. 30, 1960.
8. 81 CONG. REC. 645, 75th Cong. 1st Sess.
9. See also 106 CONG. REC. 18357, 86th Cong. 2d Sess., Aug. 30, 1960.
10. 80 CONG. REC. 7623, 7624, 74th Cong. 2d Sess.
11. Joseph W. Byrns (Tenn.).

Committee on Rules and adopted by the House.

When the Senate considered for amendment H.R. 9209, the Emergency Unemployment Compensation Act Amendments of 1993, it struck out all after the enacting clause of the House bill and added a new text, consisting of seven sections. The House wished to address section 7 of the Senate amendment, which dealt with congressional pay, by a separate vote. The following special order was reported from the Committee on Rules, debated and agreed to on Mar. 4, 1993.[12] The rule, pertinent debate, and the procedure in the House are carried here.

EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. Moakley, from the Committee on Rules, submitted a privileged report (Rept. No. 103–26) on the resolution (H. Res. 115) providing for the consideration of the Senate amendment to the bill (H.R. 920) to extend the emergency unemployment compensation program, and for other purposes, which was referred to the House Calendar and ordered to be printed:

H. RES. 115

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House, any rule of the House to the contrary notwithstanding, a motion to take from the Speaker's table the bill (H.R. 920) to extend the emergency unemployment compensation program, and for other purposes, with the Senate amendment thereto, and to concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means or their respective designees. The previous question shall be considered as ordered on the motion to final adoption without intervening motion. The motion shall be divided for a separate vote on concurring in section 7 of the Senate amendment, any rule of the House to the contrary notwithstanding.

MR. [JOHN JOSEPH] MOAKLEY [of Massachusetts]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 115 and ask for its immediate consideration.

The Clerk read the resolution. . . .

THE SPEAKER PRO TEMPORE:[13] The gentleman from Massachusetts [Mr. Moakley] is recognized for 1 hour.

MR. MOAKLEY: Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. Quillen], pending which I yield myself such time as I may consume. . . .

The rule provides 1 hour of general debate. The rule also automatically divides the question, allowing a separate vote on the last section of the bill, elimination of cost of living adjustment for Members of Congress in 1994. Mr. Speaker, the division is in order any

12. 139 CONG. REC. 4157–59, 4163, 4164, 103d Cong. 1st Sess.

13. Romano L. Mazzoli (Ky.).

rule of the House to the contrary notwithstanding. . . .

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table. . . .

MR. [ROBERT T.] MATSUI [of California]: Mr. Speaker, pursuant to House Resolution 115, I move to take from the Speaker's table the bill (H.R. 920) "An act to extend the emergency unemployment compensation program, and for other purposes," with the Senate amendment thereto, and to concur in the Senate amendment.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: Under the rule, the Senate amendment is considered as read.

The text of the Senate amendment is as follows:

> Senate amendment: Strike out all after the enacting clause and insert:
>
> SECTION 1. SHORT TITLE.
>
> This Act may be cited as the "Emergency Unemployment Compensation Amendments of 1993".
>
> SEC. 2. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.
>
> (a) GENERAL RULE.—Sections 102 (f)(1) and 106(a)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) are each amended by striking "March 6, 1993" and inserting "October 2, 1993". . . .
>
> SEC. 7. ELIMINATION OF COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS IN 1994.
>
> (a) COST OF LIVING ADJUSTMENT.—Notwithstanding section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)), the cost of living adjustment (relating to pay for Members of Congress) which would become effective under such provision of law during calendar year 1994 shall not take effect.
>
> (b) SEVERABILITY.—If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or an amendment made by this Act, or the application of such provision to other persons or circumstances, shall not be affected.

THE SPEAKER PRO TEMPORE: Under the rule, the gentleman from California [Mr. Matsui] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. Santorum] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. Matsui]. . . .

THE SPEAKER PRO TEMPORE: All time has expired.

Pursuant to House Resolution 115, the previous question is ordered on the motion, and pursuant to House Resolution 115, the question on concurring in the Senate amendment will be divided.

The first question before the House is on concurring in sections 1 through 6 of the Senate amendment. . . .

So sections 1 through 6 of the Senate amendment to H.R. 920 were concurred in. . . .

THE SPEAKER PRO TEMPORE: The Chair will advise the Members that the question, having been divided, now before the House is on concurring in section 7 of the Senate amendment . . . .

The question, therefore, is on concurring in section 7 of the Senate amendment to H.R. 920. . . .

So section 7 of the Senate amendment to H.R. 920 was concurred in.

Who May Call Up

§ 5.59 House bills with Senate amendments which do not require consideration in a Committee of the Whole may be called up for consideration by a Member authorized by the committee reporting the bill to take such action.

On Aug. 24, 1935,[14] the following occurred on the floor of the House:

MR. [VIRGIL M.] CHAPMAN [of Kentucky]: Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce I call up from the Speaker's table the bill, H.R. 9070, the omnibus bridge bill, with Senate amendments thereto.

THE SPEAKER:[15] The gentleman from Kentucky, by direction of the Committee on Interstate and Foreign Commerce, calls up a bill with Senate amendments thereto.

The Clerk reported the title of the bill.

THE SPEAKER: The Clerk will report the Senate amendments. . . .

MR. [WILLIAM D.] MCFARLANE [of Texas]: Mr. Speaker, under what right is this bill called up?

THE SPEAKER: Under clause 2 of rule XXIV, which authorizes any member of a committee, when directed by the committee, to call up House bills with Senate amendments, on the Speaker's desk.

MR. MCFARLANE: Mr. Speaker, I raise the point that the committee has not had a meeting since the bill was passed.

THE SPEAKER: The Chair cannot go behind the statement of the gentleman from Kentucky.

MR. MCFARLANE: Then, I ask the gentleman from Kentucky whether the committee has met and considered this bill?

MR. CHAPMAN: Mr. Speaker, the gentleman from Kentucky will reply by repeating what he said in the beginning, that by the direction of the Committee on Interstate and Foreign Commerce I call this bill from the Speaker's table.

THE SPEAKER: Clause 2 of rule XXIV provides:

> House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole [be disposed of in the same manner on motion directed to be made by such committee].

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14. 79 CONG. REC. 14645, 74th Cong. 1st Sess.
15. Joseph W. Byrns (Tenn.).

Motion To Disagree in House To Permit Reconsideration in Senate

§ 5.60 A Senate amendment was disagreed to by the House for the purpose of permitting the Senate to reconsider its action in amending a House bill.

On Feb. 1, 1937,[16] Mr. John E. Rankin, of Mississippi, proposed an amendment to a Senate amendment to House Joint Resolution 81, creating a Joint Committee on Government Organization. Speaker William B. Bankhead, of Alabama, ruled out Mr. Rankin's amendment on the ground that it would have amended the text of the joint resolution, not the Senate amendment thereto. Mr. Marvin Jones, of Texas, then raised a parliamentary inquiry:

> If it is not in order to offer an amendment such as the gentleman from Mississippi proposes, if the Senate amendment were rejected and sent back to the Senate the purpose of the amendment could be accomplished.
>
> THE SPEAKER: The Chair will state to the gentleman that on the premise laid by him if the Senate amendment were voted down the Senate could reconsider its action and increase the number of the House committee.
>
> MR. JONES: If it were sent back to the Senate would not it go as an original proposition so they could recede from their amendment and take up the bill as an original measure and put in nine Members of the House?
>
> THE SPEAKER: The Senate could reconsider its action. . . .
>
> MR. [JOHN J.] O'CONNOR of New York: I think I can solve this by proceeding in accordance with my heart.
>
> I will withdraw my motion to concur in the Senate amendment and move to disagree to the Senate amendment. . . .
>
> THE SPEAKER: The gentleman from New York [Mr. O'Connor] withdraws his motion to agree to the Senate amendment and now moves to disagree to the Senate amendment.
>
> The question is on the motion of the gentleman from New York.
>
> The motion was agreed to.

Considering Senate Amendment to House Joint Resolution Amending Constitution

§ 5.61 Senate amendments to a House joint resolution proposing a constitutional amendment are considered in the House.

On Mar. 21, 1947,[17] Mr. Earl C. Michener, of Michigan, called up House Joint Resolution 27, with the Senate amendments thereto.

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16. 81 CONG. REC. 646–48, 75th Cong. 1st Sess.

17. 93 CONG. REC. 2389, 2392, 80th Cong. 1st Sess.

Since the matter did not require consideration in the Committee of the Whole, the matter could be disposed of by motion under Rule XXIV clause 2:

Mr. Speaker, I ask the Speaker to lay before the House for immediate consideration House Joint Resolution 27, a joint resolution proposing an amendment to the Constitution of the United States relating to the terms of office of the President, with Senate amendments.

THE SPEAKER:[18] The Clerk will report the title of the joint resolution and the Senate amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Page 1, line 9, strike out all after "SECTION 1." over to and including "term." in line 4, page 2, and insert "No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than 2 years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this article shall not apply to any person holding the office of President when this article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this article becomes operative from holding the office of President or acting as President during the remainder of such term."

MR. MICHENER: Mr. Speaker, this bill with the Senate amendment was returned to the House on March 13. It was taken informally before the full Committee on the Judiciary, and I am instructed by that committee to call the resolution up at this time for the purpose of agreeing to the Senate amendment. I have followed precedent and cleared through the majority leader and the minority leader.

I therefore move that the House concur in the Senate amendment.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

Mr. Michener moves that the House concur in the Senate amendment.

THE SPEAKER: The gentleman from Michigan is recognized for 1 hour. . . .

MR. MICHENER: Mr. Speaker, I move the previous question.

The previous question was ordered.

The question was taken; and on a ivision (demanded by Mr. Thomason) there were—ayes 81, noes 29.

MR. [AIME J.] FORAND [of Rhode Island]: Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count.

MR. FORAND: Mr. Speaker, I withdraw the point of order.

So (two-thirds having voted in favor thereof) the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

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18. Joseph W. Martin, Jr. (Mass.).

Senate Amendment to Concurrent Resolution for Adjournment

§ 5.62 A concurrent resolution providing that the two Houses adjourn to a day certain is not operative until agreed to by both, and where the Senate amends the resolution changing the date, such amendment must be concurred in before the adjournment can take place.

On Mar. 30, 1944,[19] the following took place in the House:

THE SPEAKER PRO TEMPORE:[20] The Chair lays before the House, House Concurrent Resolution No. 75, with a Senate amendment, which the Clerk will report.

The Clerk read as follows:

Senate amendment: On page 2, line 3, strike out "Thursday, March 30" and insert "Saturday, April 1."

Amend the title so as to read: "Concurrent resolution providing for the adjournment of Congress from Saturday, April 1, 1944, to Wednesday, April 12, 1944."

THE SPEAKER PRO TEMPORE: Without objection, the amendment is agreed to.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, reserving the right to object, I make a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN: What is the procedure?

MR. [ROBERT] RAMSPECK [of Georgia]: Mr. Speaker, I move that the House concur in the Senate amendment.

MR. HOFFMAN: Well, Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: Is the gentleman propounding a parliamentary inquiry?

MR. HOFFMAN: Yes, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN: What is the procedure on this resolution?

THE SPEAKER PRO TEMPORE: It is a privileged resolution, and the procedure would be for some Member—and the gentleman from Georgia [Mr. Ramspeck] has done so—to make a motion that the House concur in the Senate amendment.

MR. HOFFMAN: And then a vote is taken on the motion?

THE SPEAKER PRO TEMPORE: That is correct.

MR. HOFFMAN: Does that require a quorum?

THE SPEAKER PRO TEMPORE: Any action by the House requires a quorum if the one who takes such step raises that question.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. RANKIN: As I understand the situation, whether there is a quorum present or not, unless this amendment

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19. 90 CONG. REC. 3318, 78th Cong. 2d Sess.
20. John W. McCormack (Mass.).

is agreed to the resolution does not become final until this amendment is disposed of. That is correct, is it not?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

Procedure Leading to Correction of Error in Senate Amendment

§ 5.63 A concurrent resolution may authorize the Secretary of the Senate to reengross the amendment of the Senate to a House bill and make a correction in such reengrossment.

On June 27, 1951,[1] the following occurred on the floor of the House:

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (S. Con. Res. 35) ordering the reengrossment of the Senate amendment to H.R. 3880, the independent offices appropriation bill for 1952.

The Clerk read the concurrent resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate be, and he is hereby, authorized and directed to reengross the amendments of the Senate to the bill (H.R. 3880) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, corporations, agencies, and offices for the fiscal year ending June 30, 1952, and for other purposes; and to reengross Senate amendment numbered 79 so as to read as follows:

On page 35, line 23, strike out "$875,163,335" and insert "$873,105,770."

THE SPEAKER:[2] Is there objection to the request of the gentleman from Texas?

MR. [JOHN] PHILLIPS [of California]: Mr. Speaker, reserving the right to object, will the gentleman from Texas [Mr. Thomas] please explain the reason for the request on the part of the other body?

MR. THOMAS: Mr. Speaker, this resolution authorizes reengrossment of amendment No. 79 of the independent offices appropriation bill. It all adds up to this: Apparently the other body has made a mistake in printing or engrossing this amendment. Amendment No. 79 deals with salaries and expenses for the Veterans' Administration. What happened was that they show a reduction in that appropriation of about $1,200,000 more than the figure actually agreed upon by the Senate.

§ 6. —Amending Senate Amendments; Degree of Amendment

When amending a Senate amendment the House need not confine itself within the limits set

1. 97 CONG. REC. 7254, 82d Cong. 1st Sess.

2. Sam Rayburn (Tex.).

by its bill and the Senate amendment,[3] but the House amendment must be germane to the Senate amendment and not merely to the provisions of the House bill.[4]

A House bill with a Senate amendment is considered as the original text of a Senate proposal, according to Jefferson's Manual.[5] Therefore, an amendment of the House to a Senate amendment to a House bill is an amendment in the first degree which may be amended further by the Senate. However, a House amendment to this further Senate amendment would be in the third degree and therefore not in order.[6]

The principle set forth in Jefferson's Manual[7] touching on the permissible degree of amendments between the Houses is as follows:

"A bill originating in one House is passed by the other with an amendment.

"The originating House agrees to their amendment with an amendment. The other may agree to their amendment with an amendment, that being only in the second and not the third degree; for, as to the amending House, the first amendment with which they passed the bill is a part of its text. It is the only text they have agreed to. The amendment to that text by the originating House therefore is only in the first degree, and the amendment to that again by the amending House is only in the second degree, to wit, an amendment to an amendment and so admissible."

The proscription against extending the amendment process beyond the second degree may be waived in the House by a special rule, a motion under the suspension procedure, or unanimous consent.[8]

3. 8 Cannon's Precedents § 3189, cited at § 6.12, infra.
4. See §§ 6.13–6.16, infra.
5. *House Rules and Manual,* Jefferson's Manual § 529 (1997). See § 6.3, infra, especially the *Parliamentarian's Note,* for a discussion of the degree of amendments between the Houses and within a particular House.
6. See §§ 6.4, 6.5, infra.
7. *House Rules and Manual* § 529 (1997).
8. See §§ 6.5–6.11, infra.

Immediate Consideration of Senate Amendment to House Substitute for Senate Measure

§ 6.1 Senate amendments to a House amendment in the nature of a substitute for a Senate bill which do not

require consideration in a Committee of the Whole may be called up and be at once disposed of as the House may determine pursuant to Rule XXIV clause 2.(9)

On Aug. 30, 1960,(10) Mr. Oren Harris, of Arkansas, was recognized by Speaker Sam Rayburn, of Texas:

> Mr. Speaker, I call up from the Speaker's desk the bill (S. 1898) to amend the Communications Act of 1934 with respect to the procedure in obtaining a license and for rehearings under such act, with Senate amendments thereto to the House amendments, and ask for its immediate consideration.

After the Clerk read the Senate amendments, Mr. Harris offered the following motion:

> Mr. Harris moves that the House concur in the Senate amendments to the House amendments. . . .
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HALLECK: I would like to know what the request of the gentleman was, whether it was for the immediate consideration of the Senate amendments.
>
> THE SPEAKER: The gentleman called up from the Speaker's table a Senate bill with Senate amendments to the House amendments. . . .
>
> MR. HALLECK: I might say to the gentleman, as I understand under the parliamentary situation, it is now a matter before the House to be acted upon one way or the other and that no objection could be made. I have learned since the gentleman called it up that the members on my side on the committee were consulted with reference to this procedure, and as I understand have no objection to it now.

Suspension of the Rules

§ 6.2 The House adopted a motion to suspend the rules and agree to a resolution which provided for taking a House bill with a Senate amendment from the Speaker's table and agreeing to the Senate amendment with a designated amendment.

On Oct. 14, 1972,(11) Mr. Harold T. Johnson, of California, was recognized to offer the following motion:

> Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1166) providing for concurring the Senate amendment to H.R. 16071, to amend the Public Works and Economic

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9. *House Rules and Manual* § 882 (1997).
10. 106 CONG. REC. 18357, 18358, 86th Cong. 2d Sess.
11. 118 CONG. REC. 36477–83, 92d Cong. 2d Sess.

Development Act of 1965, with an amendment.[12]

After the motion was read and debated, Speaker Carl Albert, of Oklahoma, put the question thereon:

> The question is on the motion offered by the gentleman from California (Mr. Johnson) that the House suspend the rules and pass House Resolution 1166. . . .
>
> The question was taken; and there were—yeas 155, nays 64, not voting 212. . . .
>
> So the resolution was agreed to.

Degree of Amendment

§ 6.3 Where a bill of one House is passed in the other House with an amendment,[13] the originating House may concur therein with an amendment, whereupon the second House may concur with still another amendment; but here the process stops, for a further amendment between the Houses would be in the third degree.

On June 17, 1959,[14] Mr. Oren Harris, of Arkansas, called up the conference report in total disagreement on S. 1, to amend the Federal Airport Act. After the Clerk read the conference report, Speaker Sam Rayburn, of Texas, directed the Clerk to read the amendment in disagreement.

> The Clerk read as follows:
>
> *Resolved*, That the Senate recede from its disagreement to the amendment of the House of Representatives to the above-entitled bill and agree to the same with an amendment. . . .

After the reading of the Senate amendment to the House amendment in the nature of a substitute to S. 1, the Speaker again recognized Mr. Harris.

> MR. HARRIS: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. Harris moves to concur in the Senate amendment with an amendment. . . .

Parliamentarian's Note: After Mr. Harris offered his motion to

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12. H. Res. 1166 provided for concurring in the Senate amendment with a lengthy amendment in the nature of a substitute. The proposed amendment was included in the text of H. Res. 1166.

13. Jefferson's Manual states that when calculating the degree of amendments between the Houses, an amendment of one House resulting from its initial consideration of a bill of the other House is not considered an amendment, but is construed to be the original text of the amending House. *House Rules and Manual* § 529 (1997).

14. 105 CONG. REC. 11108, 86th Cong. 1st Sess.

concur with an amendment in the Senate amendment to the House amendment to the Senate bill, an issue arose concerning the possibility of introducing a substitute for Mr. Harris' motion. The Speaker indicated erroneously that such a substitute would be in the third degree, and hence not in order. The Speaker did indicate correctly, however, that the substitute would be in order if Mr. Harris' motion were defeated. Amendments between the Houses may not go beyond the second degree, nor may they do so internally within either House. However, an amendment pending in one House to the original text of the other House or to an amendment in the first degree of that other House, may itself be amended to the second degree. *Contra,* 5 Cannon's Precedents § 6176 (Senate precedent).

§ 6.4 Where a Senate amendment to a House bill had been reported from conference in disagreement and the Senate had amended a further House amendment thereto, motions in the House to agree or disagree to the Senate amendment to the House amendment are privileged in the House (the stage of disagreement having been reached on the initial Senate amendment); but in response to a parliamentary inquiry, the Chair implied that a motion to concur with a further amendment would be in the third degree and not in order.

On Oct. 18, 1973,[15] Mr. Carl D. Perkins, of Kentucky, offered the following motion:

> Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 9639) to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs, with a Senate amendment to the House amendment to the Senate amendment No. 5 thereto, and concur in the Senate amendment No. 5. . . .
>
> MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[16] The gentleman will state it.
>
> MR. QUIE: Mr. Speaker, since the House has already adopted the conference report and since the other body added an amendment afterward when they adopted the conference report, is there anything we can do other than defeat the motion before us? Is there any way we can have a separate amendment to strike out?

15. 119 CONG. REC. 34699, 93d Cong. 1st Sess.
16. Carl Albert (Okla.).

THE SPEAKER: The House can either accept or reject the Senate amendment.

Third Degree by Special Order

§ 6.5 A special order can make in order the consideration of amendments in the third degree as a way of resolving differences on amendments in disagreement between the House and Senate.

The special order in this instance made it in order in the House to consider motions to concur in Senate amendments to House amendments to a Senate amendment in disagreement between the Houses, with further amendments. In this situation,[17] the amendments in the third degree were spelled out in the report of the Committee on Rules, and the resolution provided for one hour of debate on each motion and ordered the previous question, without intervening motion, to prevent other amendments.

MR. [BART] GORDON [of Tennessee]: Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 260 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 260

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to take from the Speaker's table the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes, with the Senate amendments to the House amendments to the Senate amendments numbered 29 and 164 thereto, and to consider: (1) a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment numbered 29 with the amendment printed in section 2 of this resolution; and (2) a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment numbered 164 with the amendment printed in section 3 of this resolution. Each Senate amendment shall be considered as read. Each motion shall be debatable for one hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on each motion to final adoption without intervening motion.

SEC. 2. The House amendment to the Senate amendment to the House amendment to the Senate amendment numbered 29 is as follows: In the matter proposed to be added by the Senate amendment, insert after the word "operations" the following: ", except for marketing year 1993".

After debate, the resolution was agreed to. The two motions permitted by the rule were debated and agreed to.

17. See 139 CONG. REC. 23061, 103d Cong. 1st Sess., Sept. 29, 1993.

Third Degree Amendments Between the Houses

§ 6.6 Example of a special order providing that on its adoption, the House shall be considered to have receded from its disagreement to a third degree Senate amendment to a House amendment to a Senate amendment, and concurred in the final Senate amendment with a new House amendment.

In the 99th Congress,[18] the Committee on Rules reported several "hereby" resolutions, designed to accomplish a legislative objective by their adoption rather than making in order motions to accomplish the same result.

The special order on this occasion[19] permitted the House to dispose of an amendment between the Houses by a further amendment in the third degree.

Proceedings were as indicated below:

MR. [BUTLER] DERRICK [of South Carolina]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 390, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 390

Resolved, That upon the adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress), with the Senate amendment to the House amendment to the Senate amendment thereto, to have receded from its disagreement to the Senate amendment, and to have concurred in the Senate amendment with an amendment printed in the *Congressional Record* of March 4, 1986, by Representative Gray of Pennsylvania.

THE SPEAKER:[20] The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

MR. DERRICK: Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from Tennessee [Mr. Quillen], and pending that, I yield myself such time as I may consume.

After debate, the resolution was agreed to.

Since the special resolution was drafted as a "self-executing" motion, its adoption concluded the disposition of the amendment.

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18. See 131 CONG. REC. 4347, 4361, 99th Cong. 1st Sess., Mar. 5, 1985 (H. Res. 92); 132 CONG. REC. 3783, 99th Cong. 2d Sess., Mar. 6, 1986 (H. Res. 390); 132 CONG. REC. 29608, 99th Cong. 2d Sess., Oct. 8, 1986.

19. 132 CONG. REC. 3783, 99th Cong. 2d Sess., Mar. 6, 1986.

20. Thomas P. O'Neill, Jr. (Mass.).

Disposing of Amendments in Third Degree and Beyond

§ 6.7 A motion in the House to concur in a Senate amendment (even in the fourth degree) is privileged if offered by any Member, the stage of disagreement having been reached, but is subject to a motion to table.

On Mar. 18, 1986,[1] the House considered a series of motions dealing with the final amendment in disagreement on H.R. 3128, the deficit reduction amendments of 1985.

The admonition in section 526 of Jefferson's Manual is not an absolute prohibition against amendments between the Houses progressing beyond the second degree. The rationale for the limit on amendments is that it provides a procedural signal that it is time to compromise. Once that threshold has been passed, where the House has waived the rule to amend in the third degree and the Senate has done likewise, no point of order lies in the House against a privileged motion to agree to the Senate amendment.

When the Speaker recognized Mrs. Lynn Martin, of Illinois, to offer the initial motion to concur in the fourth degree Senate amendment, the proceedings were as follows:

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process," with an amendment. . . .

DEFICIT REDUCTION AMENDMENTS OF 1985

MRS. MARTIN of Illinois: Mr. Speaker, I offer a privileged motion.

THE SPEAKER PRO TEMPORE:[2] The Clerk will report the motion.

The Clerk read as follows:

> Mrs. Martin of Illinois moves to take from the Speaker's table the bill, H.R. 3128, with the Senate amendment to the House amendment to the Senate amendment to the House amendment to the Senate amendment thereto, and to concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment to the House

1. 132 CONG. REC. 5195, 5205, 5206, 5210, 5216, 5217, 99th Cong. 2d Sess.

2. William V. Alexander (Ark.).

amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the said amendment, insert:

In section 4016, insert "or seasonal suspension" after "adjustment in frequency"; and insert "adjustment or" after "service unless such".

In subparagraph (F)(ii) of paragraph (10) of section 204(b) of the Magnuson Fishery Conservation and Management Act, as proposed to be amended by section 6021, strike out "from such nations". . . .

THE SPEAKER PRO TEMPORE: The gentlewoman from Illinois [Mrs. Martin] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. Gray] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. Martin]. . . .

MR. [WILLIAM H.] GRAY [III] of Pennsylvania: Mr. Speaker, I would inquire of the gentlewoman from Illinois how many speakers the gentlewoman has remaining.

THE SPEAKER PRO TEMPORE: Under the rules, the gentlewoman from Illinois [Mrs. Martin] is entitled to close the debate.

MRS. MARTIN of Illinois: I will be closing, Mr. Speaker. That will be the last speaker, Mr. Speaker. . . .

Please vote to concur and not to table.

I yield back the balance of my time.

MOTION TO TABLE OFFERED BY MR. GRAY OF PENNSYLVANIA

MR. GRAY of Pennsylvania: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Gray of Pennsylvania moves to table the motion to concur.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gray] to table the motion to concur offered by the gentlewoman from Illinois [Mrs. Martin].

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

MRS. MARTIN of Illinois: 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 217, nays 192, not voting 25. . . .

Instance Where House Agreed to Amendment in Third Degree Between the Houses

§ 6.8 Instance where, by unanimous consent, the House agreed to an amendment in the third degree to a Senate amendment.

In the 95th Congress, on Sept. 30, 1977,[3] the House by unanimous consent, took from the Speaker's table a House bill, with a Senate amendment to the House

3. 123 CONG. REC. 31704, 31705, 95th Cong. 1st Sess.

amendment to the Senate amendment and concurred therein with a further amendment. The request by the bill manager is shown below.

AUTHORIZING APPROPRIATIONS FOR TERRITORIES OF THE UNITED STATES

MR. PHILLIP BURTON [of California]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment No. 10 thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

THE SPEAKER:[4] The Clerk will report the Senate amendment to the House amendment to the Senate amendment No. 10. . . .

The Clerk will report the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10.

The Clerk read the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10, as follows:

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

MR. DON H. CLAUSEN [of California]: Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

Amendment in Third Degree Between Houses

§ 6.9 The stage of disagreement having been reached on a House amendment to a Senate amendment to a House proposition, the House, by motion, receded from its last amendment and, having receded, then concurred in the Senate amendment with a different amendment.

The proceedings of Oct. 12, 1977,[5] relating to Senate amendment 82, reported in disagreement from the conference on H.R. 7555, the Labor and Health, Education, and Welfare appropriation bill for fiscal 1978, show one method which has been used on rare occasions when the House was faced with a problem of an amendment in the third degree. The Parliamentarian's note which follows the Record proceedings provides some historical insight into this rarely used practice.

4. Thomas P. O'Neill, Jr. (Mass.).

5. 123 CONG. REC. 33445, 33447, 33448, 33454, 95th Cong. 1st Sess.

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Speaker, I call up the conference report on Senate amendment No. 82 to H.R. 7555 making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of August 2, 1977.)

After the conference report was agreed to, the remaining Senate amendment in disagreement was reported:

THE SPEAKER:[6] The Clerk will report the House amendment to the Senate amendment.

The Clerk read as follows:

House amendment to Senate amendment No. 82: Insert the following:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

Motion offered by Mr. Flood: Mr. Flood moves that the House recede from its amendment to the amendment of the Senate numbered 82.

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) and the gentleman from Illinois (Mr. Michel) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. Flood).

MR. FLOOD: . . . The House conferees suggested new language to accommodate the view of the Senate, especially the many Senators who were concerned over rape and incest, but again this proposal was rejected.

At this point it became very apparent that nothing could be accomplished by further conference and the conferees decided to report that they could not agree.

Mr. Speaker, if the motion I just offered is agreed to, I shall then offer the following language:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

We hope the Senate will accept this language today and clear this bill for the President. I would urge the Members to vote for the pending motion and to vote for the motion which I shall offer if the pending motion is agreed to. . . .

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

The previous question was ordered.

THE SPEAKER: The question is on the motion offered by the gentleman from Pennsylvania (Mr. Flood).

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6. Thomas P. O'Neill, Jr. (Mass.).

The question was taken; and on a division (demanded by Mr. Bauman) there were—yeas 80, nays 62.

MR. [ROBERT E.] BAUMAN [of Maryland]: 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: 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 209, nays 206, not voting 19 . . .

So the motion [to recede] was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

> Mr. Flood moves that the House concur in the amendment of the Senate numbered 82 with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:
>
> SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) and the gentleman from Illinois (Mr. Michel) are recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. Flood). . . .

MR. FLOOD: Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[7] The question is on the motion offered by the gentleman from Pennsylvania (Mr. Flood).

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

MS. [ELIZABETH] HOLTZMAN [of New York]: 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 263, nays 142, answered "present" 1, not voting 28.

Parliamentarian's Note: Section 526 of Jefferson's Manual, states as a principle of parliamentary law that the House may not recede from or insist on its own amendment with a further amendment.

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7. John Brademas (Ind.).

The precedents cited there (5 Hinds' Precedents §§ 6216–6218) all involved situations where the Speaker ruled that the House could not, in a single motion, recede from its amendment with an amendment. The more recent practice in the House has been to permit the two-step approach suggested in 8 Cannon's Precedents § 3199, on the theory that a motion to recede from a House amendment and concur in the Senate amendment was divisible, and that if the question were divided and the House receded from its amendment, the Senate amendment was not thereby agreed to but that a further motion to concur with an amendment could be offered.

Senate Action When Faced With Amending in Third Degree

§ 6.10 Instance where the Senate, faced with a situation where any further amendment between the Houses on an amendment in disagreement would be in the third degree, adopted a unanimous consent agreement to permit it to recede from its last amendment and, if that motion were agreed to, to concur with a new amendment.

On Nov. 29, 1977,[8] a unanimous-consent request relating to an amendment in the third degree was made in the Senate, as indicated below:

MR. ROBERT C. BYRD [of West Virginia]: Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7555.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes."

MR. ROBERT C. BYRD: Mr. President, anent the unanimous-consent agreement that was entered into a moment ago with respect to the message from the House of Representatives on H.R. 7555, I ask unanimous consent that at 3:55 p.m. today the distinguished Senator from South Carolina be allowed to make a motion to recede with respect to the Senate amendment to the House amendment, which motion shall be decided without debate, and if that motion is agreed to Mr. Brooke will then

8. 123 CONG. REC. 37981, 37982, 95th Cong. 1st Sess.

be allowed to move to concur in the House amendment with an amendment.

THE PRESIDING OFFICER: Is there objection?

Without objection, it is so ordered.

In 1977, the bill H.R. 7555, making appropriations for the Departments of Labor and Health, Education, and Welfare never did become law. The dispute between the House and Senate over Senate amendment 82, dealing with the restriction of funds for abortions, could not be resolved and remained in disagreement at *sine die* adjournment.

Amendment Between Houses in Third Degree

§ 6.11 On occasion, by unanimous consent, the House progresses to a third degree amendment—in this instance by amending a Senate amendment to a House amendment to a Senate amendment to a House bill.

The proceedings excerpted from the Record of Dec. 19, 1979,[9] and carried here are self-explanatory but illustrate the type of request that is sometimes entertained to expedite consideration of a measure and avoid the time delays involved in the various steps required to proceed through a conference.

MR. [FERNAND J.] ST GERMAIN [of Rhode Island]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4998) to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis, with a Senate amendment to House amendments to Senate amendments, and concur in the Senate amendment to House amendments to Senate amendments with an amendment.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE:[10] The Clerk will report the Senate amendment to House amendments to Senate amendments and the proposed House amendment.

The Clerk read as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the Senate amendment to the text of the bill, insert: . . .

[The Senate amendment was reported.]

The House amendment to the Senate amendment in the second degree was as follows:

SEC. 106. The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of

9. 125 CONG. REC. 36903, 36906, 96th Cong. 1st Sess.

10. Joseph G. Minish (N.J.).

Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. . . .

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

There was no objection.

A motion to reconsider was laid on the table.

Scope of Amendment

§ 6.12 In amending a Senate amendment to an appropriation bill, reported from conference in disagreement, the House is not confined within the limits of amount set by the original bill and the Senate amendment.

On May 15, 1940,[11] the House was considering the amendments in disagreement to H.R. 8202, the agriculture appropriation bill. Mr. Clarence Cannon, of Missouri, offered a motion to recede and concur with an amendment.

The Clerk read as follows:

Mr. Cannon of Missouri moves that the House recede from its disagreement to the amendment of the Senate No. 110 and agree to the same with an amendment as follows: In lieu of the sum of $40,000,000 named in said amendment insert "$100,000,000."

MR. [JOHN] TABER [of New York]: Mr. Speaker, I make the point of order that this amount exceeds the amount carried in the Senate amendment and is not in order at this time.

MR. CANNON of Missouri: Mr. Speaker, the only requirement is that it be germane, and this is certainly germane to the Senate amendment to which it is offered. The gentleman's point of order is not well taken.

THE SPEAKER:[12] The point of order raised by the gentleman from New York [Mr. Taber] has heretofore been very thoroughly passed upon. The Chair cites section 3189, of Cannon's Precedents, volume 8:

In amending a Senate amendment the House is not confined within the limits of amount set by the original bill and the Senate amendment.

The Chair therefore overrules the point of order.

Amendment to Senate Amendment Must Be Germane

§ 6.13 A motion to recede from disagreement to a Senate amendment and to concur therein with a further amendment must be germane to the Senate amendment; and the proper rule to cite in expressing a point of order that the test has not been met is Rule XVI clause 7, and

11. 86 CONG. REC. 6184, 6185, 76th Cong. 3d Sess.

12. William B. Bankhead (Ala.).

not the more complicated mechanism of Rule XXVIII clause 5.

On June 30, 1987,[13] during consideration of the supplemental appropriation bill for fiscal year 1987, Mr. Bill Frenzel, of Minnesota, raised a point of order against the motion offered by Chairman Jamie L. Whitten, of Mississippi, to recede and concur with an amendment in one of the Senate amendments reported from conference in disagreement.

The proceedings were as shown:

THE SPEAKER PRO TEMPORE:[14] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 3, after line 7, insert:

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, none of the funds appropriated for fiscal year 1987 shall be used for the purpose of granting any patent for vertebrate or invertebrate animals, modified, altered, or in any way changed through engineering technology, including genetic engineering.

MOTION OFFERED BY MR. WHITTEN

MR. WHITTEN: 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. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Not to exceed $14,100,000 appropriated and available for obligation and expenditure under section 108(a)(1) of Public Law 99–190, as amended, shall remain available for obligation through September 30, 1988: *Provided*, That the Economic Development Administration shall close out the audits concerning grants to New York, New York pursuant to title I of the Local Public Works Capital Development and Investment Act of 1976, not later than August 1, 1987.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

None of the funds appropriated by this or any prior Act to the Patent and Trademark Office shall be used to purchase the mass storage requirement (PTO–10) portion of the U.S. Patent and Trademark Office Automation Project.

POINT OF ORDER

MR. FRENZEL: Mr. Speaker, I make a point of order against Senate amendment No. 5.

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13. 133 CONG. REC. 18294, 18295, 100th Cong. 1st Sess.

14. Daniel R. Glickman (Kans.).

THE SPEAKER PRO TEMPORE: The gentleman will state his point of order.

MR. FRENZEL: Mr. Speaker, I make a point of order against [the proposed House amendment to] amendment No. 5 reported in disagreement of the supplemental appropriation conference report on page 13 of the report, and on page 3 lines 19 through 23 of the printed bill now before us which relates to procurement by the U.S. Patent and Trademark Office automation project pursuant to rule XXVIII, clause 5(a)(1). This rule relates to nongermane matter in amendments in disagreement.

As I interpret it, the rule states that any matter introduced as a new issue in a conference committee which would have been otherwise ruled out of order if it came before the House, would likewise be made eligible for a point of order as reported in amendments in disagreement from the conference committee should there be a motion from the House to recede from its disagreement with the Senate. . . .

THE SPEAKER PRO TEMPORE: The gentleman from Minnesota [Mr. Frenzel] is raising a point of order against the motion, is that correct as being not germane to the Senate amendment under rule XVI, clause 7?

MR. FRENZEL: Yes, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Does anybody else desire to be heard on the point of order?

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Iowa [Mr. Smith] concedes the point of order and the point of order is sustained against the motion.

Proper Time To Raise a Point of Order That Senate Amendment Is Not Germane

§ 6.14 Pending a unanimous-consent request to concur with an amendment in a Senate amendment, no point of order lies against the Senate amendment on the ground it is not germane.

In response to a parliamentary inquiry, the Speaker Pro Tempore[15] explained the alternatives available to a Member where a unanimous-consent request was pending to take H.R. 5398, the Emergency Homeowners' Relief Act, to which the Senate had appended an amendment that was not germane, from the table and concur with a further amendment.[16]

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5398) to authorize temporary assistance to help defray mortgage payments on homes owned by persons who are temporarily unemployed or underemployed as the result of adverse economic conditions, with a Senate amendment thereto, as printed in the *Congressional Record* dated June 25,

15. John J. McFall (Calif.).
16. 121 CONG. REC. 20977, 20979, 20980, 94th Cong. 1st Sess., June 26, 1975.

1975, at pages 20794–97, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. That this Act may be cited as the "Emergency Housing Act of 1975". . . .

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

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

Section 203, strike the whole section and renumber accordingly.

Section 205, strike the whole section and renumber accordingly.

Section 303, insert a new section 303.

SEC. 303. Section 202(b) of the Flood Disaster Protection Act of 1973 is amended by inserting before the period at the end thereof a comma and the following: "except that the prohibition contained in this sentence shall not apply to any loan made prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling".

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Wisconsin (Mr. Reuss)? . . .

PARLIAMENTARY INQUIRY

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. BAUMAN: Mr. Speaker, I would like to ask the Chair whether or not there is any way an individual Member can attack the nongermaneness of that particular amendment, or is it included in the unanimous-consent request, which would mean that one would have to object to the request in order to request a division on the nongermane provisions.

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman, in answer to his parliamentary inquiry, that it is all under one unanimous-consent request; it is all one package.

MR. BAUMAN: But the gentleman could withdraw from his request concerning that amendment, could he not?

THE SPEAKER PRO TEMPORE: If there was an objection, the gentleman then could ask unanimous consent for something else. That is correct.

Amendments to Senate Amendments to Appropriation Bills; Germaneness Requirements

§ 6.15 Senate amendments proposing legislation on an appropriation bill may be amended by germane amendments.

On June 15, 1943,[17] the House was considering the amendments in disagreement to H.R. 1648, Treasury and Post Office appropriations for 1944. A motion offered by Mr. Louis Ludlow, of

17. 89 CONG. REC. 5899, 5900, 78th Cong. 1st Sess.

Indiana, to recede and concur was divided on demand of Mr. John Taber, of New York, and the House voted to recede. Mr. Frank B. Keefe, of Wisconsin, then offered a preferential motion to concur with an amendment which included a provision prohibiting the use of funds for certain purposes after Jan. 1, 1944. Mr. Emmet O'Neal, of Kentucky, then raised a point of order:

> Mr. Speaker, I make the point of order that the amendment is not germane to the paragraph under discussion. It goes beyond the matters considered in the paragraph.
>
> MR. LUDLOW: I supplement that with the suggestion, Mr. Speaker, also that it is legislation on an appropriation bill.
>
> THE SPEAKER:[18] But the Senate amendment is legislation on an appropriation bill, or the matter would not be here. The only difference that the Chair can see is that there is a further proviso—a difference in the date.
>
> MR. O'NEAL: Which is beyond the scope of the paragraph and, therefore, is not germane. . . .
>
> THE SPEAKER: The Chair has great respect for the opinion of the gentleman from Kentucky upon this and all other matters, but he cannot agree with the point that the gentleman makes. The only difference that the Chair can see between the motion of the gentleman from Wisconsin, and what was in the House bill and is now in the bill as it comes from the Senate is fixing the dates January 1, 1944, and June 30, 1944. The Chair, therefore, overrules the point of order.

§ 6.16 Where a Senate amendment on a general appropriation bill proposes an expenditure not authorized by law, it is in order in the House to perfect such Senate amendment by germane amendments.

On Feb. 8, 1937,[19] the House was considering amendments in disagreement to H.R. 3587, a deficiency appropriation bill. A motion was offered by Mr. Clifton A. Woodrum, of Virginia, to recede and concur in the Senate amendment with an amendment. Mr. Henry Ellenbogen, of Pennsylvania, offered a preferential motion to recede and concur, and Mr. Woodrum demanded a division of that question. The motion to recede was agreed to, whereupon Mr. Woodrum moved to concur in the Senate amendment with an amendment. After the Clerk read Mr. Woodrum's motion, Mr. Ellenbogen rose with a point of order:

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18. Sam Rayburn (Tex.).

19. 81 CONG. REC. 975, 976, 75th Cong. 1st Sess.

Mr. Speaker, I make the point of order that the motion of the gentleman from Virginia violates the rules of the House in that it is legislation on an appropriation bill.

THE SPEAKER PRO TEMPORE:[20] The Chair will state that the Senate amendment is legislation and the amendment to that amendment offered by the gentleman from Virginia is not out of order because it contains legislation. The Chair therefore overrules the point of order.

MR. [THOMAS] O'MALLEY [of Wisconsin]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. O'MALLEY: Mr. Speaker, I make the point of order that the amendment of the gentleman from Virginia is not germane, since it limits the Senate amendment by date.

THE SPEAKER PRO TEMPORE: The Chair will state that it deals with the same subject matter, and the mere limitation of the Senate amendment by date does not destroy its germaneness, and the Chair therefore overrules the point of order.

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20. John J. O'Connor (N.Y.).

B. DISPOSING OF AMENDMENTS BETWEEN THE HOUSES; MOTIONS

§ 7. In General; Precedence

When an amendment of one House is first considered in the other, that body has the opportunity to perfect the amendment by adopting a motion to concur (agree) with an amendment. At this stage, this motion has priority over a motion simply to concur.[1] However, when one House informs the other of its disagreement to an amendment of that House, the stage of disagreement is reached,[2] the precedence of these motions is reversed, and a motion which tends to bring the two Houses into agreement most promptly (to concur) is preferential.[3]

When the stage of disagreement is reached on a particular amendment, that motion which tends most quickly to bring the Houses into agreement is preferential. Thus, where Senate amendments are taken up in the House for the first time (before the stage of disagreement has been reached on those amendments), the motion to concur with an amendment takes precedence over the motion to concur; but where the stage of disagreement between the two Houses has been reached, the precedence of the motions is reversed and the motion to recede and concur then takes precedence of a motion to recede and concur with an amendment, since such a motion most promptly tends to bring the two Houses together. However, the motion to recede and concur (with or without an amendment) is divisible on demand by any Member,[4] and upon such demand the House first votes on the question of receding. If the House votes to recede from its disagreement, a motion to concur with an amendment again takes precedence over a motion to concur.[5]

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1. § 7.1, infra.
2. 6 Cannon's Precedents §§ 756, 757.
3. §§ 7.1, 7.8, infra.
4. Rule XVI clause 6, *House Rules and Manual*, § 791 (1997). See §§ 10.10, 10.11, 11.6, 11.7, infra.

   The propositions which are distinct and hence divisible are first to recede and second to concur (with or without amendment). The motion to concur with an amendment contains one proposition only, and is not divisible. § 11.9, infra.
5. § 7.18, infra.

Under the earlier practice, the Member[6] who offered a motion to dispose of an amendment in disagreement was recognized to control an hour of debate thereon, and he or she could allocate the time at his or her discretion.[7] The modern practice is to divide the time, as explained in § 8, infra. If this motion is displaced by a preferential motion the proponent of the original motion still controls debate on the preferential motion[8] and on the original motion should the preferential motion fail.[9]

One House may recede from its amendment to a bill of the other, and that bill is considered as passed.[10] However, when the House recedes from an amendment with which it had agreed to a Senate amendment, it does not thereby agree to the Senate amendment.[11]

In the past, one House could recede from its own amendment to a bill of the other after that other House had concurred in the amendment with an amendment,[12] but more recently it has been held that the bill is not passed until further action by the House which had concurred in the amendment with an amendment.[13]

When the House recedes from its disagreement to a Senate amendment, such amendment is not thereby agreed to, as a motion to concur with an amendment is still in order.[14] The House may not recede from its own amendment with an amendment.[15]

Although it has been held that a negative vote on a motion to recede from disagreement to a Senate amendment is tantamount to

6. Usually the chairman of the committee which considered the legislation, or a Member designated by the chairman, is recognized to offer motions to dispose of amendments in disagreement. See §§ 8.22, 8.23, infra.
7. § 8.5, infra.
8. §§ 8.2, 8.9, 8.15, 8.18, infra.
9. See text accompanying § 8.18, infra.
10. §§ 10.2, 10.3, infra. See also Jefferson's Manual, *House Rules and Manual* § 524 (1997).
11. 8 Cannon's Precedents § 3199.
12. 5 Hinds' Precedents § 6226.
13. § 10.9, infra; and 8 Cannon's Precedents § 3177.
14. See § 7.18, infra; and Jefferson's Manual, *House Rules and Manual* § 525 (1997).
15. Jefferson's Manual, *House Rules and Manual* § 526 (1997); and § 7.24, infra. But see § 10.5, infra, for special case. See also 5 Hinds' Precedents §§ 6216–6218.

insisting on disagreement to that amendment[16] the weight of authority holds that the defeat of a motion to recede or recede and concur is not the equivalent of insisting on disagreement, since the House may also vote to adhere to its disagreement.[17]

When both Houses insist and neither of them asks for a conference or recedes, the bill fails.[18] When both Houses adhere the bill fails.[19] A House may recede from adherence[20] or reconsider its adherence.[1]

Stage of Disagreement as Affecting Precedence

§ 7.1 Where the House has receded from its disagreement to a Senate amendment and has then concurred therein with an amendment, it was held in the Senate that a motion to concur in the House amendment with a further amendment took precedence over a pending motion to concur.

On Dec. 30, 1970,[2] the Senate was considering House action on Senate amendments to H.R. 17867, foreign assistance appropriations for fiscal 1971.

MR. [GALE W.] MCGEE [of Wyoming]: Mr. President, amendment No. 19 is the one that relates to foreign military credit sales. The House has concurred in a motion by the Chairman of the House managers to recede from its disagreement to the amendment of the Senate, and to concur with an amendment to fix the sum, as the Senate did on foreign military credit sales, at $200 million.[3] . . .

I would, therefore, move that the Senate concur in the amendment of the House to the amendment of the Senate amendment No. 19. . . .

MR. [MICHAEL J.] MANSFIELD [of Montana]: . . . Mr. President, I move that the Senate concur in the House amendment to the Senate amendment numbered 19, with an amendment as follows:

Provided, however, That none of these funds may be obligated or ex-

16. § 10.24, infra.
17. §§ 10.29, 12.5, 12.8, infra.
18. 5 Hinds' Precedents § 6228.
19. *Id.* at §§ 6163, 6313, 6324, 6325.
20. *Id.* at §§ 6252, 6401.
1. *Id.* at § 6253.

2. 116 CONG. REC. 44116, 44117, 44123, 44124, 91st Cong. 2d Sess.
3. This was a new amendment to Senate amendment No. 19, and was being considered for the first time in the Senate. Thus, the stage of disagreement on this particular amendment to Senate amendment No. 19 had not yet been reached.

pended until an authorization shall have been enacted into law.

THE PRESIDING OFFICER:[4] The question is on the amendment. Would the Senator send the motion to the desk?

The motion will be stated.

The assistant legislative clerk read as follows:

That the Senate concur in the House amendment to the Senate amendment numbered 19, with an amendment as follows:

Provided, however, That none of these funds may be obligated or expended until an authorization shall have been enacted into law.

MR. MANSFIELD: Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

MR. MCGEE: Mr. President, a parliamentary inquiry.

THE PRESIDING OFFICER: The Senator will state it.

MR. MCGEE: Mr. President, are we dealing with an amendment to the pending motion?

THE PRESIDING OFFICER: The motion of the Senator from Montana is that the Senate concur in the House amendment to the Senate amendment with an amendment.

MR. MCGEE: Mr. President, what I am questioning in a parliamentary sense is the redundancy. Was not my motion the pending motion?

THE PRESIDING OFFICER: The Senator from Montana has offered a motion to concur with an amendment. That takes precedence over a straight motion to concur.

MR. MCGEE: That still does not address itself to my question. My motion takes precedence as the primary motion. My motion is to concur in the amendment of the House to the amendment of the Senate numbered 19.

THE PRESIDING OFFICER: Should the amendment of the Senator from Montana fail, then we will return to the motion of the Senator from Wyoming. . . .

THE PRESIDING OFFICER:[5] The question is on agreeing to the motion of the Senator from Montana (Mr. Mansfield) that the Senate concur in the House amendment to the Senate amendment No. 19, with an amendment.

On this question the yeas and nays have been ordered, and the clerk will call the roll. . . .

The result was announced—yeas 60, nays 12. . . .

So Mr. Mansfield's motion was agreed to.

Precedence of Senate Motions

§ 7.2 In the Senate, a motion to concur with an amendment in a House amendment to a Senate bill takes precedence over the privileged motion to disagree to the amendment and agree to the conference requested by the House.

4. Carl T. Curtis (Nebr.).

5. Theodore F. Stevens (Alaska).

The proceedings in the Senate on Feb. 1, 1977,[6] demonstrate the precedence of motions which are in order under the rules of the Senate before the Senate has reached the stage of disagreement and show that the motion to amend the House amendment is more privileged than the motion to disagree; but the motion to concur is itself subject to the motion to table.

The Chair laid before the Senate the following message from the House:

FEBRUARY 1, 1977.

Resolved, That the House insist upon its amendment to the bill (S. 474) entitled "An Act to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high-priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Staggers, Mr. Dingell, Mr. Eckhardt, Mr. Sharp, Mr. Moffett, Mr. Broyhill, and Mr. Brown of Ohio be the managers of the conference on the part of the House. . . .

MR. ROBERT C. BYRD [of West Virginia]: Mr. President, I move that the Senate disagree with the amendment by the House, agree with the request for a conference, and that the Chair appoint the conferees on the part of the Senate. . . .

THE PRESIDING OFFICER:[7] The question is on the motion of the Senator from West Virginia to disagree with the amendment of the House and request a conference with the House. . . .

MR. [EDWARD W.] BROOKE [of Massachusetts]: Mr. President, is an amendment now in order?

THE PRESIDING OFFICER: A motion to concur in the House amendment with an amendment takes precedence over the pending motion. The answer is yes.

MR. BROOKE: All right. Then, Mr. President, I send to the desk an amendment and ask for its immediate consideration.

THE PRESIDING OFFICER: The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. Brooke) proposes an unprinted amendment numbered 20 to the House amendment to the Senate bill. . . .

MR. [ADLAI E.] STEVENSON [III, of Illinois]: . . . So, Mr. President, unless there is anything further to be said, I move to table the amendment.[8]

MR. BROOKE: Mr. President, I ask for the yeas and nays.

THE PRESIDING OFFICER: Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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6. 123 CONG. REC. 2948, 2950, 2951, 95th Cong. 1st Sess.

7. Dale Bumpers (Ark.).

8. It was the motion to concur with an amendment that was tabled, not just the amendment.

THE PRESIDING OFFICER: The question is on agreeing to the motion to table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll. . . .

So the motion to lay on the table was agreed to.

MR. ROBERT C. BYRD: Mr. President, I move to reconsider the vote by which the motion was agreed to.

MR. STEVENSON: I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE PRESIDING OFFICER: The question recurs on the motion of the Senator from West Virginia.

The motion was agreed to and the Chair appointed Mr. Stevenson, Mr. Hollings, Mr. Johnston, Mr. Pearson, and Mr. Stevens conferees on the part of the Senate.

Parliamentarian's Note: The stage of disagreement in either House is not reached until the House in possession of the papers has disagreed with the amendment of the other House (or has insisted on its own amendment to a bill of the other) and has notified the other body of that action. Before the stage of disagreement is reached, the only motion in the House is the one provided in Rule XX clause 1, which permits a motion to disagree to an amendment of the other House and ask or agree to a conference. This motion is in order if the Speaker in his discretion agrees to recognize for that purpose and if the committee of jurisdiction authorizes the motion to be made.

Privilege of Motions Resolving Disagreement

§ 7.3 *Parliamentarian's Note:* Once the stage of disagreement has been reached, motions in the House to resolve the matter in disagreement are privileged and do not require unanimous consent for their consideration.

The proceedings of Nov. 9, 1967,[9] demonstrate this principle.

Speaker John W. McCormack, of Massachusetts, recognized Mr. Michael J. Kirwan, of Ohio.

MR. KIRWAN: Mr. Speaker, I call up the bill (H.R. 11641), making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, Interstate Commission on the Potomac River Basin, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1968, and for other purposes; with Senate amend-

9. 113 CONG. REC. 31878, 31880, 90th Cong. 1st Sess.

ment No. 2 thereon, and ask for its immediate consideration.

The Clerk read the title of the bill.

The Clerk read the Senate amendment [to the House amendment to Senate amendment number 2], as follows:

> Strike out "$967,599,000" and insert "$968,474,000".

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

The Clerk read as follows:

> Mr. Kirwan moves that the House disagree to the amendment of the Senate to the House amendment to Senate amendment No. 2.

MR. [WILLIAM D.] HATHAWAY [of Maine]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hathaway moves that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

THE SPEAKER: The gentleman from Ohio [Mr. Kirwan] is recognized for 1 hour.

MR. KIRWAN: Mr. Speaker, I yield 1 minute to the distinguished gentleman from Massachusetts [Mr. Boland]. . . .

Mr. Speaker, I move the previous question on the preferential motion offered by the gentleman from Maine [Mr. Hathaway].

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[10] The question is on the preferential motion offered by the gentleman from Maine [Mr. Hathaway] that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

Precedence of Motions To Dispose of Senate Amendments After the Stage of Disagreement Is Reached

§ 7.4 Where the stage of disagreement on a House bill with Senate amendments has been reached and the Senate has then messaged to the House a new amendment to a House amendment to an earlier Senate amendment, a motion to concur in the new amendment is privileged and takes precedence over a motion to disagree and request a further conference.

Once the stage of disagreement is reached on a House bill and the Senate amendments thereto, motions to dispose of further degrees of amendments on the bill, when before the House, remain privileged, and when a motion is made to dispose of such an amendment, the proponent of the motion is recognized for an hour. Rule XXVIII clause 2(b),[11] specifying the division of time between the two parties on "an amendment

10. Charles M. Price (Ill.).

11. *House Rules and Manual* § 912b (1997).

reported from conference in disagreement" is no longer applicable. An illustration of this practice is shown by the following proceedings:[12]

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes, together with the Senate amendment to the House amendment to the Senate amendment No. 75 thereto, disagree to the Senate amendment to the House amendment to Senate amendment No. 75, and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to Senate amendment No. 75 as follows:

Strike out "$205,600,000" and insert: "$205,600,000, none of which, nor any other funds appropriated in this Act may be used for any activities involving Angola other than intelligence gathering, and which funds are".

PREFERENTIAL MOTION OFFERED BY MR. GIAIMO

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, on behalf of the gentleman from New York (Mr. Addabbo) and myself, I offer a preferential motion.

The Clerk read as follows:

Mr. Giaimo moves that the House concur with the Senate amendment to the House amendment to Senate amendment numbered 75.

THE SPEAKER:[13] The gentleman from Texas (Mr. Mahon) is recognized for 1 hour. . . .

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

The previous question was ordered.

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

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

MR. GIAIMO: 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: 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 323, nays 99, not voting 10. . . .

So the preferential motion was agreed to.

Stage of Disagreement, Once Reached, Continues as Additional Amendments Are Considered

12. 122 CONG. REC. 1035, 1036, 1056, 1057, 94th Cong. 2d Sess., Jan. 27, 1976.

13. Carl Albert (Okla.).

§ 7.5 A motion in the House to dispose of a further amendment of the Senate to a House amendment to a Senate amendment, the stage of disagreement having been reached, is privileged.

Where the House, pursuant to a rule, amended a Senate amendment to a House bill, then insisted on its amendment and requested a conference, the stage of disagreement was reached; and when the Senate ignored a request for a conference and sent the House a further amendment to the House amendment to the Senate amendment, the motion to concur in the House was deemed privileged and more preferential than a motion to commit under Rule XVI clause 4.[14]

Where the final stage of amendment is reached between the Houses, the motion which tends to bring the matter to closure most quickly is the most preferential.

On Sept. 16, 1976,[15] when the House had before it the final Senate amendment to the House amendment to the Senate amendment to a House bill, the options available to the House were limited. When the manager of the bill[16] moved to concur in the final Senate amendment, a series of inquiries and alternatives were broached, including a specific inquiry regarding the applicability of a motion to refer under Rule XVII[17] in the pending situation:

> MR. RODINO: Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with a Senate amendment to the House amendment to the Senate amendments thereto, and concur in the Senate amendment to the House amendment to the Senate amendments.
>
> The Clerk read the title of the bill.
>
> The Clerk read the Senate amendment to the House amendment to the Senate amendments, as follows:
>
> In lieu of the matter proposed to be inserted by the House engrossed

14. For further discussion, see footnotes in § 10.16, infra.

15. 122 CONG. REC. 30868, 30872, 30873, 30887, 30888, 94th Cong. 2d Sess.

16. Peter W. Rodino, Jr. (N.J.), Chairman of the Committee on the Judiciary.

17. *House Rules and Manual* § 804 (1997).

amendment to the Senate engrossed amendments, insert;

That this Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1976". . . .

MR. RODINO (during the reading): Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with.

THE SPEAKER:[18] Is there objection to the request of the gentleman from New Jersey?

PARLIAMENTARY INQUIRIES

MR. [ROBERT] MCCLORY [of Illinois]: Mr. Speaker, I have several parliamentary inquiries.

THE SPEAKER: The gentleman will state them.

MR. MCCLORY: Mr. Speaker, is the motion of the gentleman from New Jersey privileged because the stage of disagreement has been reached?

THE SPEAKER: The gentleman is correct.

MR. MCCLORY: Mr. Speaker, my next parliamentary inquiry is, was the stage of disagreement reached when the House insisted on its amendment to the first Senate amendment and requested a conference thereon, even though the Senate had not previously or has not subsequently voted its disagreement?

THE SPEAKER: That is correct.

MR. MCCLORY: Mr. Speaker, my third parliamentary inquiry is this: Is the House still in disagreement even though it has not acted upon the Senate amendment now before the House?

THE SPEAKER: The stage of disagreement is still in effect.

MR. MCCLORY: I thank the Speaker.

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

There was no objection.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

Mr. Rodino moves that the House concur in the Senate amendment to the House amendment to the Senate amendments. . . .

MR. RODINO: Mr. Speaker, I allot myself such time as I may consume. . . .

I move the previous question on the motion.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. MCCLORY: Mr. Speaker, in view of the fact that rule XVII states that "It shall be an order—after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee," and in view of the fact that motions to commit are permitted when the stage of disagreement has been reached in the context of the consideration of conference reports, and in view of the fact that prior precedents indicate that a motion to commit is in order after the previous question has been ordered on a motion to concur in a Senate amendment (V, 5575), is it absolutely necessary to first vote down the previous question before I may be recognized to offer a motion to commit?

18. Carl Albert (Okla.).

THE SPEAKER: The answer to the specific question is "yes," but the precedent cited by the gentleman is not applicable in the present situation, since in this case the stage of disagreement has been reached and therefore the pending motion is most preferential as tending to resolve the differences between the House most quickly.

MR. MCCLORY: I thank the Chair. . . .

THE SPEAKER: The question is on ordering the previous question.[19]

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

RECORDED VOTE

MR. MCCLORY: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 177, not voting 38. . . .

§ 7.6 When a conference report is ruled out of order the prerequisite stage of disagreement continues, the bill and amendments are again before the House, and motions relating to amendments and conference remain privileged.

On May 22, 1936,[20] Speaker Joseph W. Byrns, of Tennessee, sustained a point of order raised by Mr. James P. Buchanan, of Texas, against the conference report on H.R. 9496, a bill to protect the United States against loss suffered in postal delivery of checks for veterans' benefits.

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

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: Mr. Speaker, if the conference report is out of order, how can we consider it?

THE SPEAKER: The amendments are before the House and must be disposed of.

MR. SNELL: I suppose that the whole report went out.

THE SPEAKER: The report goes out, but that leaves the amendments before the House, and some action must be taken on them. It is for the House to say what action it will take. . . .

MR. [CARL E.] MAPES [of Michigan] (interrupting the reading of the Senate amendment): Mr. Speaker, a point of order.

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19. If the previous question on Mr. Rodino's motion had been voted down, a motion to refer under Rule XVI clause 4 (*House Rules and Manual* § 782 (1997)) would have been in order. But a motion which would further amend would not have been in order since it would have been in the third degree.

20. 80 CONG. REC. 7790–92, 74th Cong. 2d Sess.

THE SPEAKER: The gentleman will state it.

MR. MAPES: Mr. Speaker, supplementing what the gentleman from New York [Mr. Snell] has said, an attempt was made to get this bill before the House by calling up the conference report and the conference report was held out of order. No further action to get the bill before the House has been taken. There has been no request to bring it up in any other way except through the conference report, and the Speaker, very properly I think, has ruled that the conference report is out of order.

THE SPEAKER: The conference report was called up by the gentleman from New York [Mr. Mead]. The conference report has been held to be out of order, which leaves the Senate amendments before the House for consideration. The House must take some action on them.

MR. MAPES: How do the amendments get before the House for consideration?

THE SPEAKER: They are called up by the gentleman from New York [Mr. Mead].

MR. MAPES: No attempt has been made by the gentleman from New York [Mr. Mead], as I understand, to call them up.

THE SPEAKER: The Chair, in answer to the gentleman from Michigan, reads from section 3257 of Cannon's Precedents:

> When a conference report is ruled out of order the bill and amendments are again before the House as when first presented, and motions relating to amendments and conference are again in order.

The Chair thinks that completely answers the gentleman from Michigan.

MR. MAPES: That seems to cover the matter.

MR. [FREDERICK R.] LEHLBACH [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. LEHLBACH: Are amendments put on a House bill by the Senate privileged?

THE SPEAKER: After the stage of disagreement has been reached they are. For this reason it is necessary that the House take some action upon the amendments at this time.

Recognition Following Rejection of Conference Report

§ 7.7 Upon rejection of a conference report on a House bill with Senate amendments, the manager is entitled to priority in recognition to offer a motion to dispose of the amendments; and he may move to disagree with all the amendments and request a further conference, although this motion is not of the highest priority.

On Oct. 20, 1990,[1] the House ordered the previous question on, and then rejected, the conference report on H.R. 5311, the District

1. 136 CONG. REC. 31493, 101st Cong. 2d Sess.

of Columbia Appropriations Act, 1991. Control of the floor did not shift in this situation, as shown by the proceedings carried here.

Mr. Frenzel and Mr. Fazio changed their vote from "no" to "aye."

So the conference report was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table. . . .

APPOINTMENT OF CONFEREES ON H.R. 5311, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1991

MR. [JULIAN C.] DIXON [of California]: Mr. Speaker, I move to insist on the disagreement to all Senate amendments to the bill, H.R. 5311, and request a further conference with the Senate thereon.

THE SPEAKER PRO TEMPORE:[2] The question is on the motion offered by the gentleman from California [Mr. Dixon].

The motion was agreed to.

THE SPEAKER PRO TEMPORE: Without objection, the Chair appoints the following conferees: Messrs. Dixon, Natcher, Stokes . . . and Conte.

There was no objection.

Parliamentarian's Note: Chairman Dixon could have been preempted by a more preferential motion. The stage of disagreement having been reached when the House initially disagreed to the Senate amendments and agreed to the conference, the following motions are privileged and have the precedence indicated: (1) to recede and concur; (2) to recede and concur with amendment; (3) to insist on disagreement and request a further conference; (4) to insist on disagreement; and (5) to adhere.

Precedence of Motions Bringing Houses Into Agreement

§ 7.8 The stage of disagreement having been reached, that motion that tends most quickly to bring the House into agreement is preferential.

On Dec. 10, 1963,[3] the House was considering the amendments in disagreement to H.R. 8747, appropriations for certain independent offices for fiscal 1964. Speaker John W. McCormack, of Massachusetts, directed the Clerk to read the next amendment in disagreement.

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

The Clerk read as follows:

Senate amendment No. 92: Page 46, line 19, insert: "*Provided further*, That $1,722,000 shall be used for the sites and planning expenses involved in the construction of a Veterans'

2. William H. Gray III (Pa.).

3. 109 CONG. REC. 23950, 23952, 23953, 88th Cong. 1st Sess.

Administration hospital at Bay Pines, Florida.".

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Thomas moves that the House insist upon its disagreement to the amendment of the Senate numbered 92.

MR. [HAROLD C.] OSTERTAG [of New York]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Ostertag moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein. . . .

THE SPEAKER: The question is on the preferential motion offered by the gentleman from New York [Mr. Ostertag]. . . .

The question was taken; and there were—yeas 171, nays 204, not voting 59. . . .

So the preferential motion was rejected. . . .

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

The motion was agreed to.[4]

Parliamentarian's Note: In the 103d Congress, a new paragraph was added to Rule XXVIII, clause 2, giving one motion to insist on disagreement to a Senate amendment preferential standing where the original motion offered by the floor manager proposes a change in existing law.[5] The new rule applies only to amendments in disagreement on a general appropriation bill.[6]

Consequences of Dividing Motion To Recede and Concur

§ 7.9 Where a division of the question was demanded on a preferential motion to recede from disagreement and concur in a Senate amendment (offered while a motion to insist was pending), the Speaker indicated: (1) that if the motion to recede were agreed to, a motion to concur with a germane amendment would take precedence over the pending motion to concur; but (2) that if the motion to recede were disagreed to, the question would recur on the initial motion to insist on disagreement to the Senate amendment.

On Aug. 10, 1976,[7] when the House had under consideration

4. See also 111 CONG. REC. 8861, 8866, 8867, 89th Cong. 1st Sess., Apr. 29, 1965.

5. Rule XXVIII clause 2(b)(2), *House Rules and Manual* § 912c (1997), adopted as part of H. Res. 5, Jan. 5, 1993.

6. See § 12.3, infra.

7. 122 CONG. REC. 26781, 26783, 26792, 26793, 94th Cong. 2d Sess.

the final amendment remaining in disagreement following adoption of the conference report on an appropriation bill,[8] the manager[9] of the bill offered a motion that the House insist on its disagreement. A preferential motion to recede and concur was then offered, followed by a demand that that motion be divided. The proceedings and inquiries are carried below:

THE SPEAKER:[10] The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 68: Page 39, line 5, strike out: "Sec. 209. None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions."

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

Mr. Flood moves that the House insist on its disagreement to the amendment of the Senate numbered 68.

PREFERENTIAL MOTION OFFERED BY MR. PRITCHARD

MR. [JOEL] PRITCHARD [of Washington]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Pritchard moves that the House recede from its disagreement to the amendment of the Senate numbered 68 and concur therein.

MR. [DAVID R.] OBEY [of Wisconsin]: Mr. Speaker, if this is the correct time to make this request, I ask that that question be divided.

THE SPEAKER: The Chair will inform the gentleman that the question will be divided on the preferential motion. . . .

PARLIAMENTARY INQUIRY

MR. [JEROME A.] AMBRO [of New York]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. AMBRO: Mr. Speaker, as I understand the situation, the gentleman from Pennsylvania is making a motion to insist on the House language incorporated in the Hyde amendment. The gentleman from Washington (Mr. Pritchard) now asks us to recede and concur with the Senate language.

THE SPEAKER: The gentleman is right.

MR. AMBRO: The gentleman then said that this was divisible, which means that we can take a vote on the motion to recede.

THE SPEAKER: To recede from disagreement to the Senate amendment.

MR. AMBRO: Yes. If the motion to recede passes, can we then go on with a

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8. H.R. 14232 (Labor and Health, Education, and Welfare appropriations for fiscal 1977).

9. Daniel J. Flood (Pa.).

10. Carl Albert (Okla.).

vote to concur with the Senate language? Is that the next step?

THE SPEAKER: Yes. But if the House recedes, any germane motion to concur with an amendment would be in order before the House votes on the pending motion to concur.

MR. AMBRO: To concur with an amendment will be in order. If the motion to recede fails, is another preferential motion to recede and amend in order?

THE SPEAKER: No.

MR. AMBRO: Do we then move to a vote on the Flood language?

MR. FLOOD: Pro forma.

THE SPEAKER: The gentleman is correct.

MR. AMBRO: That is correct?

THE SPEAKER: Yes.

MR. AMBRO: I thank the Speaker. . . .

MR. FLOOD: Mr. Speaker, I move the previous question on the motion to insist on its disagreement and on the preferential motion.

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

There was no objection.

PARLIAMENTARY INQUIRY

MS. [BELLA S.] ABZUG [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentlewoman will state it.

MS. ABZUG: Mr. Speaker, if as the chairman has indicated he moves the previous question, if one intends to concur with the Senate amendment one would vote "yea" and if one opposes the Senate amendment, which is to eliminate the Hyde amendment, then one would vote "nay." Is that correct?

THE SPEAKER: The question will be on whether the House shall recede from its disagreement. If the House does not recede, then the motion of the gentleman from Pennsylvania will be voted upon, and then the House could insist on its position and then the matter will go back to the Senate.

PARLIAMENTARY INQUIRY

MR. [JOE] SKUBITZ [of Kansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SKUBITZ: Mr. Speaker, if the House votes to recede, would a motion have precedence?

THE SPEAKER: A motion will be in order.

MR. SKUBITZ: I thank the Chair.

THE SPEAKER: The question is on the motion offered by the gentleman from Washington (Mr. Pritchard) that the House recede from its disagreement to the amendment of the Senate numbered 68. . . .

So the motion to recede was rejected.

The result of the vote was announced as above recorded.

THE SPEAKER: The question is on the motion offered by the gentleman from Pennsylvania (Mr. Flood).

The motion was agreed to.

A motion to reconsider the vote by which action was taken on the several motions was laid on the table.

Precedence of Motion To Disagree and Request Further Conference

§ 7.10 The stage of disagreement having been reached on a Senate amendment (to which the House has refused

to agree), the compound motion to disagree to the Senate amendment and request a further conference takes precedence over the simple motion to disagree to the Senate amendment, since tending to bring the two Houses together.

The final Senate amendment to the Deficit Reduction Act of 1985 remained in contention between the two Houses. In the House, a motion to table an effort to recede and concur had just been agreed to.

The chairman of the Committee on the Budget,[11] then offered a motion to disagree with the final Senate amendment. The proceedings which followed are carried here.[12]

So the motion to table [the motion to recede and concur] was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. GRAY OF PENNSYLVANIA

MR. GRAY of Pennsylvania: Mr. Speaker, I offer a motion.

PARLIAMENTARY INQUIRY

MR. [TRENT] LOTT [of Mississippi]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[13] The gentleman will state it.

MR. LOTT: Mr. Speaker, I understand the gentleman from Pennsylvania has offered a motion to disagree. My parliamentary inquiry is, would a motion to disagree to the last amendment of the Senate and request a conference thereon be a preferential motion to the motion to disagree, that is, more preferential?

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman in the affirmative, that is correct.

MR. LOTT: Then Mr. Speaker, I have a privileged resolution which I send to the desk.

THE SPEAKER PRO TEMPORE: If the gentleman will hold, the Clerk will first report the motion of the gentleman from Pennsylvania.

The Clerk read as follows:

Motion offered by Mr. Gray of Pennsylvania: Mr. Gray of Pennsylvania moves to take from the Speaker's table the bill H.R. 3128 with the Senate amendment to the House amendment to the Senate amendment to the House amendment to the Senate amendment thereto and to disagree to the Senate amendment.

THE SPEAKER PRO TEMPORE: The Chair would advise the Members that this is a very important matter. It is a very detailed parliamentary situation, and I am sure the Members would like

11. William H. Gray III (Pa.).

12. 132 CONG. REC. 5218–20, 99th Cong. 2d Sess., Mar. 18, 1986.

13. William V. Alexander (Ark.).

to know what they are going to be voting on.

PARLIAMENTARY INQUIRY

MR. GRAY of Pennsylvania: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GRAY of Pennsylvania: Mr. Speaker, which motion was read, was it my motion or that of the gentleman from Mississippi?

THE SPEAKER PRO TEMPORE: The Clerk has just read the motion of the gentleman from Pennsylvania.

The Clerk will now report the preferential motion of the gentleman from Mississippi.

PREFERENTIAL MOTION OFFERED BY MR. LOTT

MR. LOTT: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Preferential motion offered by Mr. Lott: Mr. Lott moves to disagree to the last amendment of the Senate and request a conference thereon.

MR. GRAY of Pennsylvania: Mr. Speaker, I move to table the motion.

THE SPEAKER PRO TEMPORE: The Chair would ask which motion, the motion of the gentleman from Mississippi [Mr. Lott]?

MR. GRAY of Pennsylvania: Yes, Mr. Speaker.

Mr. Speaker, I move to table the motion of the gentleman from Mississippi [Mr. Lott].

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gray] to table the motion offered by the gentleman from Mississippi [Mr. Lott].

PARLIAMENTARY INQUIRY

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

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. LOTT: As the Chair has stated, this is a complicated parliamentary process we have here.

Mr. Speaker, I would like to make sure that Members understand what they are about to vote on and that I understand what we are about to vote on.

THE SPEAKER PRO TEMPORE: The gentleman from Pennsylvania [Mr. Gray] made a motion to disagree to the Senate amendment. The gentleman from Mississippi [Mr. Lott] made a motion to instruct—excuse the Chair—to disagree to the Senate amendment and to go to conference. The gentleman from Pennsylvania now has moved to lay that on the table. . . .

MR. LOTT: So that we do not send this off into some dark hole, but so that we could have a conference to try to further work out the difficulties.

So my parliamentary inquiry is this: Is the vote at this time then on the motion to table the motion for a conference on this most important reconciliation bill?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. LOTT: So if you vote for the motion to table you are saying you do not even want to go to conference, is that correct?

THE SPEAKER PRO TEMPORE: The regular order is that the gentleman from Pennsylvania has made a motion

to lay on the table the motion of the gentleman from Mississippi, and the question occurs on the motion of the gentleman from Pennsylvania.

PARLIAMENTARY INQUIRY

MRS. [LYNN] MARTIN of Illinois: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentlewoman from Illinois will state it.

MRS. MARTIN of Illinois: Mr. Speaker, I am sure it was the noise of the body, but I did not hear the answer to the question that was posed by the Republican whip.

The question I believe was: When we vote on the motion to table going to conference a "yes" vote to table would mean you did not wish to go to conference on this important item, is that correct?

THE SPEAKER PRO TEMPORE: At this stage that would be an accurate statement.

MRS. MARTIN of Illinois: I thank the Speaker.

THE SPEAKER PRO TEMPORE: The question is on the motion to table offered by the gentleman from Pennsylvania [Mr. Gray].

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

RECORDED VOTE

MR. LOTT: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 186, not voting 25. . . .

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE SPEAKER PRO TEMPORE: The pending business is the motion offered by the gentleman from Pennsylvania [Mr. Gray] to disagree to the Senate amendment.

The gentleman from Pennsylvania [Mr. Gray] will be recognized for 30 minutes and the gentlewoman from Illinois [Mrs. Martin] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Gray]. . . .

The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gray].

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

MR. GRAY of Pennsylvania: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 331, nays 76, not voting 27. . . .

Motion To Concur and Motion To Disagree

§ 7.11 A motion that the House concur in a Senate amendment to a House amendment to an amendment of the Senate (in disagreement between the two Houses) takes precedence over a motion to disagree to the Senate's amendment.

On Nov. 9, 1967,[14] the House was considering a [new] Senate amendment to a House amendment to a Senate amendment to H.R. 11641, civil functions appropriations for 1968. Speaker John W. McCormack, of Massachusetts, recognized Mr. Michael J. Kirwan, of Ohio.

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

The Clerk read as follows:

Mr. Kirwan moves that the House disagree to the amendment of the Senate to the House amendment to Senate amendment No. 2.

MR. [WILLIAM D.] HATHAWAY [of Maine]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Hathaway moves that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

THE SPEAKER: The gentleman from Ohio [Mr. Kirwan] is recognized for 1 hour.

After controlling debate on this motion, Mr. Kirwan moved the previous question.

MR. KIRWAN: . . . Mr. Speaker, I move the previous question on the preferential motion offered by the gentleman from Maine [Mr. Hathaway].

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[15] The question is on the preferential motion offered by the gentleman from Maine [Mr. Hathaway] that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

MR. KIRWAN: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 118, nays 263, not voting 51. . . .

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE: The question now is on the motion of the gentleman from Ohio [Mr. Kirwan] that the House disagree to the amendment of the Senate to the House amendment to Senate amendment No. 2.

The motion was agreed to.

A motion to reconsider was laid on the table.

§ 7.12 A motion that the House concur in a Senate amendment takes precedence of a motion to disagree, but may not deprive the Member in charge of the floor.

On Nov. 9, 1967,[16] Speaker John W. McCormack, of Massachusetts, recognized Mr. Michael J. Kirwan, of Ohio, to offer a motion to disagree to an amendment

14. 113 CONG. REC. 31878, 31880, 31881, 90th Cong. 1st Sess.

15. Charles M. Price (Ill.).

16. 113 CONG. REC. 31878, 90th Cong. 1st Sess.

of the Senate to H.R. 11641, the civil functions appropriations bill of 1968.

The Clerk read as follows:

Mr. Kirwan moves that the House disagree to the amendment of the Senate to the House amendment to Senate amendment No. 2.

MR. [WILLIAM D.] HATHAWAY [of Maine]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Hathaway moves that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

THE SPEAKER: The gentleman from Ohio [Mr. Kirwan] is recognized for 1 hour.

Motion To Concur and Motion To Insist on Disagreement

§ 7.13 The stage of disagreement having been reached, the motion to recede and concur takes precedence over the motion to insist on disagreement.(17)

On Oct. 24, 1967,(18) the House was considering the amendments in disagreement to H.R. 9960, independent offices appropriations for fiscal 1968. The following occurred:

THE SPEAKER:(19) The Clerk will report the Senate amendments in disagreement.

The Clerk read as follows:

Senate amendment No. 58: On page 36, line 23, strike out "$75,000,000" and insert "$125,000,000".

Senate amendment No. 59: On page 37, line 2, strike out "$237,000,000" and insert "$537,000,000".

MR. [JOSEPH L.] EVINS of Tennessee: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House insist on its disagreement to the amendments of the Senate numbered 58 and 59.

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Giaimo moves that the House recede from its disagreement to the amendments of the Senate numbered 58 and 59 and concur therein.

THE SPEAKER: The Chair recognizes the gentleman from Tennessee [Mr. Evins].

After controlling one hour of debate, Mr. Evins moved the previ-

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17. See 119 CONG. REC. 21171–73, 21179, 21180, 93d Cong. 1st Sess., June 25, 1973 (H.R. 7447); 118 CONG. REC. 22959, 22974, 22975, 92d Cong. 2d Sess., June 28, 1972 (H.R. 13955); and 113 CONG. REC. 25201, 25211, 90th Cong. 1st Sess., Sept. 12, 1967 (H.R. 10738).

18. 113 CONG. REC. 29837, 29838, 29842, 90th Cong. 1st Sess.

19. John W. McCormack (Mass.).

ous question on the motion offered by Mr. Giaimo.

MR. EVINS of Tennessee: . . . Mr. Speaker, I move the previous question and urge that you vote against the preferential motion. . . .

The previous question was ordered.

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Connecticut [Mr. Giaimo] that the House recede from its disagreement to Senate amendments No. 58 and No. 59, and concur therein.

MR. EVINS of Tennessee: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 156, nays 241, not voting 35. . . .

So the preferential motion was rejected. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from Tennessee [Mr. Evins] that the House insist upon its disagreement to the amendments of the Senate No. 58 and No. 59.

The motion was agreed to.

Precedence of Motions and Control of Debate When Stage of Disagreement Is Reached

§ 7.14 When the stage of disagreement is reached on a Senate amendment to a House amendment to a Senate amendment to a House bill, the motion to concur in the last Senate amendment takes precedence over a motion to disagree and request a conference, but the Member offering the preferential motion does not thereby gain control of the debate time which continues to be controlled by the manager of the bill and is divided between the majority and the minority.

The proceedings of Oct. 13, 1977,[20] when the House was considering a final amendment in disagreement to the bill H.R. 7555, the Labor and Health, Education, and Welfare appropriation bill, show that, even after the preferential motion to concur was pending, the debate time continued to be controlled by the manager who eventually moved the previous question on the privileged and the underlying motions.

APPOINTMENT OF CONFEREES ON H.R. 7555, LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1978

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health,

20. 123 CONG. REC. 33688, 33689, 33693, 95th Cong. 1st Sess.

Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, with a Senate amendment to the House amendment to Senate amendment numbered 82, disagree to the amendment of the Senate, and request a conference with the Senate on the disagreeing votes of the two Houses.

The Clerk read the title of the bill.

THE SPEAKER:[1] The Clerk will report the motion.

The Clerk read as follows:

MOTION OFFERED BY MR. FLOOD

Mr. Flood moves to take from the Speaker's table the bill H.R. 7555, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, with a Senate amendment to the House amendment to Senate amendment numbered 82, disagree to the amendment of the Senate, and request a conference with the Senate on the disagreeing votes of the two Houses.

PREFERENTIAL MOTION OFFERED BY MR. STEERS

MR. [NEWTON J.] STEERS [Jr., of Maryland]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Steers of Maryland moves that the House concur in the Senate Amendment to the House Amendment to the Senate Amendment No. 82.

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) is in control of the time, and the gentleman is recognized for 30 minutes.

PARLIAMENTARY INQUIRY

MR. [JOHN J.] RHODES [of Arizona]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RHODES: Mr. Speaker, since the gentleman from Maryland (Mr. Steers) made the motion which is being considered by the House, does the gentleman from Maryland not have control of the time?

THE SPEAKER: In response to the parliamentary inquiry, the preferential motion made by the gentleman from Maryland (Mr. Steers) does not take the time from the gentleman from Pennsylvania, the chairman of the committee, who previously had the time under his original motion. The motion was in order. The vote will come first on the preferential motion.

The Chair recognizes the gentleman from Pennsylvania (Mr. Flood). . . .

MR. FLOOD: Mr. Speaker, I move the previous question on the motion to disagree and on the preferential motion to concur.

The previous question was ordered.

The preferential motion was then rejected.

Relationship of Motions To Disagree, Recede and Concur, and Recede and Concur With Amendment

§ 7.15 A motion that the House insist on its disagreement

1. Thomas P. O'Neill, Jr. (Mass.).

to a Senate amendment remains pending during the consideration of preferential motions to recede and concur and to recede and concur with an amendment, and if the House refuses to recede (the preferential motion to recede and concur having been divided) the question recurs on the motion to insist on disagreement.

On July 7, 1943,[2] the House was considering amendments in disagreement to H.R. 2968, the second deficiency appropriations bill. Speaker Sam Rayburn, of Texas, recognized Mr. Clarence Cannon, of Missouri.

MR. CANNON of Missouri: Mr. Speaker, I move that the House further insist on its disagreement to the amendment of the Senate No. 33.

Mr. Eberharter and Mr. Taber rose.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, I offer a preferential motion.

MR. [JOHN] TABER [of New York]: Mr. Speaker, a member of the committee.

THE SPEAKER: For what purpose does the gentleman from New York rise?

MR. TABER: To offer a preferential motion, Mr. Speaker.

THE SPEAKER: The Chair will have both motions read and see which is more preferential.

The Clerk will report the motion of the gentleman from Pennsylvania [Mr. Eberharter].

The Clerk read as follows:

Mr. Eberharter moves to recede and concur in Senate amendment No. 33 to H.R. 2968.

THE SPEAKER: The Clerk will report the suggestion of the gentleman from New York [Mr. Taber].

The Clerk read as follows:

Mr. Taber moves to recede and concur with an amendment as follows: "In lieu of the matter inserted by the Senate insert the following:

" 'No part of any appropriation contained in this act shall be available to pay the salary of any person at the rate of $5,500 per annum or more, appointed after June 30, 1943, unless such person shall have been appointed by the President by and with the advice and consent of the Senate: *Provided*, That those appointed between June 30, 1943, and November 1, 1943, may hold office till the latter date unless sooner than that the Senate shall have refused to give its advice and consent as to any such appointee.' "

THE SPEAKER: The Chair is compelled to hold that the motion to recede and concur, at this stage, takes precedence over a motion to recede and concur with an amendment.

MR. TABER: Mr. Speaker, I ask for a division of the question.

THE SPEAKER: The gentleman from New York [Mr. Taber] demands a division of the question.

The question is: Will the House recede from its disagreement to the amendment of the Senate? . . .

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2. 89 CONG. REC. 7382–84, 78th Cong. 1st Sess.

The question was taken; and there were—yeas 170, nays 176, answering "present" none, not voting 84. . . .

So the motion to recede was not agreed to. . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The question is on the motion of the gentleman from Missouri.

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

THE SPEAKER: The gentleman will state it.

MR. EBERHARTER: As I understand the situation, the motion made by me contained two parts, the motion to recede and concur; and the gentleman from New York [Mr. Taber] asked for division of that question and the House just declared itself not to recede. The question, as I understand it, now before the House is whether it desires to recede and concur.

THE SPEAKER: The House cannot concur until it has receded, which it has just refused to do.

MR. EBERHARTER: I beg the Speaker's pardon. I thought the vote was that the House should recede.

THE SPEAKER: The question is on the motion of the gentleman from Missouri.

The motion was agreed to.

Motion To Adhere and Motion To Recede and Concur

§ 7.16 Where both the motion to adhere and the motion to recede and concur are pending, and a division of the latter motion is demanded, the vote comes first on the motion to recede.

On June 23, 1960,[3] the House was considering the amendments in disagreement to H.R. 10569, appropriations for the Treasury and Post Office departments. Speaker Pro Tempore Wilbur D. Mills, of Arkansas, recognized Mr. J. Vaughan Gary, of Virginia.

MR. GARY: Mr. Speaker, I send a motion to the desk.

The Clerk read as follows:

> Mr. Gary moves that the House adhere to its disagreement to the amendment of the Senate numbered 6.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hoffman of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein.

MR. GARY: Mr. Speaker, I ask for a division of the motion.

THE SPEAKER PRO TEMPORE: The gentleman may have a division of the motion. Does the gentleman wish to debate the motion?

MR. GARY: Yes.

After one hour of debate, controlled by Mr. Gary, the following occurred:

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3. 106 CONG. REC. 14074, 14081, 86th Cong. 2d Sess.

The previous question [on the motion to recede] was ordered.

MR. [JOHN] TABER [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[4] The gentleman will state it.

MR. TABER: Is not the parliamentary situation this: The gentleman from Michigan [Mr. Hoffman] has offered a motion to recede and concur. The gentleman from Virginia asked for a division of the question. The parliamentary situation is this: We first vote on the question of receding, and if that carries we can vote on the other part of the motion?

THE SPEAKER PRO TEMPORE: On the question of concurrence?

MR. TABER: Yes.

THE SPEAKER PRO TEMPORE: That is correct.

MR. TABER: If the motion to recede is not agreed to, then that is the end of it?

THE SPEAKER PRO TEMPORE: No. The vote then would be on the motion to adhere.

MR. TABER: To adhere, that is right.

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. GARY: Mr. Speaker, the question at the present time is on the motion offered by the gentleman from Michigan [Mr. Hoffman].

THE SPEAKER PRO TEMPORE: The question is, will the House recede from its disagreement with the Senate amendment. . . .

So the motion to recede was agreed to. . . .

4. Francis E. Walter (Pa.).

THE SPEAKER:[5] The question pending is, Shall the House concur in the Senate amendment?

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

Motion To Recede and Concur and Motion To Recede and Concur With an Amendment

§ 7.17 After the stage of disagreement is reached on an amendment between the Houses, a motion to recede from disagreement to a Senate amendment and concur takes precedence over a motion to recede and concur with an amendment.

On July 7, 1943,[6] the House was considering amendments in disagreement to H.R. 2968, the second deficiency appropriations bill. Mr. Clarence Cannon, of Missouri, moved that the House insist on its disagreement to the Senate amendment numbered 33.

Mr. Eberharter and Mr. Taber rose.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, I offer a preferential motion.

MR. [JOHN] TABER [of New York]: Mr. Speaker, a member of the committee.

5. Sam Rayburn (Tex.).

6. 89 CONG. REC. 7382–84, 78th Cong. 1st Sess.

THE SPEAKER:[7] For what purpose does the gentleman from New York rise?

MR. TABER: To offer a preferential motion, Mr. Speaker.

THE SPEAKER: The Chair will have both motions read and see which is more preferential.

The Clerk will report the motion of the gentleman from Pennsylvania [Mr. Eberharter].

The Clerk read as follows:

> Mr. Eberharter moves to recede and concur in Senate amendment No. 33 to H.R. 2968.

THE SPEAKER: The Clerk will report the suggestion of the gentleman from New York [Mr. Taber].

The Clerk read as follows:

> Mr. Taber moves to recede and concur with an amendment as follows: "In lieu of the matter inserted by the Senate insert the following:
>
> " 'No part of any appropriation contained in this act shall be available to pay the salary of any person at the rate of $5,500 per annum or more, appointed after June 30, 1943, unless such person shall have been appointed by the President by and with the advice and consent of the Senate: *Provided*, That those appointed between June 30, 1943, and November 1, 1943, may hold office till the latter date unless sooner than that the Senate shall have refused to give its advice and consent at to any such appointee.' "

THE SPEAKER: The Chair is compelled to hold that the motion to recede and concur, at this stage, takes precedence over a motion to recede and concur with an amendment.

7. Sam Rayburn (Tex.).

Divisibility of Motion To Recede and Concur

§ 7.18 After the stage of disagreement has been reached, a motion to recede and concur in a Senate amendment takes precedence over a motion to recede and concur with an amendment, but a motion to recede and concur being divisible, and the House having receded from its disagreement to a Senate amendment, a motion to concur with an amendment takes precedence over a motion to concur.

On July 18, 1947,[8] the House was considering the amendment in disagreement to H.R. 3601, agriculture appropriations for fiscal 1948. Mr. Clarence Cannon, of Missouri, offered the following motion:

> Mr. Cannon moves that the House recede and concur in Senate amendment No. 42. . . .
>
> The previous question was ordered.
>
> THE SPEAKER:[9] The question is on the motion of the gentleman from Missouri to recede and concur in the Senate amendment.

8. 93 CONG. REC. 9311, 9319, 9320, 80th Cong. 1st Sess.

9. Joseph W. Martin, Jr. (Mass.).

MR. [FRANCIS H.] CASE of South Dakota: Mr. Speaker, I ask for a division of the question.

THE SPEAKER: The question is, Will the House recede from its disagreement to the amendment of the Senate? . . .

MR. CASE of South Dakota: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. CASE of South Dakota: Mr. Speaker, if the motion to recede should carry, then it will be in order, will it not, for me to offer a motion to concur with an amendment?

THE SPEAKER: It would be in order.

The question was taken; and there were—yeas 204, nays 187, not voting 39. . . .

So the motion was agreed to. . . .

MR. CASE of South Dakota: Mr. Speaker, I offer a preferential motion to concur with an amendment.[10]

§ 7.19 A motion to recede from disagreement to a Senate amendment and concur therein being divided and the House having receded, a motion to concur with an amendment takes precedence of a motion to concur; and if the motion to concur with an amendment is rejected the question recurs on the underlying motion to concur in such Senate amendment.

On July 18, 1947,[11] the House was considering amendments in disagreement to H.R. 3601, agriculture appropriations for fiscal 1948. Mr. Clarence Cannon, of Missouri, moved that the House recede and concur in Senate amendment No. 42.

THE SPEAKER:[12] The question is on the motion of the gentleman from Missouri to recede and concur in the Senate amendment.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Speaker, I ask for a division of the question.

THE SPEAKER: The question is, Will the House recede from its disagreement to the amendment of the Senate? . . .

MR. CASE of South Dakota: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. CASE of South Dakota: Mr. Speaker, if the motion to recede should carry, then it will be in order, will it not, for me to offer a motion to concur with an amendment?

THE SPEAKER: It would be in order.

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10. See also 118 CONG. REC. 23718, 23725, 92d Cong. 2d Sess., June 30, 1972; 89 CONG. REC. 5899, 5900, 78th Cong. 1st Sess., June 15, 1943; 86 CONG. REC. 5892, 76th Cong. 3d Sess., May 9, 1940; and 81 CONG. REC. 971, 75th Cong. 1st Sess., Feb. 8, 1937.

11. 93 CONG. REC. 9319, 9320, 80th Cong. 1st Sess.

12. Joseph W. Martin, Jr. (Mass.).

The question was taken; and there were—yeas 204, nays 187, not voting 39. . . .

So the motion was agreed to. . . .

MR. CASE of South Dakota: Mr. Speaker, I offer a preferential motion to concur with an amendment. . . .

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

THE SPEAKER: The gentleman will state it.

MR. CANNON: If the motion of the gentleman is voted down, would the vote then recur on the motion to concur in the Senate amendment?

THE SPEAKER: It would.

Amending Motion To Dispose of Senate Amendment in Disagreement

§ 7.20 The Member calling up a conference report with amendments in disagreement controls the floor on motions to dispose of each amendment in disagreement; and although the hour of debate on each such motion is divided and controlled by the manager and a representative from the minority party, an amendment to a pending motion may be offered only in time yielded by the manager for that purpose or if the previous question is voted down.

On Aug. 2, 1977,[13] during consideration of the Labor and Health, Education, and Welfare appropriation bill for fiscal 1978, when an amendment in disagreement was pending, the Minority Leader, Mr. Robert H. Michel, of Illinois, was controlling the 30 minutes time in opposition. He yielded, without restriction, to Mrs. Millicent Fenwick, of New Jersey, who attempted to offer an amendment. The proceedings were as carried here.

MR. MICHEL: Mr. Speaker, before yielding a minute to my friend, the gentlewoman from New Jersey (Mrs. Fenwick), may I make this observation that if the gentleman from Washington (Mr. Pritchard), considers that he is being foreclosed from voting on the position of the Senate, let it be clear and understandable that the next vote is really one of either accepting the position of the House or the position of the Senate. If the position of the House prevails, as with the amendment of the chairman of the committee, the gentleman from Pennsylvania (Mr. Flood), that, in my opinion, is a clear expression of this House that we turned down the position of the Senate in favor of the position of the House.

I now yield 1 minute to the gentlewoman from New Jersey (Mrs. Fenwick).

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13. 123 CONG. REC. 26209, 95th Cong. 1st Sess.

MRS. FENWICK: Mr. Speaker, I thank my friend, the gentleman from Illinois (Mr. Michel), for yielding to me.

Mr. Speaker, I have an amendment at the desk.

THE SPEAKER PRO TEMPORE:[14] Does the gentleman from Pennsylvania, Mr. Flood, yield for an amendment?

MR. [DANIEL J.] FLOOD [of Pennsylvania]: I do not yield for the purpose of offering amendments, only for the purpose of debate.

MRS. FENWICK: The gentleman from Pennsylvania (Mr. Flood), did not yield to me, the gentleman from Illinois (Mr. Michel), yielded to me.

MR. MICHEL: Mr. Speaker, I did not yield to the gentlewoman from New Jersey (Mrs. Fenwick) for the purpose of offering an amendment.

PARLIAMENTARY INQUIRY

MRS. FENWICK: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[15] The gentlewoman from New Jersey will state her parliamentary inquiry.

MRS. FENWICK: Mr. Speaker, it is my understanding of the parliamentary procedure that unless we are yielded to for the purpose of debate only, and for which I was not yielded, that then one can offer an amendment.

THE SPEAKER PRO TEMPORE: The Chair will rule that the gentlewoman from New Jersey was recognized for the purpose of debate only.

MRS. FENWICK: That is not what the gentleman from Illinois (Mr. Michel) said when he yielded to me.

THE SPEAKER PRO TEMPORE: The Chair will state that the gentleman had to yield for the purpose of debate only, he did not have any authority under clause 2(b)(2) rule XXVIII to yield other than for the purpose of debate.

Effect on Pending Motions of Refusal To Recede

§ 7.21 After the stage of disagreement is reached and there are pending two motions—one to recede and concur in a Senate amendment with an amendment and the other a preferential motion to recede and concur—if the House refuses to recede when the motion to recede and concur is divided, both the above motions fall and a demand for a division of the motion to recede and concur with an amendment is not in order.

On Dec. 16, 1943,[16] the House was considering amendments in disagreement to H.R. 3598, the first supplemental national defense appropriation bill. The following occurred:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House

14. John Brademas (Ind.).
15. Sam Gibbons (Fla.).
16. 89 CONG. REC. 10777–79, 78th Cong. 1st Sess.

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:[17] 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. [COMPTON I.] WHITE [of Idaho]: Mr. Speaker, I make a preferential motion, which I send to the desk.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

> Mr. White moves that the House recede from its disagreement to Senate amendment No. 49 and concur in the same. . . .

MR. CANNON of Missouri: Mr. Speaker, I ask for a division of the question, and I ask that we vote immediately on the question of receding.

THE SPEAKER: The question is, Will the House recede from its disagreement with the Senate amendment? . . .

The question was taken; and on a division (demanded by Mr. Cannon of Missouri) there were ayes 40 and noes 48.

So the motion to recede was rejected.

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Speaker, I ask for a division of the motion of the gentleman from Missouri.

THE SPEAKER: The House has refused to recede.

MR. CANNON of Missouri: Mr. Speaker, I move to further insist.

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

THE SPEAKER: The gentleman will state it.

MR. CASE: The first question for division was a division on the amendment offered by the gentleman from Idaho [Mr. White]. The House has refused to recede on the division of that motion. Then it seems to me that the question recurs on the motion offered by the gentleman from Missouri [Mr. Cannon] to recede and concur with an amendment. On that motion I ask for a division.

THE SPEAKER: The gentleman asks for a division of the question. The House has already refused to recede. Therefore, it would be rather anomalous if we had a division of the motion of the gentleman from Missouri, and voted again on the question of receding.

MR. CANNON of Missouri: Mr. Speaker, I insist on my motion that the House insist on its disagreement to the Senate amendment.

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

THE SPEAKER: The gentleman will state it.

MR. CASE: Since the motion which was offered by the gentleman from Idaho [Mr. White] was a preferential motion as against the motion offered by the gentleman from Missouri [Mr. Cannon], I question whether or not the gentleman can then move to insist. The vote, it seems to me, must recur on the

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17. Sam Rayburn (Tex.).

motion previously pending, which was the motion of the gentleman from Missouri to recede and concur with an amendment. A division of the question is entirely different when two different propositions are before the House. The House has refused to recede on the dividing of the question offered by the gentleman from Idaho, but has not refused to recede on dividing the question offered by the gentleman from Missouri in his original motion.

THE SPEAKER: The gentleman from Missouri [Mr. Cannon] has moved to insist on disagreement to the Senate amendment. The Chair believes there is nothing to do at this time but to put the gentleman's motion.

The question is on the motion offered by the gentleman from Missouri, that the House insist on its disagreement.

MR. CANNON of Missouri: Mr. Speaker, may I say with regard to that, there appears to have been a misunderstanding on the part of certain Members. I think we should take this back to conference.

THE SPEAKER: The question is on the motion of the gentleman from Missouri, to insist on the disagreement of the House to the Senate amendment. . . .

MR. [CLINTON P.] ANDERSON of New Mexico: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ANDERSON of New Mexico: Did the gentleman from Missouri withdraw his motion to recede and concur with an amendment?

THE SPEAKER: He did not; it was not necessary. Because of the fact that a motion to recede had been voted down, a second motion to recede was not in order.

MR. [JOHN] TABER [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. TABER: The motion to recede and concur with an amendment having been displaced by a motion to recede and concur, and this motion having been divided so that we voted on the motion to recede alone, the only motion that could possibly be made would be the one the gentleman from Missouri did make, that the House further insist; is that correct?

THE SPEAKER: The Chair has so stated.

Where Senate Amendment Is Laid on the Table, Effect on Bill

§ 7.22 Where a conference report is rejected, and the manager moves to insist on its disagreement, a motion to lay the Senate amendment on the table is preferential and if adopted, carries the amendment and the bill to the table.

When the second conference report on the Federal Trade Commission Amendments of 1978 (H.R. 3816) was called up on Sept. 28, 1978,[18] the previous question

18. The first conference report, submitted in the House on Feb. 22, 1978,

was ordered but on the question of the adoption of the report, the noes prevailed, 214 to 175.

The manager's motion that the House insist on its disagreement was then preempted by a motion to lay the Senate amendment on the table. Proceedings were as indicated below.[19]

THE SPEAKER PRO TEMPORE: The question is on the conference report.

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

After a record vote, the motion to reconsider was laid on the table.

MOTION OFFERED BY MR. ECKHARDT

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

The Clerk read as follows:

Mr. Eckhardt moves that the House insist on its disagreement to the Senate amendment.

PREFERENTIAL MOTION OFFERED BY MR. BROYHILL

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Broyhill moves to lay on the table the amendment of the Senate to the bill, H.R. 3816.

THE SPEAKER:[20] The question is on the preferential motion to lay on the table offered by the gentleman from North Carolina (Mr. Broyhill).

The preferential motion to table was agreed to.

A motion to reconsider was laid on the table.

So the Senate amendment and the bill H.R. 3816 were laid on the table.

Motion To Table and Motion To Recommit (Refer)

§ 7.23 A motion that a Senate amendment be laid on the table is of higher privilege than a motion to recommit (refer) the amendment to a committee.

On June 17, 1936,[1] the House was considering Senate amendments in disagreement to H.R. 11663, a bill to regulate lobbying. Speaker William B. Bankhead, of Alabama, recognized Mr. Earl C. Michener, of Michigan.

MR. MICHENER: Mr. Speaker, I move that the Senate amendment be laid on the table.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I offer a preferential motion, that the conference report

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was rejected by the House on Feb. 28, 1978; when the second report was agreed to by the Senate but defeated in the House, the motion to table was offered and agreed to.

19. 124 CONG. REC. 32334, 32335, 95th Cong. 2d Sess.

20. Thomas P. O'Neill, Jr. (Mass.).

1. 80 CONG. REC. 9753, 74th Cong. 2d Sess.

and the Senate amendment be recommitted to the Committee on the Judiciary.

MR. MICHENER: Mr. Speaker, my understanding of the rule is that the motion suggested by the gentleman from New York is not preferential.

THE SPEAKER: The Chair is of opinion that the motion made by the gentleman from Michigan has priority. The question is on the motion of the gentleman from Michigan to lay the Senate amendment on the table.

The motion was agreed to.

Parliamentarian's Note: The effect of the motion to table the amendment was to table the bill also.

Amendment to Provision Following Its Adoption

§ 7.24 It is not in order in the House to recede from or insist on a House amendment with an amendment since the House may not amend a provision that it has already adopted.

On Feb. 1, 1937,[2] the House was considering a Senate amendment to House Joint Resolution 81, creating a Joint Committee on Government Organization. The following occurred:

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, will the gentleman from New York yield to me to submit an amendment to be read by the Clerk?

MR. [JOHN J.] O'CONNOR of New York: Just for information; yes.

MR. RANKIN: Mr. Speaker, I send an amendment to the Clerk's desk to be read for the information of the House.

The Clerk read as follows:

> Mr. Rankin offers the following amendment to the Senate amendment: After the word "nine" insert "and"; on page 1, line 9 [of the House text], strike out the word "seven" and insert the word "nine".

MR. RANKIN: That gives nine Members of the House and nine Members of the Senate.

MR. O'CONNOR of New York: A parliamentary inquiry, Mr. Speaker.

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

MR. O'CONNOR of New York: If I yield the floor to permit an amendment, will it be in order under the rule—I have some doubt about it?

THE SPEAKER: In reply to the inquiry made by the gentleman from New York, the Chair desires to call the attention of the gentleman and the attention of the House to the following rule.

Section 526 of Jefferson's Manual reads:

> But the House cannot recede from or insist on its own amendment with an amendment, for the same reason that it cannot send to the other House an amendment to its own act after it has passed the Act.

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2. 81 CONG. REC. 646–48, 75th Cong. 1st Sess.

3. William B. Bankhead (Ala.).

Under that rule it seems to the Chair that the House having acted on the matter and the Senate having accepted that language, it would not be open for the amendment offered by the gentleman from Mississippi.

MR. RANKIN: We have a right to accept the Senate amendment with an amendment. We are not attempting to amend the House bill.

THE SPEAKER: The gentleman's amendment is to the text of the House bill. . . .

MR. RANKIN: Mr. Speaker, a parliamentary inquiry. My amendment states:

> I offer the following amendment to the Senate amendment.

I am not trying to amend what the House has done. It is specifically written that it is an amendment to the Senate amendment.

THE SPEAKER: The gentleman is not confining himself in his amendment to the Senate amendment, which deals only with the number of Senators on the joint committee; but he goes further down in the paragraph and adds additional matter to the text, to which both Houses have already agreed.

MR. RANKIN: All I do is to offer an amendment to the Senate amendment, not striking out their number but adding to ours, making them equal. I submit that under the rules of the House I have a right to offer an amendment to the Senate amendment.

THE SPEAKER: But the amendment offered by the gentleman must deal with the matter the Senate amendment deals with, as shown by the resolution. The Chair makes the further statement that the Chair has no disposition whatever to prevent the House from expressing itself upon the attitude assumed by the gentleman from Mississippi, but when the Chair is called upon to make a parliamentary decision, he is bound, of course, to conform with the rules and precedents of the House.

Debating Both Parts of Divided Motion To Recede and Concur

§ 7.25 When the question is divided on a motion to recede and concur, and the House debates the question of whether to recede under the hour rule and does not order the previous question on either motion of the divided question, then the second motion (to concur, or the preferential motion to concur with amendment, if offered) is separately debatable for one hour.

Where a motion to dispose of an amendment in disagreement is pending, a Member offering a preferential motion does not ordinarily control time thereon, as all debate is allocated on the original motion. But where an original motion is divided, it in effect becomes two motions, each subject to debate under the hour rule, subject to the divided allocations

prescribed in Rule XXVIII clause 2(b)(2).[4] Often, the question on receding is put without debate so the House can get quickly to the next step: a preferential motion or the other half of the divided question.

The proceedings of Nov. 14, 1989,[5] included debate on both the motion to recede and the preferential motion to concur with an amendment.

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

The text of the amendment is as follows:

Senate amendment No. 17: Page 11, line 25, after "zation" insert ": *Provided further*, That notwithstanding the previous proviso, not less than $15,000,000 of the funds appropriated under this heading shall be made available only for the United Nations Population Fund: *Provided further*, That the United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further*, That none of the funds made available under this heading for the United Nations Population Fund shall be made available for programs for the People's Republic of China".

MOTION OFFERED BY MR. OBEY

MR. [DAVID R.] OBEY [of Wisconsin]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Obey moves that the House recede from its disagreement to the amendment of the Senate numbered 17, and concur therein. . . .

MR. [VIN] WEBER [of Minnesota]: Mr. Speaker, I demand that the question be divided.

THE SPEAKER PRO TEMPORE: The question will be divided.

The gentleman from Wisconsin [Mr. Obey] will be recognized for 30 minutes, and the gentleman from Oklahoma [Mr. Edwards] will be recognized for 30 minutes.

MR. [MICKEY] EDWARDS of Oklahoma: Mr. Speaker, I ask unanimous consent that the 30 minutes allotted to me may be controlled by the gentleman from New Jersey [Mr. Smith].

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

There was no objection.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey [Mr. Smith] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. Obey]. . . .

MR. [WILLIAM] LEHMAN of Florida: Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

THE SPEAKER PRO TEMPORE:[7] The question is, will the House recede from

4. *House Rules and Manual* § 912(c) (1997).
5. See 135 CONG. REC. 28754, 28766, 101st Cong. 1st Sess.
6. Sander M. Levin (Mich.).
7. Frank McCloskey (Ind.).

its disagreement to the amendment of the Senate numbered 17?

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

PREFERENTIAL MOTION OFFERED BY MR. SMITH OF NEW JERSEY

MR. [CHRISTOPHER H.] SMITH of New Jersey: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Smith of New Jersey moves to concur with the Senate amendment (number 17) with an amendment, as follows: at the end of Senate amendment 17, insert:
>
> *Provided further*, That notwithstanding the previous provisos, no funds under this heading shall be made available to the United Nations Population Fund unless the President of the United States certifies that the United Nations Population Fund does not provide support for, or participate in the management of, a program of coercive abortion or involuntary sterilization in the People's Republic of China.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey [Mr. Smith] will be recognized for 30 minutes, and the gentleman from New York [Mr. McHugh] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Smith].

Motion To Lay on the Table a Motion To Dispose of a Senate Amendment

§ 7.26 Where conferees on a particular Senate amendment in disagreement develop compromise language to settle the dispute between the two Houses which is "legislative language" to which the House managers cannot agree (under Rule XX clause 2) without specific permission of the House, the matter is often brought back in "technical disagreement; enabling the House to recede and concur in the amendment in disagreement with an amendment which contains "legislative" language and is germane to the Senate amendment.

On May 16, 1978,[8] when a Senate amendment in disagreement to H.R. 9005, making appropriations for the District of Columbia, fiscal 1978, was considered in the House, the proceedings were as follows:

> THE SPEAKER PRO TEMPORE:[9] The Clerk will report the next amendment in disagreement.
>
> The Clerk read as follows:
>
> Senate amendment No. 37: Page 13, line 14, strike out: "$168,757,900" and insert "$102,173,400".

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8. 124 CONG. REC. 13921–23, 95th Cong. 2d Sess.
9. Thomas S. Foley (Wash.).

MOTION OFFERED BY MR. NATCHER

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Natcher 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 sum named in said amendment, insert: "$129,173,400: *Provided,* That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic Center".

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Bauman moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein.

MR. NATCHER: Mr. Speaker, I demand that the question be divided.

THE SPEAKER PRO TEMPORE: The question will be divided.

Does the gentleman from Kentucky (Mr. Natcher) seek time?

MR. BAUMAN: Mr. Speaker, I wonder if the gentleman would take some time briefly. I do not want to prolong this debate.

THE SPEAKER PRO TEMPORE: The gentleman from Kentucky (Mr. Natcher) is recognized for 30 minutes. . . .

MR. NATCHER: Mr. Speaker, I move the previous question on the motion to recede.

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the motion to recede.

There was no objection.

THE SPEAKER PRO TEMPORE: The question is, Will the House recede from its disagreement to Senate amendment No. 37.

The House receded from its disagreement to Senate amendment No. 37.

PREFERENTIAL MOTION OFFERED BY MR. NATCHER

MR. NATCHER: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Natcher moves that the House concur in the amendment of the Senate numbered 37 with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$129,173,400: *Provided,* That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic Center".

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

MR. BAUMAN: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Bauman moves to table the motion to concur in the amendment of the Senate numbered 37, with an amendment.

THE SPEAKER PRO TEMPORE: The question is on the preferential motion offered by the gentleman from Maryland (Mr. Bauman).

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

MR. BAUMAN: 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 190, nays 199, answered "present" 1, not voting 44. . . .

So the preferential motion to table was rejected.

The result of the vote was announced as above recorded.

MR. NATCHER: Mr. Speaker, I move the previous question on the motion now pending.

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the preferential motion offered by the gentleman from Kentucky (Mr. Natcher) to concur in the Senate amendment No. 37, with an amendment.

The question is on the preferential motion offered by the gentleman from Kentucky (Mr. Natcher).

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

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 199, nays 183, answered "present" 1, not voting 51.

Parliamentarian's Note: The motion to table a motion disposing of an amendment in disagreement does not carry with it the amendment and the bill itself, since if the motion is tabled other motions remain available for disposition of the amendment, whereas the tabling of a Senate amendment itself has the effect of carrying to the table the House bill as well.(10)

Tabling Motion To Dispose of Amendment in Disagreement

§ 7.27 A privileged motion to dispose of a Senate amendment in disagreement is subject to the motion to table; and the latter motion takes precedence over the motion for the previous question.

The application of the motion to lay on the table a motion to dispose of an amendment in disagreement is rare. There are few precedents but the principle is now established that adoption of such a motion does not carry the underlying matter with it. The use

10. Note distinction between § 7.26 and § 7.22 and § 7.23, supra.

of the motion here, excerpted from the *Congressional Record* of Feb. 22, 1978,[11] is illustrative of the modern practice.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move the previous question on the motion to recede and concur.

PREFERENTIAL MOTION OFFERED BY MR. LLOYD OF CALIFORNIA

MR. [JIM] LLOYD of California: Mr. Speaker, I offer a preferential motion that the motion of the gentleman from Texas (Mr. Mahon) to recede and concur be laid upon the table.

PARLIAMENTARY INQUIRY

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

THE SPEAKER PRO TEMPORE:[12] The gentleman will state it.

MR. MAHON: If the motion to table is defeated, then the next order of business would be a vote on my motion to recede and concur in the Senate amendment?

THE SPEAKER PRO TEMPORE: The next vote would be on ordering the previous question which the gentleman from Texas has moved, and then on the motion of the gentleman from Texas to recede and concur.

MR. MAHON: That is, if the motion to table is defeated?

THE SPEAKER PRO TEMPORE: If the motion is defeated.

PARLIAMENTARY INQUIRY

MR. LLOYD of California: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. LLOYD of California: If my motion should be defeated, would there be an opportunity to amend?

THE SPEAKER PRO TEMPORE: If the motion to table is defeated and the previous question is ordered, the answer is no on the pending motion.

MR. LLOYD of California: I thank the Speaker.

THE SPEAKER PRO TEMPORE: The question is on the preferential motion to lay on the table offered by the gentleman from California (Mr. Lloyd).

The question was taken.

MR. LLOYD of California: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. . . .

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

§ 8. Recognition To Offer Motions; Control of the Floor

Motions in the House to dispose of Senate amendments were traditionally debated under the hour rule, with the proponent of the motion controlling the time and yielding to others for debate.

11. 124 CONG. REC. 4072, 4073, 95th Cong. 2d Sess.
12. Charles A. Vanik (Ohio).

Amendments to House rules resulting from the adoption of the Legislative Reorganization Act of 1970 added the concept of dividing debate time on a conference report or on an amendment reported therefrom in disagreement between the majority and minority parties.[13] In the 92d Congress, Rule XXVIII clause 2(b)(1) was amended to provide for a division of the debate time on a motion to dispose of a Senate amendment reported in disagreement from conference.[14] The hour is now divided between the majority and the minority parties, in effect between the manager of the conference report and the ranking conferee on the minority side. In the 99th Congress, the division of debate time was again changed in those situations where the managers for the majority and the minority support the motion offered to dispose of a Senate amendment in disagreement. In that case, a person opposed to that motion may claim one-third of the hour.[15]

Under practices that have evolved since the adoption of the changes noted above, most motions to dispose of amendments between the Houses are now controlled and debated according to the strictures of Rule XXVIII. This rule also provides for the availability of copies of Senate amendments reported in disagreement, as well as copies of the conference report and the statement of managers.[16]

Control of Time—Division of Time

§ 8.1 When amendments in disagreement are considered in the House after disposition of the conference report, each amendment is debatable for one hour, equally divided between the majority and minority parties, and this division of time is not disturbed by the offering of a preferential motion.

The rule dividing time on an amendment in disagreement[17] was first adopted in the 92d Con-

13. See H. Res. 5, 117 CONG. REC. 144, 92d Cong. 1st Sess., Jan. 22, 1971.
14. H. Res. 1153, adopted Oct. 13, 1972, 118 CONG. REC. 36023, 92d Cong. 2d Sess.
15. H. Res. 7, 131 CONG. REC. 393, 99th Cong. 1st Sess., Jan. 3, 1985.
16. See §§ 8.24, 8.25, infra.
17. Rule XXVIII clause 2(b)(1), *House Rules and Manual* § 912b (1997).

gress.[18] It was later amended, in the 99th Congress,[19] to provide for a three-way division of time if the majority and minority floor leaders on the conference report both support the offered motion.

In the 94th Congress, a controversial Senate amendment was reported in disagreement from the conference dealing with the bill H.R. 8069, the Department of Health, Education, and Welfare and related agencies appropriation bill for fiscal year 1976. The original motion to dispose of the Senate amendment, offered by the majority floor manager of the report, was to recede from disagreement and concur with a further amendment. Immediately after the motion of Mr. Daniel J. Flood, of Pennsylvania, was read, Mr. Robert E. Bauman, of Maryland, offered a preferential motion to recede and concur. The Chair[20] explained that the offering of this preferential motion did not deprive Mr. Flood of the floor. When the minority floor leader yielded part of his debate time to Mr. Bauman, the latter spoke briefly and then attempted to move the previous question, but the Chair declined to entertain the motion since it would cut off the time allocated to the managers under Rule XXVIII clause 2(b)(1). After debate, the question on receding and concurring was divided, the House receded from disagreement, rejected a motion to concur with an amendment, and eventually concurred in the Senate amendment.[1]

MR. BAUMAN: Mr. Speaker, I believe the gentleman from Pennsylvania (Mr. Flood) has offered or will offer a motion, and I have a preferential motion at the desk.

THE SPEAKER: The Clerk will first report the motion offered by the gentleman from Pennsylvania (Mr. Flood).

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the

18. See H. Res. 1153 (118 CONG. REC. 36013–23, 92d Cong. 2d Sess., Oct. 13, 1972).

19. See H. Res. 7 (131 CONG. REC. 393–413, 99th Cong. 1st Sess., Jan. 3, 1985).

20. Carl Albert (Okla.).

1. 121 CONG. REC. 38714, 38716–19, 94th Cong. 1st Sess., Dec. 4, 1975.

transportation of any student to a school other than the school which is nearest or next nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

MR. BAUMAN: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Bauman moves that the House recede from its disagreement to Senate amendment No. 72 and concur therein.

THE SPEAKER: The Chair recognizes the gentleman from Pennsylvania (Mr. Flood).

MR. BAUMAN: Mr. Speaker, may I inquire, who has the right to the time under the motion?

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) has 30 minutes, and the gentleman from Illinois (Mr. Michel) has 30 minutes. The time is controlled by the committee leadership on each side, and they are not taken from the floor by a preferential motion. . . .

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. Bauman). . . .

MR. BAUMAN: The gentleman from Maryland has made his case and if the gentleman would like to concur in the stand taken by the majority party in favor of busing he can do that. I do not concur.

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

MR. FLOOD: Mr. Speaker, I demand the question be divided.

MR. BAUMAN: Mr. Speaker, I move the previous question.

THE SPEAKER: The gentleman from Pennsylvania has the floor and the Chair is trying to let the gentleman be heard.

MR. FLOOD: Mr. Speaker, I demand a division.

MR. BAUMAN: Mr. Speaker, I have not yielded. My time has not expired.

THE SPEAKER: The gentleman has time for debate only.

MR. BAUMAN: No; Mr. Speaker, it was not yielded for debate only.

THE SPEAKER: The gentleman from Maryland has 15 seconds.

MR. BAUMAN: Mr. Speaker, I move the previous question.

THE SPEAKER: The gentleman was yielded to for debate only. The gentleman from Illinois had no authority under clause 2, rule XXVIII to yield for any other purpose but debate.

MR. BAUMAN: Mr. Speaker, I was yielded to. There was no limitation on for what purpose.

THE SPEAKER: The gentleman was yielded 5 minutes. He can use it for debate only. The gentleman's time has expired.

The Chair recognizes the gentleman from Pennsylvania.

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

MR. MICHEL: A point of order, Mr. Speaker.

THE SPEAKER: The gentleman will state it.

POINT OF ORDER

MR. MICHEL: Mr. Speaker, the gentleman from Illinois was given to un-

derstand that the time was to be divided equally. There was no indication on the part of the gentleman from Illinois that he had concluded giving what time he wanted to allocate to Members for general debate.

The gentleman from Illinois still has a request pending.

THE SPEAKER: The gentleman has 30 minutes for debate only. He can yield more time.

MR. MICHEL: I am still entitled, if I understand it, to the balance of the time to which I have been originally allocated. The gentleman from Illinois has 17 minutes remaining.

THE SPEAKER: That is correct, but the question has been divided.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. BAUMAN: Mr. Speaker, when must a request for division be made?

THE SPEAKER: Any time the motion is pending and before the question is put the question may be divided, and it is already divided.

MR. FLOOD: Mr. Speaker, if the question has been divided, then I have a preferential motion.

THE SPEAKER: The gentleman from Illinois has 15 minutes remaining, and the gentleman's motion may come later.

MR. MICHEL: Mr. Speaker, I yield myself such time as I may require, and yield to the gentleman from Massachusetts (Mr. Conte). . . .

MR. MICHEL: Mr. Speaker, I have no further requests for time.

MR. FLOOD: Mr. Speaker, I have no further requests for time.

THE SPEAKER: The question is, Will the House recede from its disagreement to the amendment of the Senate No. 72?

The House receded from its disagreement to Senate amendment No. 72.

PREFERENTIAL MOTION OFFERED BY MR. FLOOD

MR. FLOOD: Mr. Speaker, I offer a preferential motion.

The Clerk read the preferential motion as follows:

> Mr. Flood moves that the House concur in the amendment of the Senate numbered 72 with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:
>
> "SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest or next nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

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

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

MR. BAUMAN: 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 vote was taken by electronic device, and there were—yeas 133, nays 259, answered "present" 15, not voting 27. . . .

So the preferential motion to the Senate amendment numbered 72 was rejected.

The result of the vote was announced as above recorded.

THE SPEAKER: The question is, Will the House concur in the Senate amendment?

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

RECORDED VOTE

MR. [JOHN F.] SEIBERLING [of Ohio]: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 146, answered "present" 1, not voting 27. . . .

So the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

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

Member Handling Conference Report

§ 8.2 Where amendments in disagreement are being considered seriatim following adoption of a conference report, the Chair recognizes the Member handling the report to offer motions to dispose of the amendments; and while a motion so offered may be displaced by a preferential motion, the Member offering the preferential motion does not thereby gain control of time for debate.

If the question on the preferential motion to recede and concur is divided on demand and the House recedes from disagreement, the Member handling the conference report having offered an initial motion to insist on disagreement has been recognized to offer another motion to concur with an amendment preferential to the pending motion to concur, since that Member's original motion to insist has been displaced (although not directly rejected so as to deprive him the floor for subsequent recognition) and he would not be offering two motions pending at the same time.

On June 25, 1973,[2] the House was considering amendments reported back from conference in disagreement on H.R. 7447, supplemental appropriations for fiscal 1973. Speaker Carl Albert, of Oklahoma, then recognized George

2. 119 CONG. REC. 21171–73, 21179, 21180, 93d Cong. 1st Sess.

H. Mahon, of Texas, Chairman of the Committee on Appropriations.

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

The Clerk read as follows:

> Mr. Mahon moves that the House insist on its disagreement to the amendment of the Senate numbered 83.

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Giaimo moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein.

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

THE SPEAKER: The question is, shall the House recede from its disagreement to the amendment of the Senate numbered 83?

The Chair recognizes the gentleman from Texas (Mr. Mahon).

MR. MAHON: Mr. Speaker, I moved that the House insist on its position banning all funds in the bill for combat activity in Cambodia. . . .

MR. GERALD R FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

MR. MAHON: Mr. Speaker, I will withhold my moving of the previous question until the gentleman from Michigan, the minority leader, states his parliamentary inquiry.

THE SPEAKER: The gentleman from Michigan will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Speaker, my parliamentary inquiry is this: Am I correct, Mr. Speaker, that a "no" vote on the motion offered by the gentleman from Texas (Mr. Mahon) to recede would uphold the House position on the supplemental?

The motion offered by the gentleman from Connecticut (Mr. Giaimo) was to recede and concur, but the Chairman, the gentleman from Texas (Mr. Mahon) divided the question, and the vote is on a motion to recede. Therefore a "no" vote on the motion to recede would uphold the position of the House?

THE SPEAKER: The Chair can state that if the "no" vote prevails, the next vote would be on the motion to insist on the House's position. . . .

MR. MAHON: Mr. Speaker, we have been over this ground. Various Members on both sides of the aisle have expressed their views today and on previous days and in previous weeks and months.

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

The previous question was ordered.

THE SPEAKER: The question is: Will the House recede from its disagreement to Senate amendment numbered 83?

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

MR. GIAIMO: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 172, present 1, not voting 25, as follows: . . .

So the preferential motion was agreed to. . . .

MR. MAHON: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Mahon moves that the House concur with the amendment of the Senate numbered 83 with an amendment, as follows: In lieu of the matter inserted, insert the following:

"SEC. 305. After September 1, 1973, none of the funds herein appropriated under this Act or heretofore appropriated under any other Act may be expended to support directly or indirectly combat activities in, over or from off the shores of Cambodia or in or over Laos by United States forces."

MR. MAHON: Mr. Speaker, this preferential motion is slightly different from the Senate language. The amendment reads:

SEC. 305. After September 1, 1973 none of the funds herein appropriated under this Act or heretofore appropriated under any other Act may be expended to support directly or indirectly combat activities, in, over, or from off the shores of Cambodia or in or over Laos by United States forces. . . .

MR. MAHON: Mr. Speaker, I move the previous question on the motion to concur with an amendment.

MR. FRANK E. EVANS of Colorado. Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Has the previous question been moved?

MR. MAHON: Mr. Speaker, I have moved the previous question.

THE SPEAKER: The previous question has been moved on the motion. Until that has been disposed of, the Chair is without power to recognize any Member for any other purpose.

The question is on ordering the previous question.

The previous question was ordered.

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Texas.

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

MR. EVANS of Colorado. Mr. Speaker, a parliamentary inquiry.

MR. GERALD R. FORD: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair is not going to allow any further interruptions.

MR. GERALD R. FORD: Mr. Speaker, a parliamentary inquiry. Was that a vote on the previous question?

THE SPEAKER: The question was on the motion.

MR. GERALD R. FORD: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nayswere ordered.

The vote was taken by electronic device, and there were—yeas 204, nays 204, present 1, not voting 24, as follows: . . .

So the preferential motion was rejected. . . .

THE SPEAKER: The question is on the motion to concur offered by the gentleman from Connecticut (Mr. Giaimo).

The motion was agreed to.

Parliamentarian's Note: While the manager of a conference report is entitled to prior recognition to offer motions to dispose of amendments in disagreement, he should not be entitled to offer two motions, one preferential to the other, to be pending at the same time. However, where his first motion to insist on disagreement has been superseded by the

House's voting to recede from disagreement, then his initial motion is no longer pending and he may be recognized to offer another motion to concur with an amendment which would be preferential to the remaining portion of another Member's divided motion to concur. This is to be contrasted with the situation where the bill manager offers a motion to dispose of a Senate amendment which is rejected by the House. As illustrated on Aug. 6, 1993 (*Manual* § 954) in that case recognition to offer a subsequent motion to dispose of the pending Senate amendment shifts to another Member who led the opposition to the rejected motion.

Withdrawal of Motions in House

§ 8.3 A motion to recede and concur with an amendment in a Senate amendment in disagreement may be withdrawn before action is taken thereon, and the proponent has the right to change the amendment included in the motion and offer it again in its modified form.

When the final amendment in disagreement to H.R. 5021, the Commerce, State, Justice appropriation bill for fiscal 1991, was reported, the manager, Neal Smith, of Iowa, offered a motion to recede from disagreement and concur in the Senate amendment with a further amendment. Time was divided three ways, with Mr. Lawrence J. Smith, of Florida, claiming time in opposition. A preferential motion to recede and concur was then offered by Mr. Smith of Florida. A division of the preferential motion to recede and concur was then demanded, the House receded from disagreement, and a series of inquiries then focused on the options available to the House.[3]

THE SPEAKER PRO TEMPORE:[4] The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 165: Page 31, after line 10, insert:

SEC. 610. (a) None of the funds in this or any other act may be used to approve the licensing for export of any supercomputer or associated technology to any country that (1) is assisting, officially or unofficially, or (2) whose nationals are assisting Iraq to improve its rocket technology or

3. 136 CONG. REC. 32667, 32668, 32672–76, 101st Cong. 2d Sess., Oct. 23, 1990.
4. Michael R. McNulty (N.Y.).

chemical, biological, or nuclear weapons capability. . . .

MOTION OFFERED BY MR. SMITH OF IOWA

MR. SMITH of Iowa: 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. Smith of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 165, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:
>
> SEC. 609. (a) None of the funds in this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose government the President determines to be assisting Iraq to improve its ballistic missile technology or chemical, biological, or nuclear weapons capability and so reports to the Congress. . . .

THE SPEAKER PRO TEMPORE: The Chair rules that under rule XXVIII the time will be divided three ways.

The gentleman from Iowa [Mr. Smith] will be recognized for 20 minutes, the gentleman from Kentucky [Mr. Rogers] will be recognized for 20 minutes, and the gentleman from Florida [Mr. Smith] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa [Mr. Smith].

PREFERENTIAL MOTION OFFERED BY MR. SMITH OF FLORIDA

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

The Clerk read as follows:

> Preferential motion offered by Mr. Smith of Florida: Mr. Smith of Florida moves that the House recede from its disagreement to Senate amendment No. 165 and concur therein.

MR. SMITH of Iowa: Mr. Speaker, I ask that the question be divided.

THE SPEAKER PRO TEMPORE: The question will be divided. . . .

PARLIAMENTARY INQUIRIES

MR. [STEPHEN J.] SOLARZ [of New York]: Mr. Speaker, I have a parliamentary inquiry.

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

MR. SOLARZ: Mr. Speaker, would it be possible through a unanimous-consent procedure to amend the amendment of the gentleman from Iowa?

THE SPEAKER PRO TEMPORE: By unanimous consent, yes.

MR. SOLARZ: That would be possible. . . .

THE SPEAKER PRO TEMPORE: The gentleman from Iowa may withdraw his motion, leaving the motion of the gentleman from Florida to be voted on.

MR. SMITH of Iowa: Mr. Speaker, I have a parliamentary inquiry.

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

MR. SMITH of Iowa: Mr. Speaker, I could withdraw my motion by unanimous consent and substitute another one? Is that right?

THE SPEAKER PRO TEMPORE: The gentleman does not need unanimous consent to do that.

MR. SMITH of Iowa: I can substitute another. . . .

MR. [SAMUEL] GEJDENSON [of Connecticut]: Would the House be in a position to accept an amended version of the gentleman from Florida [Mr. Smith]?

THE SPEAKER PRO TEMPORE: Mr. Smith of Iowa may offer another motion. . . .

MR. GEJDENSON: If the gentleman from Florida [Mr. Smith] then withdraws his motion, could he offer an amended version of that motion?

THE SPEAKER PRO TEMPORE: The Chair would look first to the manager of the bill, the gentleman from Iowa [Mr. Smith] to offer a motion.

MR. GEJDENSON: Look first to the manager of the bill, and if the manager of the bill had no motion, well the manager could offer that motion. I thank the Chair. . . .

THE SPEAKER PRO TEMPORE: The motion of the gentleman from Iowa [Mr. Smith] to concur in Senate amendment No. 165 with an amendment.

MR. SMITH of Iowa: With an amendment?

THE SPEAKER PRO TEMPORE: Yes.

MR. SMITH of Iowa: So, Mr. Speaker, first if we vote to recede, we will then come to whether or not to concur with my amendment, which is agreed to by the conferees.

THE SPEAKER PRO TEMPORE: That is correct.

MR. SMITH of Florida: Mr. Speaker, I have a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. SMITH of Florida: Mr. Speaker, under the division of the question, the gentleman from Iowa [Mr. Smith] has a motion which will be voted on first, which motion was to recede and concur with the Senate language, as amended by the Senate, is that correct?

THE SPEAKER PRO TEMPORE: With an amendment. . . .

The first question is, Shall the House recede from its disagreement to Senate amendment No. 165?

MR. SMITH of Florida: And if that is defeated——

THE SPEAKER PRO TEMPORE: If the House then recedes, if that motion carries, then the question is on the motion of the gentleman from Iowa, shall the House concur in Senate amendment No. 165 with an amendment.

MR. SMITH of Iowa: If that is voted down, Mr. Speaker, there is nothing in the bill. . . .

MR. SMITH of Florida: Mr. Speaker, there are two votes on the motion of the gentleman from Iowa to recede and concur in the Senate language?

THE SPEAKER PRO TEMPORE: The first vote is on receding. The second is on concurring with an amendment.

MR. SMITH of Florida: If those are adopted, I no longer obtain a vote on my preferential motion?

THE SPEAKER PRO TEMPORE: That is correct. . . .

The question is: Will the House recede from its disagreement to the amendment of the Senate numbered 165.

The House receded from its disagreement to the amendment of the Senate numbered 165.

THE SPEAKER PRO TEMPORE: The question is: Shall the House concur in the amendment of the Senate numbered 165 with an amendment?

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

MR. SMITH of Florida: Mr. Speaker, I object to the vote on the grounds 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 381, nays 39, not voting 13. . . .

So the House concurred in the amendment of the Senate numbered 165 with an amendment.

The result of the vote was announced as above recorded.

A motion to reconsider the votes by which action was taken on the several motions laid on the table.

Order of Consideration of Amendments in Disagreement

§ 8.4 The disposition of Senate amendments in disagreement normally proceeds in the order in which they appear in the House text; but the House may vary the order of consideration by a unanimous-consent agreement.

Where controversy is expected on a particular motion to dispose of a Senate amendment in disagreement, its disposition can be postponed until a more convenient time on the following day by a proper unanimous-consent request.(5)

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I ask unanimous consent that amendments numbered 147 and 148 be passed over this evening and that they be considered tomorrow, Wednesday, October 20, 1993, immediately prior to the consideration of amendment No. 171.

THE SPEAKER PRO TEMPORE:(6) Is there objection to the request of the gentleman from Iowa?

There was no objection.

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

The motion was agreed to.

THE SPEAKER PRO TEMPORE: The Chair rules that further consideration of this bill will continue tomorrow.

Control of Debate

§ 8.5 In 1970, pursuant to the provisions of Rule XIV clause 2 (the "hour rule") the Speaker stated in response to a parliamentary inquiry that a Member recognized to offer a motion to dispose of a Senate amendment to a House amendment to a Senate amendment to a House bill would be recognized for one

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5. See 139 CONG. REC. 25388, 25390, 103d Cong. 1st Sess., Oct. 19, 1993 (H.R. 2519).
6. Kweisi Mfume (Md.).

hour, which time that Member could allocate at his discretion.

Parliamentarian's Note: Rule XXVIII clause 2(a), was amended in the 92d Congress to provide for a division of debate time on a conference report or an amendment reported in disagreement. In the 99th Congress, the clause was further modified to specify that if the majority and minority floor managers support a conference report, the time can be allotted three ways if demanded by a Member opposing the report.[7]

On Jan. 22, 1970,[8] the House was considering a Senate amendment to a House amendment to a Senate amendment to H.R. 13111, appropriations for the Department of Health, Education, and Welfare.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry. In the consideration of the Nelson amendments, which was an amendment in disagreement, when it comes back, will there be 1 hour of debate in the control of the chairman of the committee or the chairman of the subcommittee?

THE SPEAKER:[9] The Chair will state in response to the parliamentary inquiry that any Member who makes the motion will be entitled to 1 hour, and the question of the allocation of time will be in his discretion.

Division of Debate Time on Motion To Dispose of Amendment Between Houses

§ 8.6 In the modern practice, debate on a privileged motion to dispose of a Senate amendment in disagreement, during the subsequent stages of action following the rejection of a conference report, is equally divided between the majority and minority parties.

While the provisions of Rule XXVIII clause 2(b) specifically address the division of debate time on an amendment "reported in disagreement" from a conference committee, the practice has developed of dividing the time between the parties on any motion to dispose of an amendment, once the stage of disagreement has been reached.

7. Rule XXVIII clause 2(a), *House Rules and Manual* § 912a (1997).
8. 116 CONG. REC. 750, 91st Cong. 2d Sess.
9. John W. McCormack (Mass.).

On Dec. 19, 1985,[10] the Chair's announcement of the division of time in the proceedings carried here shows the practice that has been followed in recent years.[11]

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 3128) entitled "An act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process," with an amendment.[12]

The message also announced that the Senate had passed a joint resolution of the following title, in which concurrence of the House is requested:

S.J. Res. 255. Joint Resolution Relative to the convening of the 2d session of the 99th Congress.

CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

MR. [WILLIAM (BILL) H.] GRAY of Pennsylvania: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, with the Senate amendment to the House amendment to the Senate amendment, and concur in the Senate amendment to the House amendment to the Senate amendment.

THE SPEAKER PRO TEMPORE:[13] The Clerk will report the title of the bill and the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment as follows: . . .

MOTION OFFERED BY MR. DAUB

MR. [HAL] DAUB [of Nebraska]: Mr. Speaker, I move to table the motion.

My motion is in writing, and it is on its way to the desk.

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

The Clerk read as follows:

Mr. Daub moves to table the motion.

THE SPEAKER PRO TEMPORE: The question is on the motion to lay on the table offered by the gentleman from Nebraska (Mr. Daub).

The motion to table was rejected.

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10. 131 CONG. REC. 38359, 38360, 38367, 99th Cong. 1st Sess.

11. This practice supersedes that followed in the period immediately following the adoption of Rule XXVIII clause 2(b) in 1972. See *House Rules and Manual* § 912(b) (1997) for a synopsis of the evolution of dividing debate time.

12. The conference report on H.R. 3128 had been rejected on Dec. 19, 1985, so the stage of disagreement was still applicable and motions to dispose of this amendment between the Houses remained privileged.

13. Dale E. Kildee (Mich.).

MR. GRAY of Pennsylvania: Mr. Speaker, I move to limit debate to 15 minutes per side.

THE SPEAKER PRO TEMPORE: The gentleman requests that debate be limited. Is there objection to the request of the gentleman from Pennsylvania?

MR. DAUB: Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: Objection is heard.

The gentleman from Pennsylvania [Mr. Gray] will be recognized for 30 minutes and the gentleman from Ohio [Mr. Latta] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Gray]. . . .

MR. GRAY: . . . Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gray] to concur in the Senate amendment to the House amendment to the Senate amendment.

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

MR. GRAY of Pennsylvania: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 137, nays 211, not voting 86, as follows: . . .

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Division of Time on Motion Relating to Amendment in Disagreement

§ 8.7 Where an original motion to dispose of an amendment in disagreement is pending, it is possible for an opponent to demand one-third of the hour if both the majority and minority managers are in favor; and the demand for 20 minutes does not come too late when the proponent of a preferential motion indicates his opposition after his motion is reported.

The rule providing for a three-way division of time (Rule XXVIII clause 2(b)(1)) was added in the 99th Congress.[14]

The proceedings of Oct. 11, 1989,[15] during the consideration of amendments reported in disagreement on the District of Columbia Appropriation Act, fiscal 1990, indicates that the mere offering of a preferential motion

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14. H. Res. 7, 131 CONG. REC. 393, 99th Cong. 1st Sess., Jan. 3, 1985. See *House Rules and Manual* § 912b (1997).
15. 135 CONG. REC. 24091, 101st Cong. 1st Sess.

does not automatically cause the Chair to divide the time three ways: a Member must directly state his opposition to the original motion to qualify.

The text of the amendment is as follows:

Senate amendment No. 22: Page 31, after line 2, insert:

SEC. 141. (a) This section may be cited as the "Nation's Capital Religious Liberty and Academic Freedom Act".

(b) Section 1–2520 of the District of Columbia Code (1981 edition) is amended by adding after subsection (2) the following new subsection:

"(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition—

"(A) the use of any fund, service, facility, or benefit; or

"(B) the granting of any endorsement, approval, or recognition,

to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.".

MOTION OFFERED BY MR. DIXON

MR. [JULIAN C.] DIXON [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 22, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 141. Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization to deny:

(a) the use of any facility, service or benefit set aside for the practice or promotion of religion; or

(b) the granting of any endorsement, approval, or recognition, to any person or persons that are organized for, or engaged in, the promotion of any homosexual or heterosexual lifestyle or belief that is contrary to its religious doctrine.

THE SPEAKER PRO TEMPORE:[16] The gentleman from California [Mr. Dixon] will be recognized for 30 minutes and the gentleman from New Jersey [Mr. Gallo] will be recognized for 30 minutes.

PREFERENTIAL MOTION OFFERED BY MR. DANNEMEYER

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Speaker, I offer a preferential motion.

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

The Clerk read as follows:

Mr. Dannemeyer moves that the House recede from disagreement with the amendment of the Senate numbered 22 and concur therein.

PARLIAMENTARY INQUIRY

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

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16. Doug Barnard, Jr. (Ga.).

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. DANNEMEYER: Mr. Speaker, how will the time be allocated concerning the motion in disagreement offered by the gentleman from California [Mr. Dixon]?

THE SPEAKER PRO TEMPORE: Is the gentleman from California requesting one-third of the time?

MR. DANNEMEYER: That is correct, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Is the gentleman from New Jersey [Mr. Gallo] opposed to the original motion?

MR. [DEAN A.] GALLO [of New Jersey]: No, Mr. Speaker, I am not.

THE SPEAKER PRO TEMPORE: The gentleman from California [Mr. Dannemeyer] will be recognized for 20 minutes.

MR. DIXON: Mr. Speaker, I demand a division of the question on the preferential motion.

THE SPEAKER PRO TEMPORE: The question will be divided.

Order of Recognition for Controlling and Closing Debate

§ 8.8 When time for debate on an amendment being considered after the stage of disagreement is divided three ways, with 20 minutes being controlled by a Member opposed, the Chair recognizes the Member offering the motion to close debate and the others in the reverse order of the original allocation.

Where a motion was made to concur in a Senate amendment after the stage of disagreement has been reached, and the bill had been represented in conference by conferees from two House committees having jurisdiction and Members from both committees were seeking recognition to oppose the pending motion, the Speaker recognized the senior member of the two to control the time. The proceedings were as follows:[17]

MEDICARE CATASTROPHIC COVERAGE REFORM AMENDMENTS OF 1989

MR. [DAN] ROSTENKOWSKI [of Illinois]: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 3607) to repeal Medicare provisions in the Medicare Catastrophic Coverage Act of 1988, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

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

SECTION 1. SHORT TITLE.

This title may be cited as the "Medicare Catastrophic Coverage Reform Amendments of 1989". . . .

THE SPEAKER PRO TEMPORE:[18] The gentleman from Illinois [Mr. Rosten-

17. 135 CONG. REC. 30809, 30813, 30814, 101st Cong. 1st Sess., Nov. 21, 1989.
18. Steny H. Hoyer (Md.).

kowski] will be recognized for 30 minutes, and the gentleman from Texas [Mr. Archer] will be recognized for 30 minutes.

PARLIAMENTARY INQUIRIES

MR. [MARTIN A.] RUSSO [of Illinois]: Mr. Speaker, I have a parliamentary inquiry.

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

MR. RUSSO: Mr. Speaker, I would wonder whether or not the gentleman from Texas is opposed to the motion.

THE SPEAKER PRO TEMPORE: The Chair will inquire: Is the gentleman from Texas opposed to the amendment?

MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Speaker, I am opposed to the amendment on this side.

THE SPEAKER PRO TEMPORE: The Chair propounded a question, however, to the gentleman from Texas, the ranking member. Will the ranking member respond to the question of the Chair?

The Chair must ascertain whether the ranking member, who is entitled under the rules to 30 minutes, whether the ranking member is opposed to the amendment.

MR. [WILLIAM A.] ARCHER [Jr., of Texas]: Mr. Speaker, I am in favor of the amendment.

THE SPEAKER PRO TEMPORE: Does a Member seek 20 minutes in opposition to the amendment?

MR. MADIGAN: Mr. Speaker, I seek time in opposition.

THE SPEAKER PRO TEMPORE: For what purpose does the gentleman from Illinois [Mr. Russo] rise?

MR. [J. J. (JAKE)] PICKLE [of Texas]: Mr. Speaker, we have two gentlemen who wish to be recognized.

THE SPEAKER PRO TEMPORE: The Chair is going to recognize one Member for the purpose of being in opposition. That Member will be assigned 20 minutes of the time allotted.

MR. ROSTENKOWSKI: Mr. Speaker, if I may be recognized, I have no idea why the gentleman on my left and the gentleman on my right are seeking recognition. However, if it is because of opposition, I would suggest that the senior member be recognized in opposition.

THE SPEAKER PRO TEMPORE: Does the gentleman from Texas [Mr. Pickle] seek time in opposition? The gentleman from Texas is on his feet and the gentleman from Texas is the ranking member. Under the rules he would be entitled to recognition. Is the gentleman from Texas [Mr. Pickle] opposed to the amendment?

MR. PICKLE: No, I am not. I am for the amendment, Mr. Speaker.

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

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

MR. MADIGAN: Mr. Speaker, this bill is in the jurisdiction of both the Ways and Means Committee and the Energy and Commerce Committee, and members from both of those committees are conferees on the subject matter that is before us. Am I to understand that the Committee on Energy and Commerce is not entitled to any time?

THE SPEAKER PRO TEMPORE: The Chair would ask the gentleman from Illinois if he is opposed to the amendment?

MR. MADIGAN: I am opposed, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Under the rule, the gentleman is entitled to 20 minutes as the senior Member seeking time. . . .

PARLIAMENTARY INQUIRY

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

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

MR. RUSSO: Mr. Speaker, under the process that we have agreed upon, who has the right to close debate; in what order do we close this debate?

THE SPEAKER PRO TEMPORE: The chairman of the committee who made the motion has the right to close debate.

MR. RUSSO: And prior to the chairman of the committee, who is the next in line to close debate; would it be some Member for the opposition?

THE SPEAKER PRO TEMPORE: Not necessarily, since the ranking minority member to whom 30 minutes was originally allocated has the right to close prior to the chairman.

MR. RUSSO: It would seem to me, Mr. Speaker, that having two Members who are in support of the amendment and two opposing the amendment speaking before that, would it not be more equitable that we would have one to close against, one to close for, one to close against, and then the chairman to close for; would that not be more fair?

THE SPEAKER PRO TEMPORE: The precedents require the Chair to go by the reverse order of the original allocation under the circumstances when more than two Members control time.

The gentleman from Pennsylvania [Mr. Schulze] is recognized for 2 minutes.

Control of Debate When Preferential Motion Displaces Original Motion

§ 8.9 Where an amendment reported in disagreement from conference is under consideration, and a motion is made to dispose of that amendment, a preferential motion may be offered; but the Member offering the preferential motion does not thereby deprive the Member making the original motion of the floor.

On June 30, 1972,[19] the House was considering amendments in disagreement to H.R. 15390, a bill to provide a four-month extension of the public debt limit. Speaker Carl Albert, of Oklahoma, recognized Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means:

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19. 118 CONG. REC. 23725, 92d Cong. 2d Sess.

Mr. Speaker, I move that the House recede and concur, and pending that, Mr. Speaker, I would like to be recognized.

MR. [JOHN W.] BYRNES of Wisconsin: Mr. Speaker, I ask that the motion be divided.

THE SPEAKER: That will be in order after the Clerk reports the motion.

The Clerk will read.

The Clerk reads as follows:

> Mr. Mills moves to recede and concur in Senate amendment numbered 2.

MR. BYRNES of Wisconsin: Mr. Speaker, I ask for a division of the question, that it be divided.

THE SPEAKER: The gentleman from Wisconsin asks for a division of the question.

The question is, will the House recede from its disagreement to the amendment of the Senate.

The motion was agreed to.

MR. BYRNES of Wisconsin: Mr. Speaker, I offer a motion to concur with an amendment.

THE SPEAKER: The Clerk will report the motion.

The reading of the amendment offered by Mr. Byrnes was dispensed with by unanimous consent, after which the Speaker recognized Mr. Mills.

Division of Time on Amendments Reported From Conference in Disagreement

§ 8.10 A Member offering a preferential motion to dispose of an amendment in disagreement does not gain control of the time; the Member offering the original motion to dispose of the amendment retains control of the time which is divided between the majority and minority parties.[20]

During consideration of an amendment reported in disagreement from a conference on a general appropriation bill, the manager of the conference report offered a motion to insist on disagreement with the Senate amendment. A preferential motion to recede and concur in the amendment with an amendment was offered and pending the debate on the motions, a parliamentary inquiry was directed to the

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20. The division of time on any amendment in disagreement is prescribed by Rule XXVIII clause 2(b) *House Rules and Manual* § 912(b) (1997). Under current rules, if the floor managers from the majority and minority are both in favor of the original motion which is offered to dispose of the amendment, one-third of the time can be claimed by a Member opposed.

Speaker about the control and division of time.[1]

THE SPEAKER:[2] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 61: Page 41, line 9, insert:

"FEDERAL RAILROAD ADMINISTRATION

"RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT

For payment of financial assistance to assist railroads by providing funds for repairing, rehabilitating, and improving railroad roadbeds and facilities, $700,000,000 of which not to exceed $7,000,000 shall be available for administrative expenses of the Secretary to remain available until December 31, 1976: *Provided, however,* That these funds shall be available only upon enactment of authorizing legislation."

MOTION OFFERED BY MR. MAHON

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

The Clerk read as follows:

Mr. Mahon moves that the House insist on its disagreement to the amendment of the Senate numbered 61.

PREFERENTIAL MOTION OFFERED BY MR. CONTE

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Conte moves that the House recede from its disagreement to Senate amendment Number 61 and concur therein with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate, insert the following:

"CHAPTER VIII

"DEPARTMENT OF TRANSPORTATION

"FEDERAL RAILROAD ADMINISTRATION

"For payment of financial assistance to assist railroads by providing funds for repairing, rehabilitating, and improving railroad roadbeds and facilities, $200,000,000 of which not to exceed $1,500,000 shall be available for administrative expenses of the Secretary to remain available until December 31, 1976: *Provided, however*, That these funds shall be available only upon enactment of authorizing legislation: *Provided, further*, That none of these funds shall be available to commuter rail systems."

MR. MAHON: Mr. Speaker, I have moved that the House insist upon its disagreement with the Senate amendment. . . .

MR. [E. G.] SHUSTER [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SHUSTER: Mr. Speaker, how is the time divided?

THE SPEAKER: The time is divided equally between the gentleman from Texas (Mr. Mahon), who has 30 minutes, and the gentleman from Illinois (Mr. Michel) who has 30 minutes or such small fraction thereof as he may decide to use.

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1. 121 CONG. REC. 14385, 14386, 94th Cong. 1st Sess., Mar. 14, 1975.
2. Carl Albert (Okla.).

MR. SHUSTER: I thank the Speaker.

Recognition To Offer Motion

§ 8.11 Where the subcommittee chairman of the Committee on Appropriations, calling up the conference report, did not seek recognition to offer a motion to dispose of a crucial amendment in disagreement, the Speaker recognized the chairman of the full committee to offer the anticipated preferential motion.

The sequence of motions to dispose of an amendment in disagreement can be important. In the instance cited below, the subcommittee chairman allowed another to offer the preferential motion so he could control the floor on the less preferential motion when the first motion offered was defeated. The proceedings of Nov. 3, 1977,[3] are carried below:

THE SPEAKER PRO TEMPORE:[4] The Chair recognizes the gentleman from Pennsylvania (Mr. Flood).

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Speaker, pursuant to the resolution just agreed to, I call up the conference report on the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: The Clerk will read the report.

The Clerk read the report.

(For conference report and statement, see proceedings of the House of November 2, 1977.)

AMENDMENT IN DISAGREEMENT

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

The Clerk read as follows:

Senate amendment No. 28: Sec. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or except for medical procedures necessary for the victims of rape or incest, or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The Secretary shall issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

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3. 123 CONG. REC. 36959, 36966, 95th Cong. 1st Sess.
4. K. Gunn McKay (Utah).

PREFERRED MOTION OFFERED BY MR. MAHON

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

The Clerk read as follows:

> Mr. Mahon moves that the House concur in the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82.

THE SPEAKER PRO TEMPORE: The gentleman from Texas (Mr. Mahon) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Michel) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Mahon). . . .

Following debate, the question was taken and, on a yea and nay vote, the preferential motion was rejected.

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

> Mr. Flood moves that the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82.

THE SPEAKER PRO TEMPORE: The gentleman from Pennsylvania (Mr. Flood), is recognized for 30 minutes.

MR. FLOOD: Mr. Speaker, the House has just voted down the preferential motion on the Senate amendment, and in order to move along with this bill and send it back to the Senate, I have offered this motion, which accomplishes that purpose.

Mr. Speaker, I urge the adoption of the motion.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Pennsylvania (Mr. Flood).

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

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

A motion to reconsider was laid on the table.

Division of Debate Time on Amendments in Disagreement

§ 8.12 Rule XXVIII clause 2 (b)(1) provides explicitly for a division of debate time between the majority and the minority when amendments are reported in disagreement from conference; and initial practice under this rule was to construe the rule narrowly and to recognize the proponent of a motion to concur in a new amendment added by the Senate after the stage of disagreement for a full hour.

The only amendment remaining in disagreement on the Labor and Health, Education, and Welfare appropriation bill for fiscal year

1979 when it was taken up in the House on Oct. 14, 1978,[5] was one dealing with abortion funding. Since the stage of disagreement had been reached, motions to dispose of the amendment were privileged, and after the amendment was read, the manager of the report, Mr. Daniel J. Flood, of Pennsylvania, offered a motion to disagree with the amendment. The chairman of the Committee on Appropriations, Mr. George H. Mahon, of Texas, then offered a preferential motion to concur in the Senate amendment. The Chair's application of the rule about division of debate time is shown below.

MOTION TO DISAGREE TO SENATE AMENDMENT NO. 103 TO H.R. 12929, LABOR-HEW APPROPRIATIONS, FISCAL YEAR 1979

MR. FLOOD: Mr. Speaker, I again move to take from the Speaker's desk the bill (H.R. 12929) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendment No. 103 thereto and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read Senate amendment No. 103 as follows:

Page 40, strike out lines 1 to 4, inclusive, and insert:

SEC. 210. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or where medically necessary, or for rape or incest victims. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

GENERAL LEAVE

MR. FLOOD: Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment which we will now consider.

THE SPEAKER:[6] Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MR. FLOOD: Mr. Speaker, I have moved to disagree to the Senate amendment.

THE SPEAKER: That motion is now pending.

PREFERENTIAL MOTION OFFERED BY MR. MAHON

MR. MAHON: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Mahon moves that the House concur in the amendment of the Senate.

5. 124 CONG. REC. 38230, 38231, 38236, 95th Cong. 2d Sess.

6. Thomas P. O'Neill, Jr. (Mass.).

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) is recognized for 1 hour.

MR. FLOOD: Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

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

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

MR. MAHON: 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: 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 198, nays 195, not voting 37.

Parliamentarian's Note: The practice has developed, through use of the Chair's recognition policy, of dividing the time on amendments in disagreement following rejection of a conference report, where an initial motion to dispose of an amendment in disagreement is rejected, and where the Senate adds a new amendment after the stage of disagreement. Decisions illustrating this evolving practice are carried elsewhere in this chapter.(7)

§ 8.13 The Member offering the preferential motion to recede and concur does not thereby gain control of the time for debate.

On Sept. 12, 1967,(8) the House was considering an amendment reported in disagreement from a conference on H.R. 10738, appropriations for fiscal 1967 for the Department of Defense.

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

The Clerk read as follows:

Mr. Mahon moves that the House insist upon its disagreement to Senate amendment numbered 18.

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 18 and concur therein.

THE SPEAKER PRO TEMPORE:(9) The gentleman from Texas [Mr. Mahon] is recognized for 1 hour.(10)

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7. See § 8.20, infra.
8. 113 CONG. REC. 25201, 90th Cong. 1st Sess.
9. Carl Albert (Okla.).
10. See also 113 CONG. REC. 29837, 29842, 90th Cong. 1st Sess., Oct. 24, 1967; and 111 CONG. REC. 8861,

§ 8.14 Although the motion to recede from disagreement and concur in a Senate amendment takes precedence over the motion to insist on disagreement, the Member offering the preferential motion does not thereby gain control of time for debate.

On Oct. 24, 1967,[11] the House was considering the amendments in disagreement to H.R. 9960, independent offices appropriations for fiscal 1968.

THE SPEAKER:[12] The Clerk will report the Senate amendments in disagreement.

The Clerk read as follows:

> Senate amendment No. 58: On page 36, line 23, strike out "$75,000,000" and insert "$125,000,000".
>
> Senate amendment No. 59: On page 37, line 2, strike out "$237,000,000" and insert "$537,000,000".

MR. [JOSEPH L.] EVINS of Tennessee: Mr. Speaker I offer a motion.

The Clerk read as follows:

> Mr. Evins of Tennessee moves that the House insist on its disagreement to the amendments of the Senate numbered 58 and 59.

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Giaimo moves that the House recede from its disagreement to the amendments of the Senate numbered 58 and 59 and concur therein.

THE SPEAKER: The Chair recognizes the gentleman from Tennessee [Mr. Evins].

After controlling one hour of debate, Mr. Evins moved the previous question on the motion offered by Mr. Giaimo.

MR. EVINS of Tennessee: . . . Mr. Speaker, I move the previous question and urge that you vote against the preferential motion. . . .

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Connecticut [Mr. Giaimo] that the House recede from its disagreement to Senate amendments No. 58 and No. 59, and concur therein.

MR. EVINS of Tennessee: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 156, nays 241, not voting 35. . . .

So the preferential motion was rejected. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from Tennessee [Mr. Evins] that the House insist upon its disagreement to the amendments of the Senate No. 58 and No. 59.

The motion was agreed to.

8866, 89th Cong. 1st Sess., Apr. 29, 1965.

11. 113 CONG. REC. 29837, 29838, 29842, 90th Cong. 1st Sess.

12. John W. McCormack (Mass.).

§ 8.15 Although the motion to recede from disagreement and concur in a Senate amendment takes precedence over the motion to adhere, the Member offering the preferential motion does not thereby gain control of time for debate.

On June 23, 1960,[13] the House was considering a Senate amendment to H.R. 10569, the Treasury and Post Office Departments appropriation bill for fiscal 1961. The following occurred:

MR. [J. VAUGHAN] GARY [of Virginia]: Mr. Speaker, I send a motion to the desk.

The Clerk read as follows:

Mr. Gary moves that the House adhere to its disagreement to the amendment of the Senate numbered 6.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Hoffman of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein.

MR. GARY: Mr. Speaker, I ask for a division of the motion.

THE SPEAKER PRO TEMPORE:[14] The gentleman may have a division of the motion. Does the gentleman wish to debate the motion?

MR. GARY: Yes.

MR. HOFFMAN of Michigan: Yes; I would like to explain what the motion is.

THE SPEAKER PRO TEMPORE: The gentleman from Virginia [Mr. Gary] is entitled to be recognized for 1 hour on the motion.

MR. HOFFMAN of Michigan: How about my 5 minutes? Will I be recognized for 5 minutes to explain the motion?

THE SPEAKER PRO TEMPORE: The time is under the control of the gentleman from Virginia.

Dividing the Question

§ 8.16 When a division of the question is demanded on a preferential motion to recede and concur in a Senate amendment in disagreement, the House does not vote on whether to divide the question but first votes on whether to recede; and if it decides this question in the affirmative, the vote may recur on the underlying motion to concur with an amendment which was temporarily displaced by the preferential motion.

13. 106 CONG. REC. 14074, 14081, 86th Cong. 2d Sess.

14. Wilbur D. Mills (Ark.).

The proceedings of Oct. 11, 1989,[15] illustrate one sequence of motions which may occur where a motion to recede and concur with an amendment is supplanted by a motion to recede and concur.

PARLIAMENTARY INQUIRY

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Speaker, I have a parliamentary inquiry.

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

MR. DANNEMEYER: Mr. Speaker, will the vote be on whether there will be a division?

THE SPEAKER PRO TEMPORE: No, the question has been divided. There has been a division, and the first question will be: Will the House recede from its disagreement to Senate amendment numbered 22?

MR. DANNEMEYER: That is the first vote?

THE SPEAKER PRO TEMPORE: That is the first vote.

The second vote will be, if the House does recede: Will the House concur in the Senate amendment with the amendment offered by the gentleman from California [Mr. Dixon]?

MR. DANNEMEYER: And, Mr. Speaker, in order to get to the position that this Member, the gentleman from California [Mr. Dannemeyer], has offered, we must defeat the issue that is being presented by the gentleman from California [Mr. Dixon]; is that correct?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. DANNEMEYER: I thank the Chair. . . .

The House receded from its disagreement to the amendment of the Senate numbered 22.

THE SPEAKER PRO TEMPORE: The question is, Will the House concur in the amendment of the Senate numbered 22 with an amendment.

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

So the House refused to concur in the amendment of the Senate numbered 22 with an amendment.

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE: The question is on the preferential motion offered by the gentleman from California [Mr. Dannemeyer].

The motion was agreed to.

Effect of Division of Motion To Recede and Concur

§ 8.17 Where a motion to recede and concur in an amendment of the Senate which is in disagreement between the two Houses is divided, on the demand of a Member, the proponent of the initial motion still has control of the floor and has an hour at his disposal.

15. 135 CONG. REC. 24097, 24099, 101st Cong. 1st Sess.

16. Doug Barnard, Jr. (Ga.).

On Dec. 22, 1969,[17] the House was considering Senate amendments to H.R. 15209, the supplemental appropriations bill for fiscal 1970. Speaker John W. McCormack, of Massachusetts, recognized George H. Mahon, of Texas, Chairman of the Committee on Appropriations.

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 33[18] and concur therein.

THE SPEAKER: For what purpose does the gentleman from New Jersey rise?

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Speaker, I ask that the question be divided. Mr. Speaker, I have a motion at the desk.

MR. MAHON: Mr. Speaker, I do not yield for a motion at this time.

THE SPEAKER: The gentleman from New Jersey demands a division?

MR. THOMPSON of New Jersey: The gentleman does.

THE SPEAKER: The question is, Will the House recede from its disagreement to the amendment of the Senate numbered 33?

MR. [CLARK] MACGREGOR [of Minnesota]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MACGREGOR: I should like to ask the Speaker if the time for debate on the motion of the gentleman from Texas (Mr. Mahon) is under the control of the gentleman from Texas and if it is in order for me at this time to ask the gentleman from Texas to yield to me for 5 minutes?

MR. MAHON: I have agreed to yield to the gentleman from Minnesota for 5 minutes for the purpose of debate.

MR. MACGREGOR: Am I recognized, Mr. Speaker?

THE SPEAKER: The gentleman from Texas will be recognized for 1 hour, but the question before the House now is on the motion of the gentleman from Texas that the House recede from its disagreement to the Senate amendment.

Debate on Preferential Motion

§ 8.18 Following a demand for a division of the question on a motion to recede and concur, the House having voted to recede, the proponent of a motion to concur with amendment does not by offering his preferential motion deprive the Member who had previously been recognized to offer the motion to

17. 115 CONG. REC. 40902, 40915, 91st Cong. 1st Sess.

18. This amendment concerned the controversial Philadelphia plan dealing with memberships of racial minorities in construction unions employed on federal projects.

recede and concur of the floor. The Member offering the motion to recede and concur still controls the debate on the preferential motion under the hour rule.

On June 30, 1972,[19] Mr. Wilbur D. Mills, of Arkansas, was recognized by Speaker Carl Albert, of Oklahoma, to offer a motion to recede and concur in a Senate amendment to H.R. 15390, a bill to extend the public debt limit.

MR. [JOHN W.] BYRNES of Wisconsin: Mr. Speaker, I ask for a division of the question, that it be divided.

THE SPEAKER: that will be in order after the Clerk reports the motion.

The Clerk will report.

The Clerk read as follows:

Mr. Mills moves to recede and concur in Senate amendment numbered 2.

MR. BYRNES of Wisconsin: Mr. Speaker, I ask for a division of the question, that it be divided.

THE SPEAKER: The gentleman from Wisconsin asks for a division of the question.

The question is, will the House recede from its disagreement to the amendment of the Senate.

The motion was agreed to.

MR. BYRNES of Wisconsin: Mr. Speaker, I offer a motion to concur with an amendment.

THE SPEAKER: The Clerk will report the motion. . . .

MR. BYRNES of Wisconsin (during the reading): Mr. Speaker, I wonder if on this particular amendment we may not dispense with the reading?

THE SPEAKER: Does the gentleman ask unanimous consent to do so?

MR. BYRNES of Wisconsin: I ask unanimous consent to dispense with further reading of the motion and that it be printed in the Record.

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

There was no objection.

THE SPEAKER: The gentleman from Arkansas is recognized.

MR. MILLS of Arkansas: Mr. Speaker, the second amendment in which I have moved to recede and concur involves an increase in social security benefits of 20 percent across the board effective for the month of September 1972, payable in the check for early October and automatic benefit increases to protect against the cost-of-living rises in the future. . . .

So, Mr. Speaker, I urge the House to vote down the substitute offered by the gentleman from Wisconsin (Mr. Byrnes) and agree to the Senate amendment.

I move the previous question.

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

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Wisconsin (Mr. Byrnes).

MR. BYRNES of Wisconsin: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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19. 118 CONG. REC. 23725, 23731, 23738, 23739, 92d Cong. 2d Sess.

The question was taken; and there were—yeas 83, nays 253, answered "present" 1, not voting 95. . . .

So the motion was rejected. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from Arkansas (Mr. Mills) that the House concur in the Senate amendment No. 2.

MR. MILLS of Arkansas: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 302, nays 35, not voting 95. . . .

So the motion was agreed to.

Recognition Following Defeat of Motion

§ 8.19 When a motion to recede and concur in a Senate amendment with an amendment is made by the Member in charge of a bill and is defeated, recognition for a motion to further insist on disagreement passes to a Member opposed to the original motion.

On June 26, 1942,[20] the House was considering amendments in disagreement to H.R. 6709, appropriations for the Department of Agriculture. Mr. Malcolm C. Tarver, of Georgia, offered a motion to recede and concur in Senate amendment No. 90 with an amendment.

The question was taken; and there were—yeas 131, nays 159, not voting 142. . . .

The result of the vote was announced as above recorded.

Mr. Cannon of Missouri and Mr. Tarver rose.

THE SPEAKER:[1] For what purpose does the gentleman from Missouri rise?

MR. [CLARENCE] CANNON of Missouri: I rise to move that the House insist on its disagreement to the Senate amendment.

MR. TARVER: Mr. Speaker, I desire to submit a parliamentary inquiry. It was my purpose to offer a motion as I have done in connection with the same subject matter on previous occasions. I had risen for the purpose of offering a motion to further insist upon the disagreement of the House to Senate amendments Nos. 90 and 91. I wish to inquire whether or not I am privileged, as chairman of the House conferees, to offer that motion?

MR. CANNON of Missouri: Mr. Speaker, my motion is to further insist.

MR. TARVER: Mr. Speaker, I was on my feet before the gentleman from Missouri rushed over between me and the microphone and offered his motion.

MR. CANNON of Missouri: Mr. Speaker, it is a long-established rule of procedure that when a vital motion made by the Member in charge of a bill is defeated, the right to prior recognition passes to the opposition. That is the position in which the gentleman finds

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20. 88 CONG. REC. 5642, 5643, 77th Cong. 2d Sess.

1. Sam Rayburn (Tex.).

himself. He has made a major motion. The motion has been defeated. Therefore the right of recognition passes to the opposition, and I ask to be recognized to move to further insist.

MR. TARVER: Mr. Speaker, may I be heard with regard to that statement?

THE SPEAKER: The Chair will hear the gentleman.

MR. TARVER: The question has never been raised so far as I have known in the course of my experience of some 16 years upon an appropriation bill conference report, but if as the gentleman states the right of making the motion passes to the opposition, it should pass to my Republican colleague the gentleman from Kansas [Mr. Lambertson] with whom the gentleman from Missouri has been associated in the defeat of the motion offered by the chairman of the subcommittee. I have desired to offer the motion myself in the absence of the exercise of that privilege by the gentleman from Kansas.

MR. [WILLIAM P.] LAMBERTSON: Mr. Speaker, I ask for recognition.

THE SPEAKER: The gentleman from Georgia has the floor.

MR. TARVER: I have completed all I desire to say except that I desire to offer the motion if it is permissible; otherwise, I insist that the right should pass to the opposition and to the gentleman from Kansas [Mr. Lambertson].

THE SPEAKER: The Chair is of the opinion that the gentleman from Missouri has been properly recognized to offer a motion. The gentleman will state his motion.

MR. CANNON of Missouri: Mr. Speaker, I move that the House further insist on its disagreement to the Senate amendments.

The motion was agreed to.

Where Initial Motion Is Rejected, Recognition May Go To Opponent Thereof

§ 8.20 Where the original motion to dispose of an amendment in disagreement is rejected, recognition goes to a Member who led the opposition; and when that Member is recognized to offer a successor motion, the debate time, under current procedures, is divided pursuant to the same rule which governed debate on the original motion.

On Aug. 6, 1993,[2] during consideration of amendments in disagreement reported from the conference on H.R. 2493, Agriculture appropriations for fiscal year 1994, the original motion to recede and concur in a Senate amendment with an amendment was rejected. The subsequent motion was offered by a Member who had opposed the original motion.

THE SPEAKER PRO TEMPORE:[3] The Clerk will designate the next amendment in disagreement.

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2. 139 CONG. REC. 19582, 19587, 19588, 103d Cong. 1st Sess.
3. Romano L. Mazzoli (Ky.).

The text of the amendment is as follows:

Senate amendment No. 164: Page 81, after line 12, insert:

SEC. 730. (a) None of the funds appropriated or otherwise made available by this Act shall be used by the Secretary of Agriculture to provide a total amount of payments to a person to support the price of honey under section 207 of the Agricultural Act of 1949 (7 U.S.C. 1446h) and section 405A of such Act (7 U.S.C. 1425a) in excess of $50,000 in the 1994 crop year.

MOTION OFFERED BY MR. SKEEN

MR. [JOE] SKEEN [of New Mexico]: Mr. Speaker, I offer a motion.

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

The Clerk read as follows:

Motion offered by Mr. Skeen:

Mr. Skeen moves that the House recede and concur in the amendment of the Senate numbered 164 with an amendment as follows: In the matter proposed to be inserted by the amendment, add the following: "The GAO shall conduct a study and report to Congress on the effectiveness of the program."

THE SPEAKER PRO TEMPORE: The gentleman from New Mexico [Mr. Skeen] is recognized for 30 minutes.

PARLIAMENTARY INQUIRIES

MR. [HARRIS W.] FAWELL [of Illinois]: Mr. Speaker, I have a parliamentary inquiry.

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

MR. FAWELL: First of all, the motion that the gentleman from New Mexico offered was read so fast I did not understand just what it was. But I rise in opposition.

THE SPEAKER PRO TEMPORE: If the gentleman is opposed to the motion offered by the gentleman from New Mexico, the gentleman [Mr. Fawell] is entitled to 20 minutes to debate the issue.

Is the gentleman opposed to the motion offered by the gentleman from New Mexico?

MR. FAWELL: Mr. Speaker, if I could, may I have a rereading of that motion.

THE SPEAKER PRO TEMPORE: The Clerk will rereport the motion offered by the gentleman from New Mexico [Mr. Skeen].

The Clerk reread the motion.

THE SPEAKER PRO TEMPORE: Is the gentleman [Mr. Fawell] opposed to the motion offered by the gentleman from New Mexico [Mr. Skeen]?

MR. FAWELL: Yes, I am, Mr. Speaker.

Mr. Speaker, I have a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. FAWELL: At least I think it is a parliamentary inquiry.

Assuming that this particular motion fails, can the Chair advise me where we will be then?

THE SPEAKER PRO TEMPORE: Another Member will be recognized for another motion on this amendment in disagreement.

Is the gentleman opposed to the motion?

MR. FAWELL: Yes, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman from New Mexico [Mr. Skeen] will be recognized for 20 minutes, the gentleman from Illinois [Mr. Fawell] will be recognized for 20 min-

utes, and the gentleman from Illinois [Mr. Durbin] will be recognized for 20 minutes. . . .

The question is on the amendment offered by the gentleman from New Mexico [Mr. Skeen].

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

MR. FAWELL: 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 140, nays 274, not voting 19. . . .

So the House refused to recede and concur in the amendment of the Senate numbered 164 with an amendment.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. FAWELL

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

The Clerk read as follows:

> Mr. Fawell moves that the House recede and concur in the amendment of the Senate numbered 164 with an amendment as follows: In the matter proposed to be inserted by the amendment, strike "$50,000" and insert "$0".

THE SPEAKER PRO TEMPORE: The gentleman from Illinois [Mr. Fawell] will be recognized for 30 minutes in support of his motion, and the gentleman from Illinois [Mr. Durbin] will be recognized for 30 minutes in opposition.

The Chair recognizes the gentleman from Illinois [Mr. Fawell].

MR. FAWELL: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe we have fully debated this, and with concurrence from the gentleman from Illinois [Mr. Durbin] and with concurrence from the gentleman from New Mexico [Mr. Skeen], I would suggest that we simply go right to the vote, and yield back our time.

I would merely say that those who voted "no" previously would vote "yes" this time if they want to kill the honey program, and I would, assuming there is agreement, I would then yield back my time.

MR. [RICHARD J.] DURBIN [of Illinois]: Mr. Speaker, I yield back the balance of my time.

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

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

RECORDED VOTE

MR. DURBIN: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 344, noes 60, not voting 29. . . .

Recognition Where Manager's Motion Regarding Senate Amendment in Disagreement Is Rejected

§ 8.21 Where a motion to dispose of an amendment re-

ported from conference in disagreement, offered by the manager of the conference report, is rejected, the Speaker recognizes a Member leading the opposition to offer another motion to dispose of the amendment.

Following the adoption of an appropriations conference report in the 95th Congress, the manager of the report, Mr. Edward P. Boland, of Massachusetts, offered a motion to recede from disagreement to a Senate amendment reported in disagreement and concur therein with an amendment reducing the amount of the appropriation proposed by the Senate. The motion was actively opposed by the Chairman of the Committee on Science and Astronautics, Don Fuqua, of Florida. When the initial motion was defeated, Mr. Fuqua was recognized to offer a motion to recede and concur.

The proceedings of July 19, 1977,[4] were as indicated:

THE SPEAKER PRO TEMPORE:[5] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 17, line 11, strike out "$2,943,600,000" and insert "$3,013,000,000".

MOTION OFFERED BY MR. BOLAND

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

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,995,300,000".

THE SPEAKER PRO TEMPORE: The gentleman from Massachusetts (Mr. Boland) is recognized for 30 minutes and the gentleman from Pennsylvania (Mr. Coughlin) is recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. Boland).

MR. BOLAND: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion and another motion I will offer later on in the bill are the only two controversial parts of this conference report.

Mr. Speaker, the House conferees were unable to reach agreement on the Jupiter Orbiter Probe which NASA had requested in the 1978 budget. The House deleted $20,700,000 for the initial funding of this program, and the Senate restored the funds. . . .

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida (Mr. Fuqua).

MR. FUQUA: Mr. Speaker, I rise in opposition to amendment No. 24.

The effect of this amendment would be to deny the Jupiter Orbiter Probe program which has been approved by

4. 123 CONG. REC. 23668, 23669, 23678, 95th Cong. 1st Sess.
5. Norman Y. Mineta (Calif.).

three of the four committees making reviews for authorizing and appropriating funds for NASA for fiscal year 1978. . . .

So the motion was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. FUQUA

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

The Clerk read as follows:

Mr. Fuqua moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein.

THE SPEAKER PRO TEMPORE: The gentleman from Florida (Mr. Fuqua) is recognized . . . .

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

The previous question was ordered.

The motion was agreed to.

Parliamentarian's Note: Under Rule XXVIII clause 2(b)(1) the division of time on a motion to dispose of an amendment reported from conference in disagreement is equally divided between the majority and minority parties. This provision about the control of time was added to the rules in 1972.(6) Two major alterations have occurred since: first, the rule was formally amended in the 99th Congress to provide that if both the manager and the floor manager for the minority favor the motion which is offered to dispose of the amendment, the time may be, if demanded, divided three ways to allow a Member in opposition to control one-third of the time;(7) and second, by custom, the practice has developed of dividing the time, not only on the original motion to dispose of the amendment in disagreement, but on motions offered after defeat of the original motion. See, e.g., § 8.20, supra.

Role of Committee Chairman

§ 8.22 The Speaker recognized the Chairman of the Committee on Interstate and Foreign Commerce to move to suspend the rules and agree to a resolution taking a House bill with Senate amendment from the Speaker's table and agreeing to the Senate amendment.

On Aug. 27, 1962,(8) the following took place in the House:

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, I move to suspend the

6. See H. Res. 1153, 118 CONG. REC. 36023, 92d Cong. 2d Sess., Oct. 13, 1972.

7. See H. Res. 7, 131 CONG. REC. 393, 99th Cong. 1st Sess., Jan. 3, 1985.

8. 108 CONG. REC. 17671, 17681, 87th Cong. 2d Sess.

rules and agree to House Resolution 769.

The Clerk read the resolution as follows:

Resolved, That immediately upon the adoption of this resolution the bill H.R. 11040, 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 is hereby, agreed to.

THE SPEAKER:[9] Is a second demanded?

MR. [WILLIAM L.] SPRINGER [of Illinois]: Mr. Speaker, I demand a second.

MR. [WILLIAM FITTS] RYAN of New York: Mr. Speaker, I demand a second. . . .

THE SPEAKER: Without objection, a second will be considered as ordered.

There was no objection. . . .

The yeas and nays were ordered.

The question was taken; and there were—yeas 372, nays 10, not voting 53. . . .

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was passed.[10]

§ 8.23 The Speaker declined to recognize a Member for a unanimous-consent request to take a bill from the Speaker's table and concur in the Senate amendments where such a request was made without the authorization of the chairman of the committee involved and where Members had been informed there would be no further legislative business for the day.

On July 31, 1969,[11] the following occurred on the floor of the House:

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9951), to provide for the collection of the Federal unemployment tax in quarterly installments during each taxable year; to make status of employer depend on employment during preceding as well as current taxable year; to exclude from the computation of the excess the balance in the employment security administration account as of the close of fiscal years 1970 through 1972; to raise the limitation on the amount authorized to be made available for expenditure out of the employment security administration account by the amounts so excluded; and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

THE SPEAKER:[12] The Chair will state that at this time the Chair does not recognize the gentleman from Louisiana for that purpose.

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9. John W. McCormack (Mass.).
10. Mr. Harris was Chairman of the Committee on Interstate and Foreign Commerce during the 87th Congress.
11. 115 CONG. REC. 21691, 91st Cong. 1st Sess.
12. John W. McCormack (Mass.).

The chairman of the Committee on Ways and Means is at present appearing before the Committee on Rules seeking a rule and Members have been told that there would be no further business tonight.

The Chair does not want to enter into an argument with any Member, particularly the distinguished gentleman from Louisiana whom I admire very much. But the Chair has stated that the Chair does not recognize the gentleman for that purpose.

MR. BOGGS: Mr. Speaker, the gentleman from Louisiana equally admires gentleman in the chair. I thoroughly understand the position of the distinguished Speaker.

Availability on Floor of Copies of Matters To Be Considered

§ 8.24 Pursuant to Rule XXVIII clause 2(b) copies of Senate amendments reported from conference in disagreement as well as the conference report in disagreement and the joint statement, must be available on the floor of the House when the amendment is considered, unless the amendment is considered under suspension of the rules.

On June 29, 1973,[13] Mr. Wilbur D. Mills, of Arkansas, asked unanimous consent for the immediate consideration of the conference report and amendments in disagreement on H.R. 8410, to continue a temporary increase in the public debt limit. Mr. William A. Steiger, of Wisconsin, rose with a parliamentary inquiry:

Mr. Speaker, my parliamentary inquiry is this: that if an objection is heard to the request made by the gentleman from Arkansas, is it in order for the gentleman from Arkansas, the distinguished chairman of the Committee on Ways and Means, to move to suspend the rules to bring this to the floor of the House?

THE SPEAKER:[14] The Chair will state that the Chair has the authority to recognize the gentleman for such a motion.

MR. STEIGER of Wisconsin: Mr. Speaker, further reserving the right to object, may I ask the Chair's indulgence in a question relating to rule XXVIII, clause 2(b), as to whether we have waived that part of the rule XXVIII governing conference reports, which says: Nor shall it be in order to consider any such amendment that is to the conference unless copies of the report and accompanying statement together with the text of the amendment are then available on the floor.

THE SPEAKER: The Chair will state that copies of the Senate amendment and conference report are available, but that suspension of the rules will suspend all rules. . . .

13. 119 CONG. REC. 22381, 22382, 22384, 93d Cong. 1st Sess.

14. Carl Albert (Okla.).

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

There was no objection.

Dispensing With Reading of Motions To Recede and Concur With an Amendment

§ 8.25 To expedite the consideration of amendments reported from conference in disagreement, the House sometimes dispenses with the reading of motions to recede and concur with amendment, so long as the motions offered conform to those printed in the conference statement.[15]

While this was the first instance where such a request was entertained,[16] it has since become an accepted method for accelerating consideration of amendments in disagreement on general appropriation bills.

THE SPEAKER PRO TEMPORE:[17] The question is on the motion offered by the gentleman from Mississippi [Mr. Whitten].

The motion was agreed to.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I ask unanimous consent that the reading of any motion to recede and concur with an amendment to be offered by the bill manager shall be dispensed with if offered in identical form as the motion printed in the Statement of Managers—House Report 100–195—which was also printed in the *Congressional Record* on June 27, 1987—pages H5651 through H5682.

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

There was no objection.

§ 9. To Agree or Concur

Before the stage of disagreement, or after that stage is reached and the House has receded from its disagreement on a particular amendment, concurring in a Senate amendment brings the two Houses to reconciliation. A request or motion to concur may be made in order in a variety of ways—by intervention of the Committee on Rules, by unanimous consent, or by a motion under suspension of the rules.

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15. Under Rule XXVIII clause 2(c), as added to the standing rules in the 96th Congress, conference reports and amendments in disagreement are considered as read if printed and available as provided in clause 2 of the same rule. (H. Res. 5, 125 CONG. REC. 7–16, 96th Cong. 1st Sess., Jan. 15, 1979.)

16. 133 CONG. REC. 18294, 100th Cong. 1st Sess., June 30, 1987.

17. Daniel R. Glickman (Kans.).

After the stage of disagreement is reached, a motion to dispose of an amendment of the other House is given privilege.

Resolution From Committee on Rules

§ 9.1 By a resolution reported from the Committee on Rules, the House may take a House bill with Senate amendments from the Speaker's table and concur in the Senate amendments.

On Apr. 8, 1964,[18] Speaker John W. McCormack, of Massachusetts, recognized Mr. Richard Bolling, of Missouri:

> Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 665, and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> > *Resolved*, That immediately upon the adoption of this resolution the bill (H.R. 6196) to encourage increased consumption of cotton, to maintain the income of cotton producers, to provide a special research program designed to lower costs of production, and for other purposes, with the Senate amendments thereto, be, and the same is hereby taken from the Speaker's table, to the end that the Senate amendments be, and the same are hereby agreed to.[19]

§ 9.2 Where a resolution provides for taking a House bill with Senate amendments from the Speaker's table to the end that the Senate amendments are agreed to, adoption of the resolution means that the House concurs in the Senate amendments.

On Mar. 24, 1948,[20] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Mr. Leo E. Allen, of Illinois, to call up House Resolution 510:

> Mr. Speaker, I call up House Resolution 510 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> > *Resolved*, That immediately upon the adoption of this resolution the bill (H.R. 4790) to reduce individual income tax payments, and for other purposes, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that all Senate amendments be, and the same are hereby, agreed to. . . .
>
> MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, a parliamentary inquiry.

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18. 110 CONG. REC. 7302–04, 88th Cong. 2d Sess.

19. See also 112 CONG. REC. 2069, 89th Cong. 2d Sess., Feb. 3, 1966.

20. 94 CONG. REC. 3399, 3413, 80th Cong. 2d Sess.

THE SPEAKER: The gentleman will state it.

MR. RAYBURN: As I understand the parliamentary situation, Mr. Speaker, there is to be one vote only; and if the resolution is agreed to, it means that the House concurs in the Senate amendments to the so-called Knutson bill.

THE SPEAKER: The gentleman has stated the situation correctly.

§ 9.3 The House may adopt a resolution providing that it shall proceed to consideration of Senate amendments to a House joint resolution, that the motion to concur be pending, that the previous question be ordered thereon, and that the time for debate be fixed.

On Nov. 12, 1941,(1) Speaker Sam Rayburn, of Texas, recognized Mr. Adolph J. Sabath, of Illinois:

> Mr. Speaker, I call up House Resolution 334, and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> *Resolved*, That immediately upon the adoption of this resolution the House shall proceed to consider the Senate amendments to the joint resolution (H.J. Res. 237) to repeal section 6 of the Neutrality Act of 1939, and for other purposes; that the motion to concur in the said Senate amendments shall be considered as pending and that debate on said motion shall be limited to not to exceed 8 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and that at the conclusion of such debate the previous question shall be considered as ordered on the motion to concur. . . .
>
> THE SPEAKER: The previous question has been ordered. The question is on agreeing to the resolution.
>
> The resolution was agreed to. . . .
>
> THE SPEAKER: The Clerk will report the Senate amendments. . . .
>
> Pursuant to House Resolution No. 334, a motion to concur in the Senate amendments just read is pending. The gentleman from New York [Mr. Bloom] is recognized for 4 hours. The gentleman from New York [Mr. Fish] is recognized for 4 hours on the motion.

§ 9.4 Form of resolution providing for taking a House bill with a Senate amendment from the Speaker's table and agreeing to such Senate amendment.

On May 29, 1946,(2) Speaker Sam Rayburn, of Texas, recognized Mr. Edward E. Cox, of Georgia:

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1. 87 CONG. REC. 8763, 8770, 77th Cong. 1st Sess.

2. 92 CONG. REC. 5925, 79th Cong. 2d Sess.

Mr. Speaker, I call up House Resolution 644 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution the bill (H.R. 4908) to provide additional facilities for the mediation of labor disputes, and for other purposes, with the Senate amendment thereto, be, and the same hereby is, taken from the Speaker's table, to the end that the Senate amendment be, and the same hereby is, agreed to.(3)

Concurring and Concurring With Amendment

§ 9.5 The House may adopt a resolution providing for taking from the Speaker's table a House bill with Senate amendments, concurring in certain amendments, and concurring in certain other amendments with amendments.

On Aug. 27, 1957,(4) Speaker Sam Rayburn, of Texas, recognized Mr. Ray J. Madden, of Indiana:

Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 410 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution the bill, H.R. 6127, with Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that Senate amendments Nos. 1 to 6, inclusive, Senate amendments 8 to 14, inclusive, and Senate amendment No. 16, be, and the same are hereby, agreed to; that the House hereby concurs in Senate amendment No. 7 with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: . . .

§ 9.6 The House may adopt a resolution taking a House bill with Senate amendments from the Speaker's table, agreeing to the Senate amendment to the title of the bill and concurring in the remaining amendment with an amendment striking out a section of the Senate amendment.

On June 20, 1936,(5) Speaker William B. Bankhead, of Alabama, recognized Mr. John J. O'Connor, of New York:

Mr. O'Connor, from the Committee on Rules, submitted the following privileged resolution, which was re-

3. See also 87 CONG. REC. 8579, 77th Cong. 1st Sess., Nov. 6, 1941; 87 CONG. REC. 2143, 77th Cong. 1st Sess., Mar. 10, 1941; and 80 CONG. REC. 837, 74th Cong. 2d Sess., Jan. 22, 1936.

4. 103 CONG. REC. 16086, 85th Cong. 1st Sess.

5. 80 CONG. REC. 10568, 10569, 74th Cong. 2d Sess.

ferred to the House Calendar and ordered printed:

H. RES. 557

Resolved, That immediately upon the adoption of this resolution the bill H.R. 8555, with the Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the title of the bill be, and the same is hereby, agreed to; and Senate amendment no. 1 be, and the same is hereby, agreed to with the following amendment: Strike out section 303 of title III of the said Senate amendment.

Resolution as Subject to Amendment

§ 9.7 In response to a parliamentary inquiry, the Speaker stated that if the previous question were voted down on a resolution providing for agreeing to a Senate amendment to a House bill, the resolution would be open to amendment.

On June 17, 1970,[6] the House was considering House Resolution 914, which provided for agreeing to Senate amendments to H.R. 4249, a bill to extend the Voting Rights Act of 1965. Mr. Gerald R. Ford, of Michigan, rose with a parliamentary inquiry:

Mr. Speaker, a "no" vote on the previous question does give an opportunity for one of those who led the fight against the resolution to amend the resolution now pending before the House?

THE SPEAKER:[7] The Chair will state in response to the parliamentary inquiry of the gentleman from Michigan that if the previous question is voted down, the resolution is open to amendment. . . .

Senate Joint Resolution

§ 9.8 The House may adopt a special rule taking a Senate joint resolution from the Speaker's table and concurring in a Senate amendment to a House amendment.

On June 14, 1935,[8] Speaker Joseph W. Byrns, of Tennessee, instructed the Clerk to read the following resolution:

Resolved, That immediately upon the adoption of this resolution the joint resolution (S.J. Res. 113) entitled "Joint resolution to extend until April 1, 1936, the provisions of title I of the National Industrial Recovery Act, and for other purposes", with the amendment of the Senate to the House amendments, be, and the same hereby is, taken from the Speaker's table, to the end that the Senate amendment to

6. 116 CONG. REC. 20159, 20198–200, 91st Cong. 2d Sess.

7. John W. McCormack (Mass.).

8. 79 CONG. REC. 9311, 74th Cong. 1st Sess.

the House amendments be, and the same is hereby, agreed to.

Under Motion To Suspend the Rules

§ 9.9 On one occasion the Chairman of the Committee on Ways and Means submitted a House resolution agreeing to Senate amendments to a House bill and the Speaker recognized him to move to suspend the rules and agree thereto.

On Sept. 17, 1962,[9] Speaker John W. McCormack, of Massachusetts, recognized Mr. Wilbur D. Mills, of Arkansas:

> Mr. Speaker, I move to suspend the rules and agree to the House Resolution 800.
>
> The Clerk read the resolution, as follows:
>
> > *Resolved*, That immediately upon the adoption of this resolution the bill H.R. 7431, with the Senate amendments thereto, be, and the same hereby is, taken from the Speaker's table, to the end that the Senate amendments be, and the same are hereby agreed to.

§ 9.10 A motion to suspend the rules and concur in a Senate amendment to a House bill is not subject to amendment.

On July 27, 1946,[10] the following occurred in the House:

> MR. [HATTON W.] SUMNERS of Texas: Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the joint resolution (H.J. Res. 225) to quiet the titles of the respective States, and others, to lands beneath tidewaters and lands beneath navigable waters within the boundaries of such States and to prevent further clouding of such titles. . . .
>
> MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, I offer an amendment.
>
> THE SPEAKER:[11] No amendment is in order. . . .
>
> MR. HOBBS: Mr. Speaker, I have an agreement with the gentleman from Texas that I would be permitted to offer an amendment to the Senate amendment.
>
> THE SPEAKER: The Chair knows nothing about that agreement. An amendment to this motion is not in order.

§ 9.11 To a pending motion to suspend the rules and concur in a Senate amendment a motion to concur in such amendment with an amendment is not in order.

On July 27, 1946,[12] the following took place in the House:

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9. 108 CONG. REC. 19610, 19614, 87th Cong. 2d Sess.

10. 92 CONG. REC. 10310, 79th Cong. 2d Sess.

11. Sam Rayburn (Tex.).

12. 92 CONG. REC. 10310, 79th Cong. 2d Sess.

MR. [HATTON W.] SUMNERS of Texas: Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the joint resolution (H.J. Res. 225) to quiet the titles of the respective States, and others, to lands beneath tidewaters and lands beneath navigable waters within the boundaries of such States and to prevent further clouding of such titles. . . .

MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, I move to concur in the Senate amendment with an amendment.

THE SPEAKER:[13] That motion is not in order.

By Unanimous Consent

§ 9.12 Before the stage of disagreement, the House may by unanimous consent concur in a nongermane Senate amendment to House amendments to a Senate bill.

On Apr. 23, 1970,[14] Speaker John W. McCormack, of Massachusetts, recognized Mr. Kenneth J. Gray, of Illinois:

> Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 3253) to provide that the Federal office building and U.S. Courthouse in Chicago, Ill., shall be named the "Everett McKinley Dirksen Building East", and that the Federal office building to be constructed in Chicago, Ill., shall be named the "Everett McKinley Dirksen Building West" in memory of the late Everett McKinley Dirksen, a Member of Congress of the United States from the State of Illinois from 1933 to 1969, together with the Senate amendment to the House amendments, and concur in the Senate amendment. . . .
>
> The Clerk read the Senate amendment to the House amendments as follows:
>
> > Sec. 2. Upon a determination that a local educational agency lacks the fiscal capacity to provide an adequate free public education for children of persons who live and work on Federal property, and if such children constitute not less than 25 per centum of the total enrollment, the Secretary of Health, Education, and Welfare shall make emergency payments from sums already available, but not to exceed $2,500,000, for the current school year to such local educational agency as may be necessary to provide a free public education for such children: *Provided*, That such payments shall not exceed the average per-pupil cost to such agency for all children eligible to receive a free public education from such agency, less Federal and State payments to such agency for free public education.

The Senate amendment was agreed to.

§ 9.13 By unanimous consent, the House conferees were discharged and, the original papers being in the possession of the House, the House agreed to the Senate amendments that had been in disagreement.

13. Sam Rayburn (Tex.).
14. 116 CONG. REC. 12874, 91st Cong. 2d Sess.

On Aug. 12, 1964, the Senate notified the House that it had appointed managers to join those previously named in the House at conference on H.R. 4649, which had been amended by the Senate. The House agreed to the Senate amendments on Oct. 2, 1964. On Oct. 2,[15] Speaker John W. McCormack, of Massachusetts, recognized Mr. Wilbur D. Mills, of Arkansas:

> Mr. Speaker, I ask unanimous consent that the conferees on the part of the House be discharged from further consideration of the bill (H.R. 4649) to amend the Internal Revenue Code of 1954 to authorize the use of certain volatile fruit-flavor concentrates in the cellar treatment of wine; and I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4649) to amend the Internal Revenue Code of 1954 to authorize the use of certain volatile fruit-flavor concentrates in the cellar treatment of wine, with Senate amendments thereto, and concur in the Senate amendments. . . .
>
> THE SPEAKER: Is there objection to the request of the gentleman from Arkansas?
>
> There was no objection.
>
> The Senate amendments were concurred in.
>
> A motion to reconsider was laid on the table.

15. 110 CONG. REC. 23786, 23787, 88th Cong. 2d Sess.

§ 9.14 The pendency of a unanimous-consent request to take from the Speaker's table a House joint resolution with Senate amendments and concur in the Senate amendments precludes a demand for a roll call vote on the Senate amendments, since those amendments are already disposed of if the request is granted.

On June 30, 1971,[16] George H. Mahon, of Texas, Chairman of the Committee on Appropriations, sought unanimous consent to take House Joint Resolution 742, with Senate amendments thereto, from the Speaker's table and to concur in those amendments:

> MR. [JOHN R.] DELLENBACK [of Oregon]: Mr. Speaker, a . . . parliamentary inquiry.
>
> THE SPEAKER:[17] The gentleman will state it.
>
> MR. DELLENBACK: If this Member is desirous of asking for a rollcall vote on the approval of this particular continuing appropriation measure, would this be the time to bring it to the attention of the Chair and withdraw the reservation of objection?

16. 117 CONG. REC. 23095, 92d Cong. 1st Sess.

17. Carl Albert (Okla.).

MR. MAHON: Mr. Speaker, if I may say a word, the request or unanimous consent was to take from the Speaker's table House Joint Resolution 742 making continuing appropriations for the fiscal year 1972, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments. The request, I believe, would not open up the measure for a rollcall vote.[18] We would have to use a different procedure if we wanted a rollcall vote on the measure, as I see it. The Speaker, of course, will make his own ruling.

THE SPEAKER: The gentleman is correct.

Privilege of Motion When Applied to Amendments Not Requiring Consideration in Committee of the Whole

§ 9.15 A motion to concur in the Senate amendments to a House concurrent resolution providing for the signing of enrolled bills during a period of adjournment is privileged under Rule XXIV clause 2 (since such amendments do not require consideration in the Committee of the Whole).

Parliamentarian's Note: Although the *Congressional Record* for Oct. 13, 1970,[19] indicates that Mr. Carl Albert, of Oklahoma, obtained unanimous consent to concur in the Senate amendments to House Concurrent Resolution 775, the following entry from the Journal for that day[20] indicates that concurrence was obtained by a motion offered by Mr. Albert, and that therefore, such motion was privileged:

On motion of Mr. Albert, the concurrent resolution (H. Con. Res. 775) authorizing the Speaker of the House[1] and the President of the Senate to sign enrolled bills and joint resolutions notwithstanding the adjournment of Congress from October 14 to November 16, 1970; together with the following amendment of the Senate thereto, was taken from the Speaker's table:

Page 1, line 3, strike out "House" and insert "Congress".

Page 1, line 4, after "Senate" insert ", the President pro tempore, or the Acting President pro tempore,".

When, on motion of Mr. Albert, said Senate amendment was concurred in.

Effect of Rejection of Preferential Motion

§ 9.16 Upon rejection of a preferential motion to concur in

18. This request also obviated the requirement that these amendments be considered in the Committee of the Whole.

19. 116 CONG. REC. 36600, 91st Cong. 2d Sess.

20. H. Jour. 1299, 91st Cong. 2d Sess. (1970).

1. John W. McCormack (Mass.).

a Senate amendment with an amendment, the question recurs on a pending motion to concur in the Senate amendment.

On June 28, 1972,[2] the House was considering Senate amendments in disagreement to H.R. 13955, legislative branch appropriations for fiscal 1973. A motion to recede and concur offered by Mr. Samuel S. Stratton, of New York, was divided on demand of Mr. Robert R. Casey, of Texas. After the House voted to recede, Mr. Casey offered the resultant preferential motion to concur with an amendment.

MR. STRATTON: Mr. Speaker, if the motion offered by the gentleman from Texas does not carry; what is the parliamentary situation then?

THE SPEAKER:[3] The next vote would be on the motion of the gentleman from New York to concur in the Senate amendment.

Effect of Rejection of Motion To Concur

§ 9.17 In response to a parliamentary inquiry, the Speaker indicated that if a motion to concur in Senate amendments to a House amendment to a Senate bill was rejected, either a motion to concur with a germane amendment or to disagree would be in order.

On July 17, 1967,[4] the House was considering a Senate amendment to a House amendment to Senate Joint Resolution 81, providing for a settlement to a railway labor dispute. Mr. Samuel N. Friedel, of Maryland, offered a motion to concur in the Senate amendment. Mr. Claude D. Pepper, of Florida, was then recognized:

Mr. Speaker, a parliamentary inquiry, if I may.

THE SPEAKER:[5] The gentleman will state his parliamentary inquiry.

MR. PEPPER: If the motion to concur in the Senate amendments should be voted down, would then a motion to disagree to the Senate amendments be in order?

THE SPEAKER: It could be, under the rules, any germane amendments. Did the gentleman ask specifically as to any amendment?

MR. PEPPER: If a motion to disagree to the Senate amendments were made, in case the motion to agree to the Senate amendments were voted down, would it be in order?

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2. 118 CONG. REC. 22959, 22974, 22975, 92d Cong. 2d Sess.
3. Carl Albert (Okla.).
4. 113 CONG. REC. 19036, 90th Cong. 1st Sess.
5. John W. McCormack (Mass.).

THE SPEAKER: It could be.

§ 10. To Recede or Recede and Concur

A "motion to recede" is a somewhat ambiguous term in the abstract: it may indicate that the person making the request in the House wishes to recede from a House amendment. After the stage of disagreement is reached, the request is normally directed at removing a particular amendment of the Senate from that condition, thus permitting a reversal of the privilege bestowed upon certain motions under Rule XLV of Jefferson's Manual (*House Rules and Manual* § 528 (1997)).

Where a bill is returned to the House with amendments in disagreement, and the House recedes from its own House amendments, the bill is passed unless the motion otherwise specifies,[6] or unless the Senate has concurred in the House amendment with a Senate amendment.[7] But if by motion the House recedes from disagreement to Senate amendments, the amendments are not thereby agreed to, since a motion to concur with an amendment is still in order.

A motion to recede from an amendment with an amendment is not privileged, but such a result can be achieved by unanimous consent or special order.[8]

Receding From House Amendment

§ 10.1 By unanimous consent, the House may recede from its own amendments to a Senate bill.

On Apr. 18, 1966,[9] the following occurred in the House:

MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2729) to amend section 4(c) of the Small Business Act, and for other purposes, with House amendments thereto, and that the House recede from its amendments numbered 1 through 7.

The Clerk read the title of the bill.

THE SPEAKER:[10] Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.[11]

6. See §§ 10.2, 10.3, infra.
7. See §§ 10.7–10.9, infra.
8. See §§ 10.4–10.6, infra.
9. 112 CONG. REC. 8207, 89th Cong. 2d Sess.
10. John W. McCormack (Mass.).

Effect of House Receding From Its Amendment to Senate Bill

§ 10.2 Where the House recedes from its amendment to a Senate bill, even where the Senate has informed the House that it disagrees with the House amendment, the Senate bill is passed.

Since the House was about to adjourn *sine die*, there was no time to go to conference on S. 1805, authorizing reinstatement of a certain oil and gas lease. The proceedings, which were not a matter of dispute, are carried here.(12)

MR. [NICK J.] RAHALL [II, of West Virginia]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1805) to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164, with House amendments thereto, and recede from the House amendments to the Senate bill.

The Clerk read the title of the Senate bill.

The text of the House amendments to the Senate bill is as follows:

House amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Oil and Gas Leasing Amendments Act of 1990".

SEC. 2. TREATMENT OF SECTION 14 LEASES. . . .

Amend the title so as to read: "An Act to amend sections 14 and 31 of the Mineral Leasing Act, and for other purposes.".

THE SPEAKER PRO TEMPORE:(13) Is there objection to the request of the gentleman from West Virginia? . . .

MR. RAHALL: Mr. Speaker, this legislation was first passed by the Senate on September 11. On October 10, the House amended and passed the bill. On Tuesday, the Senate disagreed to our amendments.

We are accepting the Senate version of this legislation. . . .

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

There was no objection.

A motion to reconsider was laid on the table.(14)

Effect of Receding

§ 10.3 When a House amendment to a Senate bill is reported back from conference in disagreement and the House insists on its amend-

11. See also 107 CONG. REC. 18595, 87th Cong. 1st Sess., Sept. 7, 1961.
12. 136 CONG. REC. 36825, 36826, 101st Cong. 2d Sess., Oct. 27, 1990.
13. Michael R. McNulty (N.Y.).
14. The enrollment of this measure was announced to the House on Jan. 3, 1991, at 137 CONG. REC. 111, 102d Cong. 1st Sess.

ment, the bill returns to the Senate with such message for further action, but should the House recede from its amendment the bill retains its original form.

On Mar. 16, 1942,[15] the House was considering the amendments reported back from conference still in disagreement to S. 2208, the second war powers bill of 1942. Mr. Hatton W. Sumners, of Texas, moved to insist on House amendment No. 32, which deleted title VIII of the bill. Mr. Charles F. McLaughlin, of Nebraska, was then recognized by the Speaker Pro Tempore, Richard M. Duncan, of Missouri:

> If the House votes not to insist upon its amendment, then there is nothing before the conferees, because the House will then have yielded to the position taken by the Senate, as I understand the situation. Am I correct?
>
> THE SPEAKER PRO TEMPORE: If the House recedes from its amendment, then there would be no reason to go to conference.
>
> MR. MCLAUGHLIN: That is what I intended to ask. So that the situation is, Mr. Speaker, if I understand it correctly, we have two alternatives—one to insist and one to recede.
>
> THE SPEAKER PRO TEMPORE: That is correct.
>
> MR. MCLAUGHLIN: If we recede, we vote to pass without further action by the conferees the bill in the form in which it was prior to the time the Judiciary Committee, by committee amendment, moved that this title be stricken out, and prior to the time the House adopted that amendment. If we vote to insist, then we send it back to conference for action by the conferees. Is that not the situation?
>
> THE SPEAKER PRO TEMPORE: If the House adopted the pending motion, then it goes back to the Senate for further consideration. It goes to the Senate first before it goes to conference.

Receding From an Amendment With an Amendment

§ 10.4 The Senate has, by unanimous consent, receded from one of its own amendments "with an amendment."

The proceedings below show the action of the Senate on Mar. 22, 1983,[16] when it receded from one of its amendments to a House bill with an amendment.

> MR. [MARK O.] HATFIELD [of Oregon]: Mr. President, I move that we adopt amendment No. 82.
>
> THE PRESIDING OFFICER:[17] The amendment has been adopted.
>
> The clerk will report the remaining amendment in disagreement.

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15. 88 CONG. REC. 2508, 2512, 2513, 77th Cong. 2d Sess.

16. 129 CONG. REC. 6629, 6630, 98th Cong. 1st Sess.

17. Nancy L. Kassebaum (Kans.).

The legislative clerk read as follows:

The House insists upon disagreement to Senate amendment numbered 82.

MR. HATFIELD: Mr. President, I ask unanimous consent that it be in order for the Senate to recede from its amendment No. 82 with an amendment.

THE PRESIDING OFFICER: Without objection, it is so ordered.

UP AMENDMENT NO. 118

MR. HATFIELD: Mr. President, I send an amendment to the desk.

THE PRESIDING OFFICER: The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. Hatfield) proposes an unprinted amendment numbered 118.

MR. HATFIELD: Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

THE PRESIDING OFFICER: Without objection, it is so ordered.

The amendment is as follows:

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

SEC. 101. (a)(1) Notwithstanding any other provision of law, 75 per centum of the funds appropriated or otherwise made available in this title for each account listed in subsection (a)(5) shall be made available for projects and activities in civil jurisdictions with high unemployment, or in labor surplus areas, or in political units or in pockets of poverty that are currently or should meet the criteria to be eligible under the Urban Development Action Grant program administered by the Department of Housing and Urban Development.

On Mar. 24, 1983,[18] when the House took up the message from the Senate with respect to the new Senate amendment 82, it was considered as privileged, the stage of disagreement being in effect, even with respect to this new amendment.

EMERGENCY APPROPRIATIONS, 1983

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 1718) making emergency expenditures to meet national needs for the fiscal year ending September 30, 1983, and for other purposes, with the remaining Senate amendment numbered 82 thereto, and concur therein.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Resolved, That the Senate recede from its amendment numbered 82 and concur with a further amendment as follows:

Page 32, of the House engrossed bill, strike out all after line 21 over to and including line 5 on page 35 and insert: . . .

THE SPEAKER:[19] The gentleman from Mississippi (Mr. Whitten) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 30 minutes.

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18. 129 CONG. REC. 7300, 7301, 98th Cong. 1st Sess.

19. Thomas P. O'Neill, Jr. (Mass.).

The Chair recognizes the gentleman from Mississippi (Mr. Whitten).

Parliamentarian's Note: Although the Senate is not under its rules specifically governed by Jefferson's Manual, it has traditionally followed the prohibition Jefferson sets forth in Sec. XLV of his Manual: "But the House can not recede from or insist on its own amendment, with an amendment; for the same reason that it cannot send to the other House an amendment to its own act after it has passed the act. They may modify an amendment from the other House by engrafting an amendment on it, because they have never assented to it; but they cannot amend their own amendment, because they have, on the question, passed it in that form."[20]

§ 10.5 Form of a special order permitting the House to recede from its amendment to a Senate amendment in disagreement, and concur therein with a different amendment.

On Nov. 15, 1995,[1] the Senate had attempted to table its amendment numbered 115 to the bill H.R. 1868. Debate in the Senate indicated that the Senate action would clear the bill for presentation to the President, assuming that by tabling its amendment (in which the House had already concurred with an amendment) there would be nothing left in disagreement between the Houses.

On Dec. 13, 1995,[2] the House took the action here noted, since under House precedents, the Senate action in tabling its amendment (an action which the Senate equated with receding from its amendment) was not itself an action sufficient to pass the bill without further action by the House.[3]

The Senate action, a portion of the debate on that occasion, and the special order utilized in the House to recede from its amendment and concur with a new amendment are carried here. The special order provided for a waiver of points of order against the mo-

20. *House Rules and Manual* § 526 (1997).

1. 141 CONG. REC. 32530, 32534, 104th Cong. 1st Sess.
2. *Id.* at p. 36290.
3. See § 10.9, infra.

tion, since House precedents indicate that it is not parliamentary to recede from a House amendment to a Senate text with an amendment.(4)

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

MR. [MITCH] MCCONNELL [of Kentucky]: Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1868, a bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

The Presiding Officer laid before the Senate the following message from the House of Representatives.

> *Resolved*, That the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 115 to the bill (H.R. 1868) entitled "An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.". . . .

. . . [T]he motion to lay on the table the amendment (No. 115) was agreed to. . . .

MR. MCCONNELL: Mr. President, let me describe where I believe we are on the foreign operations bill as of this motion to table.

According to the Senate Parliamentarian, based on precedence, beginning in 1898 and in subsequent votes as recently as 1984, either House has the option to recede on its amendment. Based on discussions with the Parliamentarian, it is my understanding that by tabling amendment No. 115, we have, in effect, receded our position on both the Kassebaum language [Senate] and the Chris Smith language [House] leaving no further amendments in disagreement. This means no further action is required by the House on the foreign operations appropriations bill, unless it chooses to, and it can be enrolled by the House and sent to the President, again, if the House should choose to take that route. . . .

DISPOSING OF SENATE AMENDMENT 115 TO H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

MR. [PORTER J.] GOSS [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 296 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 296

> *Resolved*, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with the Senate amendment numbered

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4. See 5 Cannon's Precedents §§ 6216–6218; *House Rules and Manual* § 526 (1997).

115 thereto, and to consider in the House the motion printed in section 2 of this resolution. The Senate amendment and the motion shall be considered as read. All points of order against the motion are waived. The motion shall be debatable for one hour equally divided and controlled by the proponent and an opponent. The previous question shall be considered as ordered on that motion to final adoption without intervening motion or demand for division of the question.

SEC. 2. The motion to dispose of the amendment of the Senate numbered 115 is as follows:

Mr. Callahan (or his designee) moves that the House recede from its amendment to the amendment of the Senate numbered 115, and concur therein with an amendment, as follows:

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

"Authorization of Population Planning

"SEC. 518A. Section 526 of this Act shall not apply to funds made available in this Act for population planning activities or other population assistance pursuant to section 104(b) of the Foreign Assistance Act or any other provision of law, or to funds made available in title IV of this Act as a contribution to the United Nations Population Fund (UNFPA).".

THE SPEAKER PRO TEMPORE:[5] The gentleman from Florida [Mr. Goss] is recognized for 1 hour. . . .

§ 10.6 The House has also receded from a House amendment to a Senate amendment to a House bill with an amendment, but only by unanimous consent.

The request made by Mr. Eligio (Kika) de la Garza, of Texas, on July 14, 1983,[6] shows an example of this type of action, which is rarely utilized.

AGRICULTURAL ACT OF 1949 AMENDMENT

MR. DE LA GARZA: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3392) to amend the Agricultural Act of 1949, with a House amendment to the Senate amendment thereto, and to recede from the House amendment with an amendment.

The Clerk read the title of the bill.

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

In lieu of the language contained in the Senate amendment, insert the following:

Page 1, after line 11, insert the following:

SEC. 2. Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by—

(1) in the second sentence of subsection (c), striking out "5 per centum" and inserting in lieu thereof "10 per centum"; and

(2) in the fourth sentence of subsection (e), striking out "95 per centum" and inserting in lieu thereof "90 per centum". . . .

5. Jack Kingston (Ga.).

6. 129 CONG. REC. 19158, 98th Cong. 1st Sess.

THE SPEAKER:[7] Is there objection to the request of the gentleman from Texas?

There is no objection.

Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

Effect of Receding From an Amendment, the Other House Having Concurred With a Further Amendment

§ 10.7 Where one House has receded from its amendment to a bill after the other House has concurred therein with an amendment, the bill is not passed until the House that has concurred with an amendment has receded from its own amendment and agreed to the action of the other House.

In the instance described here,[8] the Senate had actually not receded from, but tabled, its amendment in which the House had previously concurred in with an amendment. Mr. Mark O. Hatfield, of Oregon, originally moved to recede, but after debate, the question was put on his motion to table the Senate amendment to the House amendment.

THE PRESIDING OFFICER:[9] The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "No funds are appropriated herein for the Central Intelligence Agency in fiscal year 1984 for purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.".

MR. HATFIELD: Mr. President, this is the amendment dealing with the subject of Nicaragua, aid to Nicaragua. I now move that the Senate recede from its amendment numbered 14.

THE PRESIDING OFFICER: Without objection, the motion is agreed to.

MR. [WILLIAM] PROXMIRE [of Wisconsin]: Mr. President, I suggest the absence of a quorum.

MR. HATFIELD: Mr. President, if the Senator will withhold, I was about ready to explain the motion. I think there are Members who wish to speak on this issue. I should like to have the Chair not rule on this point, on the adoption of this motion, until I have had an opportunity to explain it. . . .

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7. Thomas P. O'Neill, Jr. (Mass.).
8. 130 CONG. REC. 18576, 18591, 98th Cong. 2d Sess., June 25, 1984.
9. Robert W. Kasten, Jr. (Wis.).

(Mrs. [Nancy L.] Kassebaum [of Kansas] assumed the chair.)

MR. HATFIELD: Madam President, I thank the Senator from North Carolina. I know that he feels strongly about this issue and expressed himself today in very eloquent terms. Even though we disagree on the matter, I think the issue has had a good debate and good discussion and the record has been made.

Therefore, at this time, I move to table Senate amendment numbered 14.

MR. [EDWARD M.] KENNEDY [of Massachusetts]: Madam President, this is an important vote.

It does represent a lessening of the administration's commitment to the war.

And I say, "Amen."

Madam President, I ask for the yeas and nays.

THE PRESIDING OFFICER: Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Oregon [Mr. Hatfield] to table Senate amendment No. 14. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

MR. [JOHN C.] STENNIS [of Mississippi]: I announce that the Senator from South Dakota [Mr. Abdnor] and the Senator from Colorado [Mr. Armstrong] are necessarily absent. . . .

So the motion to lay on the table Senate amendment No. 14 was agreed to.

MR. [HOWARD H.] BAKER [Jr., of Tennessee]: Madam President, I move to reconsider the vote by which the motion was agreed to.

MR. [ALAN J.] DIXON [of Illinois]: I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MR. BAKER: Madam President, am I correct now that the vote just taken, which disposes of the last remaining amendment in disagreement, is the final action required by the Senate on this measure?

THE PRESIDING OFFICER: The majority leader is correct.

MR. BAKER: I thank the Chair.

On the following day,[10] the House took the necessary conforming action. Mr. Jamie L. Whitten, of Mississippi, offered a unanimous-consent request, but since the stage of disagreement had been reached when the measure was sent to conference, a motion to recede from the House amendment would have been privileged.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 492) entitled "Joint resolution making an urgent supplemental appropriation for the

10. 130 CONG. REC. 18733, 18734, 98th Cong. 2d Sess., June 26, 1984.

fiscal year ending September 30, 1984, for the Department of Agriculture." . . .

The message also announced that the Senate tabled its amendment numbered 14 to the above-entitled joint resolution. . . .

EXPLANATION OF HOUSE JOINT RESOLUTION 492 . . .

MR. WHITTEN: Mr. Speaker, I wish to make a statement regarding a unanimous-consent request that I am about to make regarding the urgent supplemental (H.J. Res. 492). As my colleagues probably know by now, yesterday the Senate cleared the remaining obstacle on the conference report on the urgent supplemental. By a record vote of 88 to 1 the other body agreed with the House position that no additional funding should be made available to the CIA for the Nicaragua operations. This House voted 241 to 177 on May 24 to prohibit the CIA to use any funds in this bill to continue their covert actions in Nicaragua. Finally after almost a month, the Senate has come around to the House position on this matter. My unanimous-consent request, which I will make shortly is somewhat unusual in that since the Senate has tabled its amendment (No. 14) which provided the $21 million, for the bill to go to the President we need to recede from our language amendment which was offered by the gentleman from Massachusetts [Mr. Boland]. Since the funding is no longer in this measure, the language prohibition is no longer required and it can now be deleted so that this bill may go to the President.

I sincerely hope that no one will object to this request. This resolution which began in the Appropriations Committee on February 29 is long overdue and necessary. . . .

URGENT SUPPLEMENTAL APPROPRIATION, DEPARTMENT OF AGRICULTURE, 1984

MR. WHITTEN: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture, with the remaining amendment, and that the House recede from its amendment to the amendment of the Senate numbered 14 and agree to the action of the Senate.

This is necessary in order for the bill to go on to the President, and as I say again, everyone that I have talked to agrees that it is necessary.

The Clerk read the title of the joint resolution.

THE SPEAKER:[11] Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

Parliamentarian's Note: In the Senate, tabling an amendment does not table the underlying bill (as would be the case in the House).

Relevant precedents relating to one House receding from its amendment after the other has concurred with an amendment

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11. Thomas P. O'Neill, Jr. (Mass.).

are noted in Jefferson's Manual, *House Rules and Manual* § 524 (1997).

§ 10.8 Where the Senate has receded from its amendment to a bill after the House has concurred therein with an amendment, the bill is not passed until the House has receded from its own amendment and agreed to the action of the other body.

On Nov. 9, 1993,[12] Sidney R. Yates, of Illinois, Chairman of the Interior Subcommittee of the Committee on Appropriations, made the unanimous-consent request carried below. Since the stage of disagreement had been reached on the amendments remaining in disagreement to the appropriation bill, the matter could have been effected by a motion if the request were not agreed to.

MR. YATES: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the conference report on the bill (H.R. 2520) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes, with the remaining amendment in disagreement and that the House recede from its amendment to the amendment of the Senate numbered 123 and agree to the action of the Senate.

The Clerk read the title of the bill.

The text of the House amendment to Senate amendment No. 123 is as follows:

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

SEC. 317. GRAZING. . . .

Title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.) is amended by adding the following new sections:

"SEC. 406. GRAZING FEES.

"(a) ESTABLISHMENT.—The Secretary of the Interior and the Secretary of Agriculture shall annually establish grazing fees.

"(b) PHASE-IN.—The grazing fee for the grazing years 1994, 1995, and 1996 shall be as follows . . . .

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

MR. [RALPH] REGULA [of Ohio]: Mr. Speaker, reserving the right to object, I reserve the right to object in order to advise the House as to what has happened on this.

On September 29 this House, by a vote of 314 to 109, instructed the House conferees to reject the Senate amendment to this bill which put a moratorium on the Secretary of the Interior. I am pleased to inform the House Members that the House has prevailed. The moratorium has been taken out of the bill and the Secretary of the Interior will now be free to, by executive action, deal with the grazing-fee issue and also

12. 139 CONG. REC. 28061–64, 103d Cong. 1st Sess.

with whatever regulations he may choose to promulgate.

This reflects exactly the House position as we, as conferees, were instructed by that vote on September 29.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

§ 10.9 Where the Senate recedes from amendments which have been amended by the House it is necessary, to reach agreement on the bill, for the House to recede from its amendments to the Senate amendments.

On Sept. 11, 1944,[13] Speaker Sam Rayburn, of Texas, recognized Mr. Stephen Pace, of Georgia:

> Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4278) to provide for the control and eradication of certain animal and plant pests and diseases, to facilitate cooperation with the States in fire control, to provide for the more efficient protection and management of the national forests, to facilitate the carrying out of agricultural conservation and related agricultural programs, to facilitate the operation of the Farm Credit Administration and the Rural Electrification Administration, to aid in the orderly marketing of agricultural commodities, and for other purposes, with Senate amendments; that the House recede from its amendments to Senate amendments Nos. 1 and 3 and agree to the action of the Senate in receding from their amendments Nos. 1 and 3.
>
> MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, reserving the right to object, will the gentleman explain in very clear language the necessity for this?
>
> MR. PACE: The bill H.R. 4278 was an authorization bill which passed the House last May authorizing certain appropriations that Congress has made for a number of years but which had never been authorized by law. After being amended I believe the bill passed the House practically unanimously.
>
> The Senate Committee on Agriculture reported the bill line for line as it was passed by the House; but they did add three amendments, one having to do with the school-lunch program, a second having to do with the Farm Security Administration, and a third having to do with the tobacco-acreage allotments.
>
> The House never agreed to the amendment relating to tobacco allotments but did agree with an amendment to the school-lunch and Farm Security provisions. On account of the fact that these two provisions subsequently were written into the agricultural appropriation bill and enacted into law the Senate has agreed to recede from all three amendments. Inasmuch as the other two provisions are

13. 90 CONG. REC. 7634, 78th Cong. 2d Sess.

now in the agricultural appropriation bill they have receded from the tobacco amendment.

I am advised by the Parliamentarian, however, that inasmuch as we concurred in two of the amendments with amendments it is now necessary that the House concur in the action of the Senate in receding from their original amendments.

MR. MICHENER: Yes, I understand that. The language of the request is unusual from a parliamentary standpoint; it is very difficult to understand. It expresses what ought to be done, but in a very unusual way. I do not wish to apologize for the Parliamentarian in drafting the language of the request, for I think it is the only possible approach he could make to a situation so unusual.

MR. PACE: I am advised it is under these circumstances.

Division of Motion To Recede and Concur

§ 10.10 The question on the motion to recede and concur in a Senate amendment may be divided on demand of a Member.

On June 15, 1943,(14) the House was considering the Senate amendment in disagreement to H.R. 1648, Treasury and Post Office appropriations for 1944. Speaker Sam Rayburn, of Texas, recognized Mr. Louis Ludlow, of Indiana:

> Mr. Speaker, I move to recede and concur in the Senate amendment, and I yield myself 15 minutes.
>
> MR. [JOHN] TABER [of New York]: Mr. Speaker, I ask for a division of the question.
>
> MR. LUDLOW: Mr. Speaker, I object to a division of the question and insist on my preferential motion to recede and concur.
>
> THE SPEAKER: The Chair thinks the gentleman from New York is entitled to have the question divided if he so desires.
>
> MR. LUDLOW: A parliamentary inquiry, Mr. Speaker.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. LUDLOW: I have always understood that a motion to recede and concur by the Member in charge of the bill is a preferential motion.
>
> THE SPEAKER: It is a preferential motion, but it may be divided.
>
> MR. LUDLOW: If I insist that it is a preferential motion, what is the ruling of the Chair?
>
> THE SPEAKER: The ruling of the Chair is that it is a preferential motion, but it is divisible. If any Member desires a division of the question, he has a right under the rules of the House to demand it.(15)

14. 89 CONG. REC. 5899, 78th Cong. 1st Sess.

15. See also 109 CONG. REC. 8506, 88th Cong. 1st Sess., May 14, 1963 (H.R. 5517); and 106 CONG. REC. 14074,

§ 10.11 Any Member may as a matter of right (under Rule XVI clause 6) demand a division of the question on a motion to recede and concur in a Senate amendment, and the House does not vote on whether to permit a division of the question.

On June 28, 1972,[16] the House was considering Senate amendments in disagreement to H.R. 13955, legislative branch appropriations for fiscal 1973. Mr. Robert R. Casey, of Texas, offered a motion that the House insist on its disagreement to Senate amendment No. 36. Speaker Carl Albert, of Oklahoma, then recognized Mr. Samuel S. Stratton, of New York:

> Mr. Speaker, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Stratton moves that the House recede from its disagreement to Senate amendment numbered 36 and concur therein.
>
> MR. CASEY of Texas: Mr. Speaker, I request a division of the question.
>
> MR. STRATTON: Mr. Speaker, a parliamentary inquiry.

86th Cong. 2d Sess., June 23, 1960 (H.R. 10569).

16. 118 CONG. REC. 22959, 22974, 92d Cong. 2d Sess.

THE SPEAKER: The gentleman will state it.

MR. STRATTON: Is the request for a division of the question presumably to recede on one part and concur on the other part? Is this subject to a vote or something?

THE SPEAKER: All of the motion is subject to a vote. The question is on the matter of receding from disagreement.

MR. STRATTON: A further parliamentary inquiry, Mr. Speaker. If a Member is in favor of accepting the Senate amendment, then he would oppose the motion to divide on the vote. Is that correct?

THE SPEAKER: This is not a question of voting on the division but a question of voting on the motion to recede.

MR. STRATTON: A further parliamentary inquiry. My understanding is that if the motion to divide succeeds and passes, then it is possible parliamentarily to offer an amendment to the Senate amendment rather than to accept the Senate amendment. Is that not correct?

THE SPEAKER: If the motion to recede from disagreement is adopted, then a motion to concur in the Senate amendment with an amendment is in order.

MR. STRATTON: Then another further parliamentary inquiry, Mr. Speaker. If we want to accept the Senate amendment and conclude the conference, the way to do that is to vote down the motion to divide this particular question. Is that not true?

THE SPEAKER: There is no question of division involved.

MR. STRATTON: Mr. Speaker, I am confused. My original question was

whether the proposal to divide the question into two parts was subject to a vote.

THE SPEAKER: Division of a question is a right which any Member of the House enjoys.

§ 10.12 Where a motion to recede and concur with an amendment to an amendment of the Senate reported in disagreement from conference has been divided, and the House has refused to recede, the conferee managing the bill is entitled to recognition to offer a motion to insist on disagreement.

The practice regarding the Speaker's bestowal of recognition to offer a new motion following the rejection of a motion to recede from disagreement is illustrated by the proceedings of Sept. 24, 1975.[17]

THE SPEAKER:[18] . . . 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. . . .

So the motion to recede was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. SLACK

MR. [JOHN M.] SLACK [Jr., of West Virginia]:[19] Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House insist on its disagreement to Senate amendment No. 8.

THE SPEAKER: Does the gentleman from West Virginia desire time on the motion?

MR. SLACK: Mr. Speaker, I desire no time.

MR. [M. G. (GENE)] SNYDER [of Kentucky]: Mr. Speaker, will the gentleman yield just for 30 seconds?

MR. SLACK: I yield to the gentleman from Kentucky.

MR. SNYDER: Mr. Speaker, I just wanted to say I had the same motion.

The motion was agreed to.

Debating Both Parts of Divided Motion To Recede and Concur

§ 10.13 When the question is divided on a motion to recede and concur, and the House debates the question of whether to recede under

17. 121 CONG. REC. 30081, 30082, 94th Cong. 1st Sess.

18. Carl Albert (Okla.).

19. Mr. Slack was the manager of the conference report on H.R. 8121 (State, Justice, Commerce, the Judiciary appropriations for fiscal year 1976) by virtue of his chairmanship of the Subcommittee on State, Justice, Commerce, and Judiciary.

the hour rule and does not order the previous question on either member of the divided question, then the second member (to concur, or the preferential motion to concur with amendment, if offered) is separately debatable for one hour.

Where a motion to dispose of an amendment in disagreement is pending, a Member offering a preferential motion does not ordinarily control time thereon, as all debate is allocated on the original motion. But where an original motion is divided, it in effect becomes two motions, each subject to debate under the hour rule, subject to the divided allocations prescribed in Rule XXVIII clause 2(b)(2).[20] Often, the question on receding is put without debate so the House can get quickly to the next step: a preferential motion or the other half of the divided question.

The proceedings of Nov. 14, 1989,[1] included debate on both the motion to recede and the preferential motion to concur with an amendment.

THE SPEAKER PRO TEMPORE:[2] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

> Senate amendment No. 17: Page 11, line 25, after "zation" insert ": *Provided further*, That notwithstanding the previous proviso, not less than $15,000,000 of the funds appropriated under this heading shall be made available only for the United Nations Population Fund: *Provided further*, That the United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further*, That none of the funds made available under this heading for the United Nations Population Fund shall be made available for programs for the People's Republic of China".

MOTION OFFERED BY MR. OBEY

MR. [DAVID R.] OBEY [of Wisconsin]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Obey moves that the House recede from its disagreement to the amendment of the Senate numbered 17, and concur therein. . . .

MR. [VIN] WEBER [of Minnesota]: Mr. Speaker, I demand that the question be divided.

THE SPEAKER PRO TEMPORE: The question will be divided.

The gentleman from Wisconsin [Mr. Obey] will be recognized for 30 minutes, and the gentleman from Okla-

20. *House Rules and Manual* § 912(c) (1997).

1. See 135 CONG. REC. 28754, 28766, 101st Cong. 1st Sess.

2. Sander M. Levin (Mich.).

homa [Mr. Edwards] will be recognized for 30 minutes.

MR. [MICKEY] EDWARDS of Oklahoma: Mr. Speaker, I ask unanimous consent that the 30 minutes allotted to me may be controlled by the gentleman from New Jersey [Mr. Smith].

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

There was no objection.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey [Mr. Smith] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. Obey]. . . .

MR. [WILLIAM] LEHMAN of Florida: Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

THE SPEAKER PRO TEMPORE:[3] The question is, will the House recede from its disagreement to the amendment of the Senate numbered 17?

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

PREFERENTIAL MOTION OFFERED BY MR. SMITH OF NEW JERSEY

MR. [CHRISTOPHER H.] SMITH of New Jersey: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Smith of New Jersey moves to concur with the Senate amendment (number 17) with an amendment, as follows: at the end of Senate amendment 17, insert:
>
> *Provided further*, That notwithstanding the previous provisos, no funds under this heading shall be made available to the United Nations Population Fund unless the President of the United States certifies that the United Nations Population Fund does not provide support for, or participate in the management of, a program of coercive abortion or involuntary sterilization in the People's Republic of China.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey [Mr. Smith] will be recognized for 30 minutes, and the gentleman from New York [Mr. McHugh] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Smith].

Debate on Motion To Recede and Concur

§ 10.14 Debate on a motion that the House recede from its disagreement to a Senate amendment and concur in the same is under the hour rule, and if the question is divided the hour rule applies to each motion separately.

On May 9, 1940,[4] during consideration of the conference report and amendments in disagreement to H.R. 8202, the agricultural appropriation bill for 1941, the following discussion occurred:

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3. Frank McCloskey (Ind.).

4. 86 CONG. REC. 5889, 76th Cong. 3d Sess.

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Speaker, as I understand, there is 1 hour debate allowed on the motion to recede and concur. Request had been made for a division. My inquiry is this: Will there be 1 hour of debate on each motion?

THE SPEAKER:[5] The gentleman from Missouri [Mr. Cannon] controls the time. If one is demanded on the motion to recede, that hour is granted. Then an hour will be granted on the motion to concur.

MR. WHITTINGTON: That satisfies my inquiry.

Consequences of Dividing Motion To Recede and Concur

§ 10.15 Where a division of the question was demanded on a preferential motion to recede from disagreement and concur in a Senate amendment (offered while a motion to insist was pending), the Speaker indicated: (1) that if the motion to recede were agreed to, a motion to concur with a germane amendment would take precedence over the pending motion to concur; but (2) that if the motion to recede were disagreed to, the question would recur on the initial motion to insist on disagreement to the Senate amendment.

On Aug. 10, 1976,[6] when the House had under consideration the final amendment remaining in disagreement following adoption of the conference report on an appropriation bill,[7] the manager[8] of the bill offered a motion that the House insist on its disagreement. A preferential motion to recede and concur was then offered, followed by a demand that that motion be divided. The proceedings and inquiries are carried below:

THE SPEAKER:[9] The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 68: Page 39, line 5, strike out: "Sec. 209. None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions."

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

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5. William B. Bankhead (Ala.).

6. 122 CONG. REC. 26781, 26783, 26792, 26793, 94th Cong. 2d Sess.

7. H.R. 14232 (Labor and Health, Education, and Welfare appropriations for fiscal 1977).

8. Daniel J. Flood (Pa.).

9. Carl Albert (Okla.).

Mr. Flood moves that the House insist on its disagreement to the amendment of the Senate numbered 68.

PREFERENTIAL MOTION OFFERED BY MR. PRITCHARD

MR. [JOEL] PRITCHARD [of Washington]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Pritchard moves that the House recede from its disagreement to the amendment of the Senate numbered 68 and concur therein.

MR. [DAVID R.] OBEY [of Wisconsin]: Mr. Speaker, if this is the correct time to make this request, I ask that that question be divided.

THE SPEAKER: The Chair will inform the gentleman that the question will be divided on the preferential motion. . . .

PARLIAMENTARY INQUIRY

MR. [JEROME A.] AMBRO [of New York]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. AMBRO: Mr. Speaker, as I understand the situation, the gentleman from Pennsylvania is making a motion to insist on the House language incorporated in the Hyde amendment. The gentleman from Washington (Mr. Pritchard) now asks us to recede and concur with the Senate language.

THE SPEAKER: The gentleman is right.

MR. AMBRO: The gentleman then said that this was divisible, which means that we can take a vote on the motion to recede.

THE SPEAKER: To recede from disagreement to the Senate amendment.

MR. AMBRO: Yes. If the motion to recede passes, can we then go on with a vote to concur with the Senate language? Is that the next step?

THE SPEAKER: Yes. But if the House recedes, any germane motion to concur with an amendment would be in order before the House votes on the pending motion to concur.

MR. AMBRO: To concur with an amendment will be in order. If the motion to recede fails, is another preferential motion to recede and amend in order?

THE SPEAKER: No.

MR. AMBRO: Do we then move to a vote on the Flood language?

MR. FLOOD: Pro forma.

THE SPEAKER: The gentleman is correct.

MR. AMBRO: That is correct?

THE SPEAKER: Yes.

MR. AMBRO: I thank the Speaker. . . .

MR. FLOOD: Mr. Speaker, I move the previous question on the motion to insist on its disagreement and on the preferential motion.

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

There was no objection.

PARLIAMENTARY INQUIRY

MS. [BELLA S.] ABZUG [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentlewoman will state it.

MS. ABZUG: Mr. Speaker, if as the chairman has indicated he moves the previous question, if one intends to concur with the Senate amendment one would vote "yea" and if one opposes the Senate amendment, which is to elimi-

nate the Hyde amendment, then one would vote "nay." Is that correct?

THE SPEAKER: The question will be on whether the House shall recede from its disagreement. If the House does not recede, then the motion of the gentleman from Pennsylvania will be voted upon, and then the House could insist on its position and then the matter will go back to the Senate.

PARLIAMENTARY INQUIRY

MR. [JOE] SKUBITZ [of Kansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SKUBITZ: Mr. Speaker, if the House votes to recede, would a motion have precedence?

THE SPEAKER: A motion will be in order.

MR. SKUBITZ: I thank the Chair.

THE SPEAKER: The question is on the motion offered by the gentleman from Washington (Mr. Pritchard) that the House recede from its disagreement to the amendment of the Senate numbered 68. . . .

So the motion to recede was rejected.

The result of the vote was announced as above recorded.

THE SPEAKER: The question is on the motion offered by the gentleman from Pennsylvania (Mr. Flood).

The motion was agreed to.

A motion to reconsider the vote by which action was taken on the several motions was laid on the table.

Stage of Disagreement, Once Reached, Continues as Additional Amendments Are Considered; Precedence of Motions

§ 10.16 A motion in the House to dispose of a further amendment of the Senate to a House amendment to a Senate amendment, the stage of disagreement having been reached, is privileged and is more preferential than a motion to commit under Rule XVII clause 1.

Where the House, pursuant to a rule, amended a Senate amendment to a House bill, then insisted on its amendment and requested a conference, the stage of disagreement was reached; and when the Senate ignored a request for a conference and sent the House a further amendment to the House amendment to the Senate amendment, the motion to concur in the House was deemed privileged.

A motion to refer, or to commit, a Senate amendment to a House amendment to a Senate amendment, the stage of disagreement having been reached, is in order under Rule XVI clause 4 if the previous question is rejected on the motion to concur.

Where the final stage of amendment is reached between the Houses, the motion which tends to bring the matter to closure most quickly is the most preferential.

On Sept. 16, 1976,[10] when the House had before it the final Senate amendment to the House amendment to the Senate amendment to a House bill, the options available to the House were limited. When the manager of the bill[11] moved to concur in the final Senate amendment, a series of inquiries and alternatives were broached, including a specific inquiry regarding the applicability of a motion to refer under Rule XVII[12] in the pending situation:

MR. RODINO: Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with a Senate amendment to the House amendment to the Senate amendments thereto, and concur in the Senate amendment to the House amendment to the Senate amendments.

The Clerk read the title of the bill.

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

In lieu of the matter proposed to be inserted by the House engrossed amendment to the Senate engrossed amendments, insert;

That this Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1976". . . .

MR. RODINO (during the reading): Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with.

THE SPEAKER:[13] Is there objection to the request of the gentleman from New Jersey?

PARLIAMENTARY INQUIRIES

MR. [ROBERT] MCCLORY [of Illinois]: Mr. Speaker, I have several parliamentary inquiries.

THE SPEAKER: The gentleman will state them.

MR. MCCLORY: Mr. Speaker, is the motion of the gentleman from New Jersey privileged because the stage of disagreement has been reached?

THE SPEAKER: The gentleman is correct.

MR. MCCLORY: Mr. Speaker, my next parliamentary inquiry is, was the stage of disagreement reached when the House insisted on its amendment to the first Senate amendment and requested a conference thereon, even though the Senate had not previously or has not subsequently voted its disagreement?

10. 122 CONG. REC. 30868, 30872, 30873, 30887, 30888, 94th Cong. 2d Sess.

11. Peter W. Rodino, Jr. (N.J.), Chairman of the Committee on the Judiciary.

12. *House Rules and Manual* § 804 (1997).

13. Carl Albert (Okla.).

THE SPEAKER: That is correct.

MR. MCCLORY: Mr. Speaker, my third parliamentary inquiry is this: Is the House still in disagreement even though it has not acted upon the Senate amendment now before the House?

THE SPEAKER: The stage of disagreement is still in effect.

MR. MCCLORY: I thank the Speaker.

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

There was no objection.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Rodino moves that the House concur in the Senate amendment to the House amendment to the Senate amendments. . . .

MR. RODINO: Mr. Speaker, I allot myself such time as I may consume. . . .

I move the previous question on the motion.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. MCCLORY: Mr. Speaker, in view of the fact that rule XVII states that "It shall be an order—after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee," and in view of the fact that motions to commit are permitted when the stage of disagreement has been reached in the context of the consideration of conference reports, and in view of the fact that prior precedents indicate that a motion to commit is in order after the previous question has been ordered on a motion to concur in a Senate amendment (V, 5575), is it absolutely necessary to first vote down the previous question before I may be recognized to offer a motion to commit?

THE SPEAKER: The answer to the specific question is "yes," but the precedent cited by the gentleman is not applicable in the present situation, since in this case the stage of disagreement has been reached and therefore the pending motion is most preferential as tending to resolve the differences between the House most quickly.[14]

MR. MCCLORY: I thank the Chair. . . .

THE SPEAKER: The question is on ordering the previous question.[15]

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14. The precedent cited by Mr. McClory (5 Hinds' Precedents § 5755) involved action on a Senate amendment which was not in disagreement. Rule XVII clause 1 was held on that occasion to permit a motion to commit after the previous question was ordered.

15. If the previous question on Mr. Rodino's motion had been voted down, a motion to refer under Rule XVI clause 4 (*House Rules and Manual* § 782 (1997)) would have been in order, but not the most preferential. See *House Rules and Manual* § 808 (1997), which states "Although 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 (5 Hinds'

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

RECORDED VOTE

MR. MCCLORY: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 177, not voting 38. . . .

§ 10.17 The stage of disagreement having been reached and the previous question having been demanded on the motion to recede (the motion to recede and concur in the Senate amendment having been divided), the Chair informed a Member that a motion to refer the matter back to the committee having jurisdiction would not be in order.

Precedents § 5575; 8 Cannon's Precedents §§ 2744, 2745), a motion to commit under this rule does not apply to a motion disposing of Senate amendments after the stage of disagreement where utilized to displace a pending preferential motion." But a motion which would further amend would not have been in order since it would have been in the third degree.

On May 14, 1963,[16] a motion to recede and concur in a Senate amendment to H.R. 5517, supplemental appropriations for fiscal 1963, had been divided and the previous question had been demanded on the motion to recede.

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

THE SPEAKER:[17] The gentleman will state it.

MR. JOHANSEN: Mr. Speaker, if the privileged motion prevails, what will be the parliamentary situation with respect to the possibility of offering a motion to refer the matter back to the proper legislative committee?

THE SPEAKER: Under present circumstances, that motion, in the opinion of the Chair, would not be in order.

Effect of Receding After Division of Motion

§ 10.18 A motion to recede from disagreement to a Senate amendment and concur therein is divisible and, if the House recedes, the motion to concur in the Senate amendment is then pending.

On June 30, 1972,[18] the House was considering the conference

16. 109 CONG. REC. 8508, 88th Cong. 1st Sess.
17. John W. McCormack (Mass.).

report and amendments in disagreement to H.R. 15390, providing for a temporary extension of the public debt limit. Speaker Carl Albert, of Oklahoma, recognized Mr. John J. Rhodes, of Arizona, with a parliamentary inquiry:

> Mr. Speaker, as I understand the parliamentary situation that will prevail, there are two amendments which will be offered and then a motion will be offered, presumably by the gentleman from Arkansas, to recede and concur.
>
> At that time, Mr. Speaker, is that motion divisible?
>
> THE SPEAKER: It is.
>
> MR. RHODES: Mr. Speaker, a further parliamentary inquiry—if the motion to recede is carried, then a motion to concur is then in order; is that correct?
>
> THE SPEAKER: That is part of the pending motion to recede and concur.

§ 10.19 After a motion to recede and concur in a Senate amendment is divided and the previous question had been moved on the pending question to recede, no motion to concur in the Senate amendment with an amendment is in order until the House votes to recede.

On May 14, 1963,[19] the House was considering Senate amendment No. 76 to H.R. 5517, supplemental appropriations for fiscal 1963. A motion to recede and concur offered by Mr. Robert R. Barry, of New York, was divided on demand of Mr. Albert Thomas, of Texas, who then moved the previous question on the motion to recede. At this point Mr. H. R. Gross, of Iowa, sought to offer a "substitute"[20] motion:

> Mr. Speaker, I would like to offer a substitute for the Barry motion.
>
> THE SPEAKER:[1] The gentleman from Texas has moved the previous question.

Effect of the Previous Question

§ 10.20 The motion to recede and concur having been divided, the previous question applies only to the motion to recede and, if both the previous question and the motion to recede are agreed to, then

18. 118 CONG. REC. 23716, 23717, 92d Cong. 2d Sess.

19. 109 CONG. REC. 8508, 88th Cong. 1st Sess.

20. The term "substitute" motion is imprecise here. If Mr. Gross had intended to offer a motion to concur with an amendment, such motion would have been "preferential" if the motion to recede had carried in the House.

1. John W. McCormack (Mass.).

the question of concurring is before the House.

On May 14, 1963,[2] the House was considering Senate amendments in disagreement to the supplemental appropriations bill, H.R. 5517. Mr. Robert R. Barry, of New York, moved that the House recede from its disagreement to Senate amendment No. 76 and concur therein. That motion was divided on demand of Mr. Albert Thomas, of Texas, who, after brief debate moved the previous question on the motion to recede. Mr. Melvin R. Laird, of Wisconsin, then posed a parliamentary inquiry:

> Mr. Speaker, as I understand, the gentleman from Texas moved the previous question merely on the question of receding. We will still have the question before us of concurring, and amendments may be offered?
>
> THE SPEAKER:[3] The gentleman is correct.
>
> MR. [FRANK J.] BECKER [of New York]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. BECKER: Mr. Speaker, what has happened to the preferential motion made by the gentleman from New York?
>
> THE SPEAKER: The motion of the gentleman from New York is the pending question. If the previous question is ordered, the first vote will be on whether or not the House will recede from its disagreement to the Senate amendment.
>
> The question is on ordering the previous question.
>
> The previous question was ordered.
>
> THE SPEAKER: The question is, Will the House recede from its disagreement to the Senate amendment No. 76?
>
> The motion was agreed to.

Effect of Rejection of Motion To Recede

§ 10.21 The House having refused to recede from disagreement to a Senate amendment, a motion to further insist is in order and a motion to concur is not admitted.

On July 7, 1943,[4] the House was considering Senate amendment No. 33 reported back in disagreement on H.R. 2968, the second deficiency appropriation bill. Mr. Clarence Cannon, of Missouri, moved that the House further insist on its disagreement to the amendment. Mr. Herman P. Eberharter, of Pennsylvania, offered a preferential motion to

2. 109 CONG. REC. 8508, 8509, 88th Cong. 1st Sess.
3. John W. McCormack (Mass.).
4. 89 CONG. REC. 7382–84, 78th Cong. 1st Sess.

recede and concur which was divided on demand of Mr. John Taber, of New York.

The question was taken; and there were—yeas 170, nays 176, answering "present" none, not voting 84. . . .

So the motion to recede was not agreed to. . . .

THE SPEAKER:[5] The question is on the motion of the gentleman from Missouri.

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

THE SPEAKER: The gentleman will state it.

MR. EBERHARTER: As I understand the situation, the motion made by me contained two parts, the motion to recede and concur; and the gentleman from New York [Mr. Taber] asked for a division of that question and the House just declared itself not to recede. The question, as I understand it, now before the House is whether it desires to recede and concur.

THE SPEAKER: The House cannot concur until it has receded, which it has just refused to do.

MR. EBERHARTER: I beg the Speaker's pardon. I thought the vote was that the House should recede.

THE SPEAKER: The question is on the motion of the gentleman from Missouri.

The motion was agreed to.

§ 10.22 If the House refuses to recede from its disagreement to a Senate amendment a motion to concur with an amendment is precluded.

On May 9, 1940,[6] the House was considering amendments in disagreement to H.R. 8202, agriculture appropriations for fiscal 1941. After a motion to recede and concur was divided, the following question arose:

MR. [WILLIAM P.] LAMBERTSON [of Kansas]: If the House recedes, the question then recurs on the amendment to strike out the 75-percent provision. Will that come on concurring, or what will be the effect of receding?

THE SPEAKER PRO TEMPORE:[7] Of course, the Chair is not in position to anticipate further motions that may be made, but, as the Chair understands it, after the motion to recede is agreed to, the gentleman from Missouri gave notice that he expected to offer a motion to concur with an amendment.

MR. LAMBERTSON: If the motion to recede carries, what will be the situation?

THE SPEAKER PRO TEMPORE: The gentleman from Missouri will doubtless offer his motion, as he had indicated he will do.

MR. LAMBERTSON: If the House does not recede, then his motion is precluded?

THE SPEAKER PRO TEMPORE: That is the effect of it.

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5. Sam Rayburn (Tex.).

6. 86 CONG. REC. 5892, 76th Cong. 3d Sess.

7. Jere Cooper (Tenn.).

§ 10.23 Where the House refuses to recede from its disagreement to a Senate amendment a motion is usually made that the House insist on its disagreement to such amendment.

On July 15, 1937,[8] Speaker William B. Bankhead, of Alabama, recognized Mr. James G. Scrugham, of Nevada, to offer a motion to dispose of Senate amendment No. 89 to H.R. 6958, Interior Department appropriations for fiscal 1938:

> Mr. Speaker, I move that the House recede and concur.
>
> THE SPEAKER: The question is on the motion of the gentleman from Nevada that the House recede and concur.
>
> MR. [ABE] MURDOCK of Utah: Mr. Speaker, I demand a division of that question.
>
> THE SPEAKER: The gentleman is entitled to a division of the question. The question is whether the House shall recede from its disagreement to the Senate amendment. . . .
>
> The question was taken; and there were—yeas 122, nays 191, not voting 117. . . .
>
> MR. SCRUGHAM: Mr. Speaker, I move that the House insist on its disagreement to the amendment of the Senate numbered 89.
>
> The motion was agreed to.

§ 10.24 The rejection of the motion to recede has on rare occasions been interpreted as tantamount to insisting on disagreement to the Senate amendment.

On Aug. 21, 1957,[9] the House was considering the Senate amendments reported back from conference in disagreement to H.R. 9131, supplemental appropriations for fiscal 1958. Speaker Sam Rayburn, of Texas, recognized Mr. Clarence Cannon, of Missouri:

> Mr. Speaker, I move that the House recede and concur in the Senate amendment with an amendment.
>
> The Clerk read as follows:
>
> Mr. Cannon moves that the House recede from its disagreement to the amendment of the Senate numbered 54, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$425,000".
>
> MR. [KARL M.] LECOMPTE [of Iowa]: Mr. Speaker, I offer a preferential motion.
>
> THE SPEAKER: The Clerk will report the motion.
>
> The Clerk read as follows:

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8. 81 CONG. REC. 7197, 7198, 75th Cong. 1st Sess.

9. 103 CONG. REC. 15518, 15519, 85th Cong. 1st Sess.

Mr. LeCompte moves to recede and concur with Senate amendment numbered 54.

MR. [JOHN] TABER [of New York]: Mr. Speaker, I ask for a division of the question.

THE SPEAKER: The question is, Will the House recede from its disagreement? . . .

The question was taken; and there were—yeas 142, nays 215, not voting 75. . . .

THE SPEAKER: The House insists on its disagreement to the Senate amendment.

Parliamentarian's Note: The Speaker's interpretation in this instance was contrary to the weight of the precedents. See §§ 10.20, 10.21, supra, and §§ 12.5, 12.9, 12.10, infra, for examples of the prevailing interpretation generally given in this situation.

Effect of Adoption of Motion To Recede and Concur on Motion To Insist

§ 10.25 When the House agrees to a preferential motion to recede and concur, the motion to insist upon disagreement falls and is not voted upon.

On the legislative day of Sept. 14, 1959,[10] the House was considering Senate amendment No. 50 reported in disagreement to H.R. 8385, providing appropriations for mutual security and related agencies.

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Passman moves that the House insist upon its disagreement to the amendment of the Senate numbered 50.

MR. [JOHN J.] ROONEY [of New York]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Rooney moves that the House recede from its disagreement to the amendment of the Senate numbered 50 and concur therein. . . .

The previous question was ordered.

THE SPEAKER:[11] The question is on the preferential motion offered by the gentleman from New York [Mr. Rooney]. . . .

The question was taken; and there were—yeas 221, nays 81, not voting 133. . . .

So the motion was agreed to. . . .

The result of the vote was announced as above recorded.

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

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10. 105 CONG. REC. 19740–42, 86th Cong. 1st Sess., Sept. 15, 1959 (Calendar Day).
11. Sam Rayburn (Tex.).

Rejection of Motion To Recede and Concur Not Equivalent to Insisting on Disagreement

§ 10.26 Rejection of a motion to recede and concur with amendments in a Senate amendment reported from conference in disagreement is not equivalent to a motion to insist on disagreement, and a motion to insist and request a conference is the appropriate motion to send a measure to a new conference.

On May 29, 1980,[12] during the consideration of motions to recede from disagreement and concur with amendments in the Senate amendment reported from the conference in disagreement, a colloquy occurred about the equivalency of motions. A portion of the proceedings is carried here.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 307, FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1981

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I call up the conference report on the concurrent resolution (H. Con. Res. 307) setting forth the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983 and revising the congressional budget for the U.S. Government for the fiscal year 1980, and ask for its immediate consideration. . . .

MR. [LEON E.] PANETTA (of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Panetta moves that the House recede from its disagreement to the Senate amendment to House Concurrent Resolution 307 and to concur therein with two amendments, as follows:

In the engrossed Senate amendment to House Concurrent Resolution 307, strike out section 1 and sections 14–20 and insert in lieu thereof the following:

SECTION 1. That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1980— . . .

THE SPEAKER:[13] The gentleman from California (Mr. Panetta) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Latta) will be recognized for 30 minutes. . . .

The question is on the motion offered by the gentleman from California (Mr. Panetta).

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

MR. [DELBERT L.] LATTA [of Ohio]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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12. 126 CONG. REC. 12678, 12710, 12712, 12716, 12717, 96th Cong. 2d Sess.

13. Thomas P. O'Neill, Jr. (Mass.).

The vote was taken by electronic device, and there were—yeas 173, nays 199, not voting 61 . . . .

So the motion was rejected.

MOTION OFFERED BY MR. GIAIMO

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

The Clerk read as follows:

> Mr. Giaimo moves that the House insist upon its disagreement to the Senate amendment and requests a further conference with the Senate thereon.

THE SPEAKER: The question is on the motion offered by the gentleman from Connecticut (Mr. Giaimo).

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

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, on that I demand the yeas and nays.

PARLIAMENTARY INQUIRY

MR. [PETER A.] PEYSER [of New York]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. PEYSER: Mr. Speaker, would the Speaker please explain what it is that we are now voting on in this particular matter?

THE SPEAKER: The question is on the motion of the gentleman from Connecticut (Mr. Giaimo) that the House insist upon its disagreement to the Senate amendment and request a further conference with the Senate on the budget for 1980 and 1981.

The question has been put.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Speaker, we just voted on the figures for 1981 in the motion by the gentleman from California (Mr. Panetta). A motion to insist is, in fact, redundant and it is a revote of the previous vote; is that not correct? It is the same proposition.

THE SPEAKER: The Chair will reply that it is a necessary motion to get back to a new conference. That is the gentleman's motion, and it is not an equivalent motion to the motion previously made by the gentleman from California. The Chair has already put the question to a voice vote. The gentleman from Maryland had risen for a rollcall. Does the gentleman want the yeas and nays?

MR. BAUMAN: Yes, I certainly do.

The yeas and nays were ordered.

Defeat of Motion To Recede and Concur Permits Further Motions

§ 10.27 If a motion to recede and concur in a Senate amendment is defeated, a further motion relating to the amendment in disagreement is in order.

On Oct. 17, 1967,[14] the House was considering Senate amendment No. 13 to H.R. 11476, appropriations for the Department of Transportation for fiscal 1968 which had been reported back from conference in disagreement. Mr. Edward P. Boland, of Massachusetts, moved that the House recede and concur therein. Mr. Sidney R. Yates, of Illinois, was recognized:

Mr. Speaker, a parliamentary inquiry, if the gentleman will yield.

MR. BOLAND: I yield to the gentleman.

THE SPEAKER:[15] The gentleman will state it.

MR. YATES: This is a motion to recede and concur in the Senate amendment. What would be the effect of voting down such a motion? Will it have the effect of sending the conferees back to conference for the purpose of ironing out this particular item again?

THE SPEAKER: The amendment would still be before the House subject to another form of a motion.

MR. YATES: What would be the nature of that motion, Mr. Speaker?

THE SPEAKER: The motion could be that the House insist on its disagreement.

MR. YATES: I thank the Speaker.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, will the gentleman yield?

MR. BOLAND: I yield to the gentleman.

MR. HALL: If the gentleman from Massachusetts' motion that the House recede from its disagreement to the amendment of the Senate No. 13 and concur therein was voted down, then another motion would be in order, would it not, I would ask as a parliamentary inquiry, to instruct the conferees to maintain the position of the House or that the House insist upon its disagreement with the other body?

THE SPEAKER: The Chair will state in response to the parliamentary inquiry propounded to the Chair by the distinguished gentleman from Missouri that if the House should insist upon its disagreement, then the matter could go back to conference.[16]

§ 10.28 When a preferential motion to recede and concur is decided in the negative, the question recurs on a pending motion to insist on disagreement to the Senate amendment.

On Dec. 17, 1963,[17] the House was considering amendments in disagreement to H.R. 8667, river basin and flood control authoriza-

14. 113 CONG. REC. 29044, 29048, 29049, 90th Cong. 1st Sess.
15. John W. McCormack (Mass.).
16. See also 81 CONG. REC. 7007, 75th Cong. 1st Sess., July 9, 1937.
17. 109 CONG. REC. 24815, 24816, 24822, 88th Cong. 1st Sess.

tion. After the Clerk read Senate amendment No. 26, Speaker Pro Tempore Carl Albert, of Oklahoma, recognized Mr. Clifford Davis, of Tennessee:

> Mr. Speaker, I offer a motion.
> The Clerk read as follows:
>
> Mr. Davis of Tennessee moves that the House insist upon its disagreement to Senate Amendment No. 26.
>
> MR. [ARNOLD] OLSEN of Montana: Mr. Speaker, I offer a preferential motion.
> The Clerk read as follows:
>
> Mr. Olsen of Montana moves that the House recede from its disagreement to the amendment of the Senate No. 26 and concur therein.
>
> THE SPEAKER PRO TEMPORE: The gentleman from Tennessee [Mr. Davis] is recognized for 1 hour.
>
> MR. DAVIS of Tennessee: Mr. Speaker, I yield 5 minutes to the gentleman from Arizona [Mr. Udall].
>
> MR. [MORRIS K.] UDALL: Mr. Speaker, I commend the gentleman from Tennessee [Mr. Davis] and his committee for the constructive work that they have done on this bill. However, I rise in support of the preferential motion which has been offered by the gentleman from Montana [Mr. Olsen]. . . .
>
> The question was taken; and on a division (demanded by Mr. Olsen of Montana) there were—ayes 66, noes 132.
>
> So the motion was rejected.
>
> THE SPEAKER:[18] The question is on the motion offered by the gentleman from Tennessee [Mr. Davis] to insist on its disagreement to the Senate amendment.[19]

18. John W. McCormack (Mass.).

§ 10.29 The defeat of a motion to recede and concur is not equivalent to insisting upon disagreement.

On July 9, 1937,[20] the House was considering a Senate amendment in disagreement to H.R. 7493, War Department appropriations for nonmilitary activities for fiscal 1938.

> THE SPEAKER:[1] The question is on the motion of the gentleman from Pennsylvania to recede and concur in the Senate amendment.
>
> The question was taken; and on a division[2] (demanded by Mr. Snyder of Pennsylvania) there were ayes 3 and noes 95.
>
> So the motion was rejected.
>
> THE SPEAKER: The Chair respectfully suggests to the gentleman from Pennsylvania [Mr. Snyder] that in view of

19. See also 108 CONG. REC. 19945, 87th Cong. 2d Sess., Sept. 19, 1962.
20. 81 CONG. REC. 7007, 75th Cong. 1st Sess.
1. William B. Bankhead (Ala.).
2. The word "division" as it is used here refers to a method of voting during which Members stand and are counted as either "aye" or "no" on the question at issue. It should not be confused with a division into two separate motions of the motion to recede and concur.

the last action, the gentleman should move that the House insist on its disagreement to the Senate amendment. In other words, some disposition should be made of that amendment, and not leave it up in the air.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. [MALCOLM C.] TARVER: If the gentleman from Pennsylvania [Mr. Snyder] does not desire to make a motion to further insist upon the disagreement of the House to the Senate amendment, will the Chair recognize some other member of the committee to make such a motion?

THE SPEAKER: The Chair will recognize some other member of the committee to make such a motion if the chairman of the committee does not desire to make the motion.

MR. [J. BUELL] SNYDER of Pennsylvania: I make that motion, Mr. Speaker.[3]

Withdrawal of Motion To Recede and Concur; Amendments in Disagreement, Motions in Order Following Rejection of First

§ 10.30 If a preferential motion to recede and concur in a Senate amendment reported from conference in disagreement is withdrawn or defeated, a motion to recede and concur with an amendment is in order and preferential to a motion to insist on disagreement.

When a Senate amendment in disagreement was before the House, following the adoption of the conference report on the legislative branch appropriations bill for fiscal year 1977, the manager of the bill moved that the House insist on disagreement. A preferential motion to recede and concur was offered, then withdrawn to permit the offering of a motion to recede and concur with an amendment. Proceedings were as follows:[4]

THE SPEAKER:[5] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 35, line 1 insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate

3. See also 109 CONG. REC. 24823, 88th Cong. 1st Sess., Dec. 17, 1963; and 108 CONG. REC. 19945, 87th Cong. 2d Sess., Sept. 19, 1962.

4. 122 CONG. REC. 31899, 31900, 31902, 31905, 31906, 94th Cong. 2d Sess., Sept. 22, 1976.

5. Carl Albert (Okla.).

and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000, to remain available until expended: *Provided*, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and directed to enter into such contracts including cost-plus-a-fixed-fee contracts, incur such obligations, and make such expenditures for personal and other expenses as may be necessary to carry out this paragraph. . . .

MOTION OFFERED BY MR. SHIPLEY

MR. [GEORGE E.] SHIPLEY [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House insist on its disagreement to the amendment of the Senate numbered 56.

PREFERENTIAL MOTION OFFERED BY MR. STRATTON

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, I offer a preferential motion to recede and concur in the Senate amendment No. 56 to the legislative appropriation conference report.

The Clerk read as follows:

Mr. Stratton moves that the House recede from its disagreement to the amendment of the Senate number 56 and concur therein.

MR. STRATTON: Mr. Speaker, will the distinguished gentleman from Illinois, the chairman, yield me 5 minutes.

MR. SHIPLEY: I yield the gentleman from New York 5 minutes. . . .

PARLIAMENTARY INQUIRY

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

THE SPEAKER: Will the gentleman from Illinois (Mr. Shipley) yield for a parliamentary inquiry?

MR. SHIPLEY: Yes, I yield to the gentleman for the purpose of making a parliamentary inquiry.

MR. STRATTON: Mr. Speaker, the gentleman from Illinois (Mr. Yates) wishes to offer a substitute motion to recede and concur with an amendment striking the cost plus fixed fee contract.

Is it in order for that motion to be offered if I withdraw my motion?

THE SPEAKER: The Chair will state that the gentleman may offer his motion if the gentleman from New York (Mr. Stratton) withdraws his preferential motion. In that event, the gentleman could offer another preferential motion, or if this preferential motion would be defeated, another preferential motion can be offered.

MR. STRATTON: I have a further 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).

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

MR. STRATTON: 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: The Chair will count.

One hundred and eighty-seven Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 95, nays 304, not voting 31. . . .

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE:[6] The question is on the motion offered by the gentleman from Illinois (Mr. Shipley).

The motion was agreed to.

Where Preferential Motion Is Withdrawn, Another May Take Its Place

§ 10.31 A preferential motion to recede and concur in a Senate amendment reported from conference in disagreement having been withdrawn[7] before action was taken thereon, another pref-

6. John J. McFall (Calif.).
7. It does not require unanimous consent to withdraw a motion offered in the House before a decision has been taken thereon or an amendment offered thereto.

erential motion, to recede and concur with an amendment, was then offered.

In the 94th Congress,[8] following the adoption of H.R. 14238, the conference report on the legislative branch appropriations bill for fiscal year 1967, a controversial Senate amendment relating to the restoration of the west front of the Capitol Building was before the House, the stage of disagreement having been reached. The proceedings were as indicated below:

THE SPEAKER:[9] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 35, line 1 insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000, to remain available until expended. . . .

MOTION OFFERED BY MR. SHIPLEY

MR. [GEORGE E.] SHIPLEY [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House insist on its disagreement to the amendment of the Senate numbered 56.

PREFERENTIAL MOTION OFFERED BY MR. STRATTON

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, I offer a preferential motion to recede and concur in the Senate amendment No. 56 to the legislative appropriation conference report.

The Clerk read as follows:

Mr. Stratton moves that the House recede from its disagreement to the amendment of the Senate number 56 and concur therein.

MR. STRATTON: Mr. Speaker, will the distinguished gentleman from Illinois, the chairman, yield me 5 minutes.

MR. SHIPLEY: I yield the gentleman from New York 5 minutes. . . .

MR. STRATTON: Mr. Speaker, the gentleman from Illinois (Mr. Yates) wishes to offer a substitute motion to recede and concur with an amendment striking the cost plus fixed fee contract.

Is it in order for that motion to be offered if I withdraw my motion?

THE SPEAKER: The Chair will state that the gentleman may offer his motion if the gentleman from New York (Mr. Stratton) withdraws his preferential motion. In that event, the gentleman could offer another preferential motion, or if this preferential motion would be defeated, another preferential motion can be offered.

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8. 122 CONG. REC. 31899, 31900, 31902, 31905, 31906, 94th Cong. 2d Sess., Sept. 22, 1976.

9. Carl Albert (Okla.).

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

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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.

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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

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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.

17. See also 110 CONG. REC. 20625, 88th Cong. 2d Sess., Aug. 20, 1964.
18. 115 CONG. REC. 36759, 36760, 91st Cong. 1st Sess.

> 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

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

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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

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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].

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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.).

The question was taken; and on a division (demanded by Mr. Mahon) there were—ayes, 45, nays, 93.

So the motion was rejected.

MR. MAHON: Mr. Speaker, I move that the House insist on its disagreement to the amendment of the Senate numbered 15.

The motion was agreed to.[17]

Precedence of Motions in Disposing of Senate Legislative Amendment on General Appropriation Bill

§ 12.3 In the 103d Congress, the House altered the traditional precedence of motions addressing amendments in disagreement on a general appropriation bill, to make one motion to insist on disagreement the most preferential where the initial motion proposed by the managers would change existing law.

Adopted as part of the rules package proposed by the Majority Leader, Mr. Richard A. Gephardt, of Missouri, on Jan. 5, 1993, the change was in Rule XXVIII clause 2(b)(2).[18] There was little debate on this particular change, but the expressed motivation was to give a committee having jurisdiction over a legislative amendment the opportunity to protect that jurisdiction from Senate encroachment by way of an amendment to a general appropriation bill. In his explanation of the resolution, the Majority Leader stated: "It is hoped that this procedure will both deter and allow the House to better consider Senate legislative language in appropriation bills."

The conditions for utilizing the privileged motion are that: (1) the Senate amendment has been reported from conference in disagreement; (2) the manager's motion, as signaled in the statement of the managers or revealed when the amendment is pending, is to change existing law—by concurring in the Senate amendment or concurring with an amendment which does not remove the legislative effect of the amendment; and (3) that the motion to insist on disagreement is made by the chairman of the appropriate legislative committee or his designee.

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17. See also 89 CONG. REC. 10777–79, 78th Cong. 1st Sess., Dec. 16, 1943.
18. See *House Rules and Manual* § 912c (1997).

The pertinent excerpts from the Record of Jan. 5, 1993,[19] during consideration of House Resolution 5, adopting the rules of the House for the 103d Congress, are set out below:

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred Second Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Second Congress, are adopted as the Rules of the House of Representatives of the One Hundred Third Congress, with the following amendments to the standing rules, to wit: . . .

(16) In clause 2(b) of rule XXVIII, insert "(1)" after "(b)" and add the following new subparagraph at the end:

"(2) During consideration of such an amendment to a general appropriation bill, if the original motion offered by the floor manager proposes to change existing law, then pending such original motion and before debate thereon one motion to insist on disagreement to the amendment proposed by the Senate shall be preferential to any other motion to dispose of that amendment if offered by the chairman of a committee having jurisdiction of the subject matter of the amendment or by a designee. Such a preferential motion shall be separately debatable for one hour equally divided between its proponent and the proponent of the original motion. The previous question shall be considered as ordered on such a preferential motion to its adoption without intervening motion.". . . .

MR. GEPHARDT: Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentlewoman from New York [Ms. Slaughter], and I yield 30 minutes to the gentleman from New York [Mr. Solomon], on behalf of the minority.

THE SPEAKER:[20] The Chair recognizes the gentlewoman from New York [Ms. Slaughter].

MS. [LOUISE M.] SLAUGHTER [of New York]: Mr. Speaker, I yield myself such time as I may consume. . . .

The next amendment is designed to address the problem of Senate amendments to appropriations bills which contain legislative language. If an amendment in technical disagreement to an appropriations bill conference report proposes to change existing law, then a motion to insist on disagreement to the amendment shall have preference, if made by the chairman of a committee having jurisdiction over the subject matter of the amendment. The motion would be debated for 1 hour divided between its proponent and the proponents of the original motion to dispose of the amendment. It is hoped that this procedure will both deter and allow the House to better consider Senate legislative language in appropriations bills.

19. 139 CONG. REC. 49, 50, 53, 54, 103d Cong. 1st Sess.

20. Thomas S. Foley (Wash.).

Elevated Status of Motion To Insist When Pending Motion on an Amendment to Appropriation Bill Proposes Change in Law

§ 12.4 Although the motion to insist on disagreement is normally not the most preferential motion when Senate amendments in disagreement are before the House, such a motion does have the most preferential status where the initial motion to recede and concur with an amendment proposes a change in existing law.

On Oct. 20, 1993,[1] the House for the first time utilized the new rule giving the legislative committee of jurisdiction the right to insist on disagreement to a Senate amendment which invades its legislative jurisdiction by an amendment attached to a general appropriation bill and reported in disagreement.

The proceedings during the consideration of H.R. 2520, the Interior appropriations bill for fiscal year 1994, were as shown:

THE SPEAKER PRO TEMPORE:[2] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

> Senate amendment No. 124: Page 80, after line 5 insert:
>
> SEC. 321. FOREST SERVICE SEPARATION PAY.—(a) In order to avoid or minimize the need for involuntary separations, effective for the period beginning upon the date of enactment of this Act through and including September 30, 1994, the Secretary of Agriculture, under such regulations and subject to such conditions as the Secretary of Agriculture may prescribe, shall have authority to offer separation pay to employees of the Forest Service to the same extent the Secretary of Defense is authorized to offer separation pay to employees of a defense agency in section 5597 of title 5, United States Code.
>
> (b) In the event that an authority is enacted to offer separation incentive similar to such section 5597 of title 5, United States Code, but applicable to employees in the executive branch generally, the authority under subsection (a) shall terminate. . . .

MOTION OFFERED BY MR. YATES

MR. [SIDNEY R.] YATES [of Illinois]: 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. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 124, and concur therein with an amendment, as follows:

1. 139 CONG. REC. 25608, 103d Cong. 1st Sess.

2. Kweisi Mfume (Md.).

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

"SEC. 320. FOREST SERVICE SEPARATION PAY.—(a) In order to avoid or minimize the need for involuntary separations, effective for the period beginning upon the date of enactment of this Act through and including September 30, 1994, the Secretary of Agriculture, under such regulations and subject to such conditions as the Secretary of Agriculture may prescribe, shall have authority to offer separation pay to employees of the Forest Service to the same extent the Secretary of Defense is authorized to offer separation pay to employees of a defense agency in section 5597 of title 5, United States Code.

"(b) In the event that an authority is enacted to offer separation pay or a voluntary separation incentive similar to such section 5597 of title 5, United States Code, but applicable to employees in the executive branch generally, the authority under subsection (a) shall terminate. . . .

PREFERENTIAL MOTION OFFERED BY MR. CLAY

MR. [WILLIAM L.] CLAY [of Missouri]: Mr. Speaker, I offer a motion.

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

The Clerk read as follows:

Pursuant to clause 2(b)(2) of rule XXVIII, Mr. Clay moves to insist on disagreement to Senate amendment numbered 124.

THE SPEAKER PRO TEMPORE: The Chair finds that the motion offered by the gentleman from Illinois [Mr. Yates] proposes changes in existing law as written and is within the jurisdiction of the Committee on Post Office and Civil Service. So the chairman of that committee, the gentleman from Missouri [Mr. Clay] is then recognized to offer a preferential motion which the Clerk will report by title.

The Clerk re-read the preferential motion.

THE SPEAKER PRO TEMPORE: The gentleman from Missouri [Mr. Clay] will be recognized for 30 minutes and the gentleman from Illinois [Mr. Yates] will be recognized for 30 minutes.

MR. CLAY: Mr. Speaker, I yield myself such time as I may consume.

§ 12.5 The rejection of a motion to recede and concur is not equivalent to the affirmation of a motion that the House insist on disagreement.

On Sept. 19, 1962,[3] the House had just adopted the conference report on H.R. 12648, agricultural appropriations for fiscal 1963.

THE SPEAKER:[4] The further unfinished business is the vote on the motion of the gentleman from Georgia [Mr. Forrester] which the Clerk will report.

The Clerk read as follows:

Mr. [Elijah L.] Forrester moves that the House recede and concur in the amendment of the Senate numbered 19.

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

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3. 108 CONG. REC. 19945, 87th Cong. 2d Sess.
4. John W. McCormack (Mass.).

The question was taken, and there were—yeas 143, nays 223, answered "present" 1, not voting 68. . . .

So the motion was rejected. . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The question now recurs on the motion of the gentleman from Mississippi [Mr. Whitten] that the House insist on its disagreement to the Senate amendment.

The motion was agreed to.

A motion to reconsider was laid on the table.

All Matters in Disagreement Must Be Reconciled Before Bill Can Become Law

§ 12.6 Pending a motion in the Senate to recede from its one amendment remaining in disagreement with the House following adoption of the conference report in both Houses and disposition of all other amendments, the Presiding Officer stated: (1) that if the motion were rejected, a motion to further insist upon the amendment and to request a further conference on that one amendment would be in order; but (2) that action on the entire bill would remain incomplete and the bill could not proceed to enrollment until the remaining amendment in disagreement was resolved.

Before a bill can be presented to the President as an enactment, both Houses must agree to the same text and must, through the amendment process and conference procedures, reach concurrence on each item therein.(5)

On May 22, 1975,(6) H.R. 5899, supplemental appropriations for fiscal year 1975, which had been sent to conference with 58 amendments in disagreement, was again on the Senate floor, the House having messaged to the Senate its insistence on disagreement to one remaining Senate amendment which had not been reconciled. When a motion in the Senate to recede from that last Senate amendment was offered, the following inquiry was directed to the Chair:

MR. [JOHN L.] MCCLELLAN [of Arkansas]: Mr. President, I move that the Senate recede from its amendment No. 107.

THE PRESIDING OFFICER:(7) First, the Chair will lay before the Senate the House amendment in disagreement to

5. See 5 Hinds' Precedents §§ 6233–6240.
6. 121 CONG. REC. 16127–29, 94th Cong. 1st Sess.
7. Theodore F. Stevens (Alaska).

Senate amendment No. 107, which the clerk will report.

The legislative clerk read as follows:

The House insists on its disagreement to Amendment No. 107.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Arkansas. . . .

MR. [JACOB K.] JAVITS [of New York]: Mr. President, a parliamentary inquiry.

THE PRESIDING OFFICER: The Senator will state it.

MR. JAVITS: If the motion is rejected, will a motion to refuse to recede and to request the conferees to return to conference be in order?

THE PRESIDING OFFICER: A motion to insist and ask for a further conference would then be in order.

MR. JAVITS: I thank my colleague.

Have the conferees been discharged by the Senate?

THE PRESIDING OFFICER: The conferees have been discharged in the House and a new conference would have to be appointed. The conference would be on one issue.

MR. JAVITS: I thank the Chair. . . .

THE PRESIDING OFFICER: Does the Chair understand the inquiry is whether or not the bill will be delayed until the one item that is in conference is determined? Is that the inquiry?

MR. MCCLELLAN: State the parliamentary inquiry.

MR. [JAMES B.] ALLEN [of Alabama]: I asked the question, though I think it is pretty well known, since at this stage of the proceeding both Houses have agreed to more than $14 billion in appropriations, if the motion made by the Senator from Arkansas that the Senate recede from its amendment does not carry, then these $14 billion in appropriations will, at least for the time, fall. Is that correct?

THE PRESIDING OFFICER: The action on the bill would not be complete. The Chair does not recognize the reference to the appropriations falling. They would not be complete. The bill would not be prepared to be sent to the President.

MR. ALLEN: A new conference would have to be appointed and delay would take place?

THE PRESIDING OFFICER: The whole bill would be delayed until that one item was resolved. That is correct. . . .

So the motion was rejected.

MR. JAVITS: Mr. President, I move that the Senate further insist on its amendment.

THE PRESIDING OFFICER: The question is on agreeing to the motion.

The motion was agreed to. . . .

MR. ROBERT C. BYRD [of West Virginia]: Mr. President, I shall shortly move to stand in recess awaiting the call of the Chair, pending whatever action the House may wish to take in view of the action that has just been taken by the Senate. The House may further insist upon its disagreement and ask for a conference, or it may concur. Therefore, until we hear further from the House, I move that the Senate stand in recess awaiting the call of the Chair.

The motion was agreed to, and at 4:50 p.m., the Senate took a recess subject to the call of the Chair.

Failure To Address Title Amendment in Conference

§ 12.7 Every House amendment to a Senate bill must be reconciled before the Senate can enroll one of its bills sent to conference; and where conferees had neglected to address a House amendment to the title of a Senate bill, the House receded from its title amendment after the adoption of the conference report.

The proceedings relating to the consideration of the conference report on S. 327 in the 94th Congress are carried below:[8]

MR. [ROY A.] TAYLOR of North Carolina: Mr. Speaker, I call up the conference report on the Senate bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE:[9] Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 2, 1976.) . . .

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MR. TAYLOR of North Carolina: Mr. Speaker, I ask unanimous consent that the House recede from its amendment to the title of the Senate bill.

THE SPEAKER:[10] Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Insistence After Refusal To Recede

§ 12.8 A division of the question having been demanded on a motion to recede and concur in a Senate amendment, the Speaker indicated that refusal of the House to recede was not equivalent to insisting upon disagreement—the House could adhere—and that the House would vote separately on the motion to insist upon disagreement.

On June 25, 1973,[11] the House was considering Senate amendment No. 83 to H.R. 7447 (supplemental appropriations, fiscal

8. 122 CONG. REC. 29753, 29758, 29759, 94th Cong. 2d Sess., Sept. 10, 1976.
9. Lucien N. Nedzi (Mich.).
10. Carl Albert (Okla.).
11. 119 CONG. REC. 21171, 21172, 93d Cong. 1st Sess.

1973), which had been reported from conference in disagreement. Speaker Carl Albert, of Oklahoma, recognized Mr. George H. Mahon, of Texas:

> Mr. Speaker, I offer a motion.
> The Clerk read as follows:
>
> Mr. Mahon moves that the House insist on its disagreement to the amendment of the Senate numbered 83.

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Giaimo moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein.

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

THE SPEAKER: The question is, Shall the House recede from its disagreement to the amendment of the Senate numbered 83? . . .

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry. . . .

Mr. Speaker, my parliamentary inquiry is this: Am I correct, Mr. Speaker, that a "no" vote on the motion offered by the gentleman from Texas (Mr. Mahon) to recede would uphold the House position on the supplemental?

The motion offered by the gentleman from Connecticut (Mr. Giaimo) was to recede and concur, but the chairman, the gentleman from Texas (Mr. Mahon) divided the question, and the vote is on a motion to recede. Therefore a "no" vote on the motion to recede would uphold the position of the House?

THE SPEAKER: The Chair can state that if the "no" vote prevails, the next vote would be on the motion to insist on the House's position.[12]

§ 12.9 A motion to recede and concur in a Senate amendment with an amendment having been divided and the House having refused to recede, a motion to insist upon disagreement and request a further conference was entered.

On June 29, 1973,[13] a Senate amendment to H.R. 8410, providing for a temporary increase in the public debt limitation, was reported back from conference in technical disagreement. Mr. Wilbur D. Mills, of Arkansas, offered a motion to recede from the Senate amendment and concur therein with an amendment. The Speaker, Carl Albert, of Oklahoma, then recognized Mr. William A. Steiger, of Wisconsin:

> Mr. Speaker, on the motion of the gentleman from Arkansas I demand a division of the question.

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12. But see 103 CONG. REC. 15816, 85th Cong. 1st Sess., Aug. 23, 1957.
13. 119 CONG. REC. 22402, 22403, 93d Cong. 1st Sess.

THE SPEAKER: A division is demanded. The question is, Shall the House recede from its disagreement to the amendment of the Senate? . . .

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 190, not voting 58. . . .

So the motion to recede was rejected. . . .

MR. MILLS of Arkansas: Mr. Speaker, I move that the House insist on its disagreement and request a further conference with the Senate.

The motion was agreed to.

§ 12.10 The stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to insist on disagreement; but where the motion to recede and concur is divided, and the House refuses to recede, a motion to insist is then entertained.

On Dec. 22, 1969,(14) the House was considering Senate amendment No. 33 to H.R. 15209, supplemental appropriations for fiscal 1970, reported from conference 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 33 and concur therein.

THE SPEAKER:(15) For what purpose does the gentleman from New Jersey rise?

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Speaker, I ask that the question be divided. Mr. Speaker, I have a motion at the desk.

MR. MAHON: Mr. Speaker, I do not yield for a motion at this time.

THE SPEAKER: The gentleman from New Jersey demands a division?

MR. THOMPSON of New Jersey: The gentleman does.

THE SPEAKER: The question is, Will the House recede from its disagreement to the amendment of the Senate numbered 33? . . .

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

The previous question was ordered.

THE SPEAKER: The gentleman from New Jersey (Mr. Thompson) demanded a division on the motion made by the gentleman from Texas (Mr. Mahon).

The question is on the motion offered by the gentleman from Texas (Mr. Mahon) that the House recede from its disagreement to the amendment of the Senate numbered 33. . . .

The question was taken; and there were—yeas 156, nays 208, answered "present" 1, not voting 68. . . .

So the motion was rejected. . . .

MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, I offer a motion.

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14. 115 CONG. REC. 40915, 40921, 40922, 91st Cong. 1st Sess.

15. John W. McCormack (Mass.).

The Clerk read as follows:

Mr. Bow moves that the House insist on its disagreement to the amendment of the Senate numbered 33.

THE SPEAKER: The question is on the motion offered by the gentleman from Ohio (Mr. Bow).

The motion was agreed to.

Effect of Insisting

§ 12.11 When the House insists upon its amendment and the Senate insists on disagreement the bill goes to conference and conferees may bring in a compromise report if they so desire.

On Mar. 16, 1942,[16] the House was considering its amendments reported from conference in disagreement to S. 2208, the second war powers bill of 1942. The Speaker, Sam Rayburn, of Texas, recognized Mr. Hatton W. Sumners, also of Texas:

Mr. Speaker, I move that the House insist upon its amendment numbered 32, and yield myself 10 minutes. . . .

MR. [EARL C.] MICHENER [of Michigan]: There seems to be a slight misunderstanding as to what is before the House. As I understand the matter, the chairman of the Judiciary Committee has made a motion that the conferees insist on the position of the House; that is, if that motion carries, and if the conferees do insist, title VIII will be out of the bill entirely, or at least the matter must come back to the House. Am I correct?

MR. [CHARLES F.] MCLAUGHLIN [of Nebraska]: Mr. Speaker, if the Chair will permit me, that is not the situation. . . .

MR. [CLARENCE E.] HANCOCK [of New York]: Will the gentleman yield?

MR. MICHENER: I yield to the gentleman from New York.

MR. HANCOCK: The gentleman from Nebraska will remember that it was our hope that this bill with this title would come back to the House for instructions, and it was my hope that the chairman of the committee would make his motion in the form of a request for instructions. Before abandoning title VIII entirely, the gentleman from Nebraska and myself wished to have an expression of the sentiment of the House.

MR. MCLAUGHLIN: The gentleman is correct.

MR. MICHENER: That cannot be accomplished under the parliamentary procedure in the House, as presently presented. The gentleman from Nebraska and the gentleman from New York are suggesting doing something that cannot be done at this time under the rules of the House. That is why I am asking for a clarification by the Speaker as to just what the situation is.

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16. 88 CONG. REC. 2508, 2512, 2513, 77th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE:[17] The Chair may say that there are two things the House may do: The House may insist on the amendment, or it can recede from it. If the bill goes to conference, then the conferees have the subject before them, to be considered by the conferees, if the Senate insists on its position. . . .

MR. MCLAUGHLIN: If we recede, we vote to pass without further action by the conferees the bill in the form in which it was prior to the time the Judiciary Committee, by committee amendment, moved that this title be stricken out, and prior to the time the House adopted that amendment. If we vote to insist, then we send it back to conference for action by the conferees. Is that not the situation?

THE SPEAKER PRO TEMPORE: If the House adopted the pending motion, then it goes back to the Senate for further consideration. It goes to the Senate first before it goes to conference.

MR. MCLAUGHLIN: If the Senate does not agree with our action in accepting the Sumners motion insisting on the House amendment, then the matter will have to go to conference?

THE SPEAKER PRO TEMPORE: That is correct.

MR. MCLAUGHLIN: In that event the conferees on the part of the House and the conferees on the part of the Senate will have within their power and discretion the right to bring in any proposal which they see fit to bring back to the House and to the Senate?

THE SPEAKER PRO TEMPORE: It will be before the conference and the conferees may bring in a compromise report, if they so desire.

17. Richard M. Duncan (Mo.).

Concurrence as Precluding Motion To Further Disagree

§ 12.12 The Chair informed a Member that no further opportunity to move that the House disagree to a Senate amendment would be in order if the House, having receded, concurred with an amendment.

On May 14, 1963,[18] the House was considering Senate amendment No. 76 to H.R. 5517, supplemental appropriations for fiscal 1963. Mr. Albert Thomas, of Texas, moved that the House recede and concur with an amendment. After Mr. Thomas moved the previous question on his motion, Mr. George Meader, of Michigan, rose:

> Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[19] The gentleman will state it.
>
> MR. MEADER: If the previous question is ordered and the vote is favorable on the motion of the gentleman from Texas, will there be an opportunity to move that the House further disagree to the Senate amendment No. 76?

18. 109 CONG. REC. 8509, 88th Cong. 1st Sess.

19. John W. McCormack (Mass.).

THE SPEAKER: At this point the Chair will answer the gentleman's parliamentary inquiry in the negative; no.

Insistence After Rejection of Conference Report

§ 12.13 If a conference report is rejected, the amendments of the Senate are again before the House; and a motion to further insist on disagreement with the amendment of the Senate and request further conference is in order.

On Sept. 20, 1962,[20] the House was considering the conference report on H.R. 12391, the Food and Agricultural Act of 1962. Mr. Thomas G. Abernethy, of Mississippi, raised the following parliamentary inquiry:

> If the motion to adopt the conference report is defeated, would it be in order for the conferees to return to conference on an appropriate motion?
>
> THE SPEAKER:[1] It would be in order for some Member to offer a motion that the House insist on its position and ask for a further conference.

Recognition if Conference Report Is Rejected

§ 12.14 If a conference report is rejected, recognition for a motion to further insist on disagreement and request further conference is within the discretion of the Chair.

On Sept. 20, 1962,[2] the House was considering the conference report on H.R. 12391, the Food and Agricultural Act of 1962. Mr. Thomas G. Abernethy, of Mississippi, posed the following question:

> If the motion to adopt the conference report is defeated, would it be in order for the conferees to return to conference on an appropriate motion?
>
> THE SPEAKER:[3] It would be in order for some Member to offer a motion that the House insist on its position and ask for a further conference.
>
> MR. ABERNETHY: Could any Member of the House offer that motion?
>
> THE SPEAKER: That would depend upon recognition of the Chair.

Effect of Rejection of Motion To Insist

§ 12.15 Rejection of a motion to insist upon disagreement to a Senate amendment is not

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20. 108 CONG. REC. 20094, 20129, 87th Cong. 2d Sess.
1. John W. McCormack (Mass.).
2. 108 CONG. REC. 20094, 20129, 87th Cong. 2d Sess.
3. John W. McCormack (Mass.).

tantamount to concurrence and further action is required to dispose of the Senate amendment.

On Sept. 19, 1962,[4] the House adopted the conference report on H.R. 11151, the legislative appropriation bill for fiscal 1963. The following occurred:

THE SPEAKER:[5] The further unfinished business is the vote on a motion of the gentleman from Oklahoma [Mr. Steed] which the Clerk will report.

The Clerk read as follows:

Mr. [Thomas J.] Steed moves that the House insist upon its disagreement to the amendment of the Senate numbered 44. . . .

The question was taken; and there were—yeas 125, nays 248, not voting 62. . . .

So the motion was rejected. . . .

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

The Clerk read as follows:

Mr. Steed moves the House recede from its disagreement to the amendment of the Senate numbered 44, and concur therein.

THE SPEAKER: The question is on the motion of the gentleman from Oklahoma.

The motion was agreed to.

A motion to reconsider was laid on the table.

Resolution Providing for Insistence

§ 12.16 The House may adopt a resolution taking a Senate bill with House amendments from the Speaker's table, insisting on House amendments, and agreeing to a further conference.

On Aug. 12, 1964,[6] Speaker Pro Tempore Carl Albert, of Oklahoma, recognized Mr. B. F. Sisk, of California:

Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 818 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution the bill (S. 1007) to guarantee electric consumers in the Pacific Northwest first call on electric energy generated at Federal hydroelectric plants in that region and to guarantee electric consumers in other regions reciprocal priority, and for other purposes, with House amendments thereto, be, and the same is hereby, taken from the Speaker's table; that the House insists on its amendments to said bill and agrees to the further conference requested by the Senate on the disagreeing votes thereon.

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4. 108 CONG. REC. 19945–47, 87th Cong. 2d Sess.
5. John W. McCormack (Mass.).
6. 110 CONG. REC. 19194, 19195, 88th Cong. 2d Sess.

MR. SISK: Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. Brown] and pending that, I yield myself such time as I may consume. . . .

Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER PRO TEMPORE: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Parliamentarian's Note: A motion to further insist on the House amendment and agree to the further conference requested by the Senate was privileged, for the stage of disagreement had been reached when the House insisted on its amendment and agreed to the Senate request for a conference on Oct. 2, 1963. That conference had reported back in disagreement on Dec. 19, 1963. Instead of using the motion route, hearings before the Committee on Rules were requested so that matters in disagreement could be compromised. When it was found that differences could be resolved by further conference, the Committee on Rules reported this resolution.

Insistence by Unanimous Consent

§ 12.17 The House has agreed to a unanimous-consent request taking a House bill with Senate amendments from the Speaker's table and further insisting on disagreement to the Senate amendments.

On Oct. 11, 1962,[7] Speaker John W. McCormack, of Massachusetts, recognized Mr. Jamie L. Whitten, of Mississippi:

Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 12648, with Senate amendments Nos. 2, 19, 44, and 47 through 54, and further insist upon disagreement to said amendments.

THE SPEAKER: Is there objection to the request of the gentleman from Mississippi [Mr. Whitten]?

There was no objection.

Parliamentarian's Note: Since the stage of disagreement had already been reached, a motion for this purpose was privileged and the Member could have proceeded by moving to insist rather than seeking unanimous consent.

7. 108 CONG. REC. 23206, 87th Cong. 2d Sess.

Adhere, significance of motion to, § 12.1
Adjourn, Senate amendments to, resolution not operable until agreed to in both Houses, § 6.62
Amendments
altering text passed by both Houses, on occasion House has agreed to, § 5.2
appropriation bill, where Senate amendment proposes legislation on, further House amendment must be germane, §§ 6.15, 6.16
constitutional, and Senate amendments thereto are considered in the House, § 5.61
degree of, formula for determining, § 6.3
degree, third, not in order, § 6.4
House
division of, to Senate amendment, when in order, § 11.8
House cannot recede from or insist on, with amendment, § 7.24
House may recede from, § 10.1
receding from, and concurring with further, §§ 10.5, 10.6
receding from, effect of House, § 10.3
receding from, where Senate has amended, effect of, § 10.7
Senate bill passed when House recedes from, thereto, § 10.2
Senate
action on, by special rule (under suspension) before stage of disagreement, § 11.4
adjournment, concurrent resolution providing for not operable until, agreed to, § 6.62
agreeing to some, disagreeing with others, § 5.9
agreeing to, with further amendment may be accomplished under suspension of the rules, § 6.2
Amendments—Cont.
Senate—Cont.
amendment to, cannot touch House-passed text, § 11.24
amendment to, must be germane, §§ 11.25–11.27
appropriation bill, where, proposes legislation on, further House amendment must be germane, §§ 6.15, 6.16
calling up House bill with, which does not require consideration in Committee of the Whole, § 5.59
Committee of the Whole consideration of, voting on recommendation in House, § 5.51
Committee on Rules, role of, in disposing of, §§ 5.30, 5.31
concur in, debate on motion to, § 11.17
concur in, motion to, with amendment may be amended if proponent yields for that purpose, § 11.23
concur in, with further amendment not divisible, motion to, § 11.9
concurrence in, instance where House vacated motion, and offered different amendment thereto, § 11.3
concurrence in, with amendment by unanimous consent, § 11.1
concurring in, before stage of disagreement, § 11.1
concurring in, considered more privileged than committing, Senate having ignored request for conference and amended, § 7.5
concurring in, with amendment by unanimous consent, no vote possible, § 11.2
concurring in, with amendment without intervening motion, § 5.18

Amendments—Cont.
Senate—Cont.
consideration in Committee of the Whole no longer required once, are sent to conference, § 5.53
considering in House, § 5.7
consideration of and debate on, in Committee of the Whole, § 5.50
consideration of, by suspension does not permit alternative motion, § 5.26
consideration of, if House rejects recommendation of Committee of the Whole, § 11.5
consideration of, in Committee of the Whole, § 5.49
consideration of, remains before House where recommendation of Committee of the Whole is rejected, § 5.52
constitutional amendments and, thereto are considered in the House, § 5.61
debate on motion to concur in, § 11.17
debate on motion to dispose of, division of time, § 5.43
debate on motion to dispose of, hour rule, § 5.42
debate on, when considered in House, § 5.56
difference between unanimous-consent requests to concur in or to consider, §§ 5.13, 5.14
disagreed to in House to permit Senate to reconsider, § 5.60
disposition of, by special rule, §§ 5.21, 9.1, 9.2
disposition of, by unanimous consent does not permit alternative motion, § 5.10

Amendments—Cont.
Senate—Cont.
disposition of, to House amendments to Senate bill not requiring consideration in Committee of the Whole, by motion in House, § 6.1
disposition of, where consideration in Committee of the Whole not required, § 5.55
disposition of, where special rule is defeated, § 5.45
division of, not in order, considered in entirety, § 5.57
effect of receding or not receding when question of receding and concurring in, is divided, § 7.9
germane, amendment to, must be, §§ 11.25–11.27
germaneness of, cannot be reached by point of order when a unanimous-consent request to concur therein is pending, § 6.14
House action on, to House appropriation bill, figures in further amendment not confined to differences, § 6.12
House amendment to, must be germane, § 6.13
House bill with, and House amendment thereto, motion to concur with further House amendment in third degree, § 6.4
House has receded from its amendment to a, and concurred therein with new amendment (to avoid amending in third degree), § 6.9
jurisdiction of Committee on Rules in disposing of, §§ 5.30, 5.31
motion to act on, privileged in House when stage of disagreement reached, §§ 5.4, 7.3, 7.5
motion to amend, cannot touch House-passed text, § 11.24

Amendments—Cont.
Senate—Cont.
motion to concur in, deemed more privileged than motion to commit where Senate ignored request for conference on, and further amended, § 7.5
motion to concur in, with amendment being pending, another of same class not in order, § 11.11
motion to concur in, with amendment may be amended if proponent yields for that purpose, § 11.23
motion to refer (commit) where previous question rejected on concurring, § 10.16
objection to unanimous-consent request to consider, does not permit vote on issue, § 5.11
previous question on motion to dispose of, where defeated, § 11.22
printing of text of, in Record where agreed to by special rule, § 5.47
privilege of motion to act on, when in stage of disagreement, §§ 5.4, 7.3, 7.5
procedure for taking up, where amendments require consideration in Committee of the Whole, § 5.8
reading of text where, being considered under special rule, § 5.46
receding from, where House has amended, §§ 10.8, 10.9
receding or not receding when question of receding and concurring in, is divided, effect of, § 7.9
recognition to proceed to consideration of, by unanimous consent, § 8.23
recognition where, is disposed of under suspension of rules, § 8.22

Amendments—Cont.
Senate—Cont.
recognition where manager's motion regarding, in disagreement is rejected, § 8.21
recommendation of Committee of the Whole if rejected, brings, before House for consideration, § 11.5
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