

# **Senate Bills; Amendments Between the Houses**

## **I. Disposition of Senate Bills on the Speaker's Table**

- § 1. In General
- § 2. By Motion
- § 3. By Unanimous Consent
- § 4. By Special Rule
- § 5. Referral to Committee
- § 6. — Speaker's Discretion

## **II. Senate Amendments**

### A. BEFORE THE STAGE OF DISAGREEMENT

- § 7. In General; Referral to Standing Committees
- § 8. Consideration in the House
- § 9. Consideration in Committee of the Whole
- § 10. Consideration by House Order
- § 11. — By Special Rule
- § 12. — By Unanimous Consent
- § 13. — By Suspension of the Rules
- § 14. — By Sending to Conference
- § 15. Motions; Precedence Before Disagreement

### B. REACHING THE STAGE OF DISAGREEMENT

- § 16. In General

### C. AFTER THE STAGE OF DISAGREEMENT; MOTIONS

- § 17. In General; Privilege of Motions
- § 18. Motions in Order; Precedence of Motions
- § 19. — To Lay on the Table
- § 20. — To Recede and Concur
- § 21. — To Recede and Concur with an Amendment
- § 22. — To Insist
- § 23. — To Refer to Committee
- § 24. — To Adhere
- § 25. Debate; Recognition

## § 26. Disposition of Nongermane Senate Provisions

**III. House Amendments to Senate Measures**

## § 27. In General; Degree of Amendment

## § 28. Germaneness Requirements

## § 29. Amending House-passed Amendments; Receding, Insisting, Adhering

**Research References**

4 Hinds §§ 3090, 3108–3110

5 Hinds §§ 4795–4808, 6163–6253, 6308, 6310, 6324

6 Cannon § 730

7 Cannon §§ 799, 819, 825

8 Cannon §§ 3177–3208, 3211

Manual §§ 485–488, 519, 522–529, 797, 828, 882, 883, 913

**I. Disposition of Senate Bills on the Speaker's Table****§ 1. In General**

The House and Senate must agree on every detail of a bill before it can be enrolled and presented to the President. See U.S. Const. art. 1 § 7. Even the most magnificent phrase of the Senate text must receive the concurrence of the House. 5 Hinds § 6233.

Senate bills and joint resolutions messaged from the Senate to the House go to the Speaker's table for disposition pursuant to Rule XXIV clause 2. Under this rule many Senate bills are referred by the Speaker to the appropriate standing committees in the same manner as public bills introduced by the Members. *Manual* §§ 882, 883. However, Senate bills not requiring consideration in the Committee of the Whole, and which are “substantially the same” as House bills which have been reported by a standing committee, and on the House Calendar, may be “at once disposed of” in the House on motion authorized by that committee. Rule XXIV clause 2. (See § 2, *infra*.) Senate bills that do not satisfy the conditions specified by that rule may be called up pursuant to a unanimous-consent request or a special order from the Committee on Rules (§§ 3, 4, *infra*), but not by motion (95–2, Feb. 23, 1978, p 4480). Simple resolutions of the Senate that do not require House action are not referred. 7 Cannon § 1048.

## § 2. By Motion

### Generally

A Senate bill, received in the House after a House bill “substantially the same” has been reported favorably and placed on the House Calendar, is privileged, and may be called up from the Speaker’s table for consideration on motion directed by the committee having jurisdiction of the House bill. 6 Cannon §§ 727, 734. This motion is specifically authorized by Rule XXIV clause 2 (*Manual* § 882), which applies to both private and public Senate bills (4 Hinds § 3101), and to concurrent resolutions as well (4 Hinds § 3097). The fact that a House bill substantially the same as the Senate bill has already passed the House and gone to the Senate does not detract from the privilege of the Senate bill under the rule. 6 Cannon § 734.

The motion to call up the Senate bill is not subject to the question of consideration (8 Cannon § 2443) and is not voted on, but is subject to a point of order if the conditions specified by the rule are not satisfied. The prerequisites of the rule are:

- The Senate bill must be substantially the same as the House bill. 4 Hinds §§ 3098, 3099, 3107–3111; 6 Cannon § 737.
- The Senate bill must not require consideration in the Committee of the Whole. 8 Cannon § 3101.
- The Senate bill must come to the House after and not before (6 Cannon § 738) the House bill is placed on the calendar. 4 Hinds § 3096.
- The House bill must be correctly on the House Calendar (not the Union Calendar). 4 Hinds §§ 3089, 3097.
- The House committee reporting the House bill must authorize the calling up of the Senate bill from the Speaker’s table. 6 Cannon § 739.

In determining whether the House bill is substantially the same as the Senate bill, amendments recommended by the House committee must be considered. 6 Cannon §§ 734, 736. Although a committee must authorize the calling up of the Senate bill (6 Hinds § 739), the actual motion need not be made by a member of the committee (4 Hinds § 3100). The authority of a committee to call up a bill must be given at a formal meeting of the committee. 8 Cannon § 2211, 2212.

### Form

The Member authorized by the committee to call up the Senate bill rises and addresses the Chair:

MEMBER: Mr. Speaker, by direction of the Committee on \_\_\_\_\_, I call up from the Speaker’s table Senate bill S. \_\_\_\_\_, a bill of similar tenor, H.R. \_\_\_\_\_, having been reported and placed on the House Calendar.

### § 3

#### HOUSE PRACTICE

SPEAKER: The gentleman calls up from the Speaker's table the bill S. \_\_\_\_\_, which the Clerk will report.

#### **Floor Consideration**

Senate bills when called up under this procedure are considered under the regular rules of the House, the Member in charge being recognized for one hour (see 6 Cannon § 738):

- The bill is read in full.
- The Member in charge uses or allots the hour to which he is entitled.
- Any Member having the floor by right during debate may offer amendments.
- At the expiration of the first hour if the previous question is not moved another Member may be recognized for an hour.

#### **§ 3. By Unanimous Consent**

A Senate measure—a bill or joint or concurrent resolution—may be taken from the Speaker's table and called up for consideration in the House by unanimous consent. 94–1, Apr. 9, 1975, p 9520; 92–1, Sept. 28, 1971, p 33715; 88–2, Jan. 8, 1964, p 145. Consideration in the House by unanimous consent is permitted even where the Senate measure would ordinarily require consideration in the Committee of the Whole. 95–2, Feb. 23, 1978, p 4480.

Normally, a unanimous-consent request to consider a Senate bill on the Speaker's table merely involves consideration of a bill in the House under the hour rule, and does not include the pendency of any particular amendment as part of the request. However, a unanimous-consent request to consider the Senate bill may include a provision that a specified amendment be considered as pending. 97–2, Oct. 1, 1982, pp 27362, 27365–68. The House may also agree to a unanimous-consent request to take a Senate bill from the Speaker's table and to move to strike out all after the enacting clause and insert in lieu thereof certain text. 94–2, Aug. 31, 1976, pp 28463, 28464.

#### **§ 4. By Special Rule**

The House may adopt a special rule (a resolution reported from the Committee on Rules) which provides that a Senate bill be taken from the Speaker's table for consideration in the House. 94–1, Nov. 14, 1975, p 36638. Thus, a Senate bill at the Speaker's table which requires consideration in the Committee of the Whole may be called up for consideration in the House pursuant to a special rule. 95–2, Feb. 23, 1978, p 4480.

A special rule permitting consideration of a Senate bill from the Speaker's table in the House may preclude intervening motions (except for the motion to recommit protected by Rule XVI clause 4) or make in order an amendment with the previous question considered as ordered on the amendment. 98–2, Aug. 8, 1984, p 23049. In one instance, where the Senate had passed a bill dealing with two subjects and the House had then passed separate bills on each subject, the House by a special rule amended the Senate bill with the combined texts of both House-passed bills. 93–2, Aug. 21, 1974, p 29654.

### **§ 5. Referral to Committee**

Senate bills may be referred to committees in the same manner as public bills originating in the House. If not disposed of by special rule or other House order, Senate bills on the Speaker's table may be referred to appropriate committee(s) by the Speaker unless qualified for consideration "at once" under Rule XXIV clause 2 (*Manual* § 882). 6 Cannon § 727. Simple resolutions from the Senate that do not require any action by the House are not referred. 7 Cannon § 1048. Referral of House bills with Senate amendments, see § 7, *infra*.

### **§ 6. — Speaker's Discretion**

The Speaker has the discretion to refer Senate bills on the Speaker's table to standing committees under any conditions permitted by clause 5 of Rule X. See § 7, *infra*. While it is the practice to refer promptly bills messaged from the Senate, it has been held that the rule requiring reference is merely directory and not mandatory and that the length of time such bills may remain on the Speaker's table before being referred is within the Speaker's discretion. 6 Cannon § 727.

## **II. Senate Amendments**

### **A. Before the Stage of Disagreement**

#### **§ 7. In General; Referral to Standing Committees**

##### **Referrals By the Speaker**

Senate amendments to House bills messaged from the Senate go to the Speaker's table, ultimately to be disposed of by unanimous consent, by special rule, or by motion. But before consideration of any motions to dispose of Senate amendments, the Speaker has the discretionary authority, under clause 2 of Rule XXIV (*Manual* § 882), to refer such amendments to the

appropriate committees, with or without a time limitation for committee consideration. See also *Manual* § 528b.

The Speaker's authority includes the discretion to refer a Senate amendment from the Speaker's table to one or more standing committees under any conditions permitted by clause 5 of Rule X for the referral of introduced bills. He may for example refer only a portion of the Senate amendment to the standing committee with subject-matter jurisdiction, without referring the remainder of the Senate amendment to the committee with jurisdiction over the original House bill. 97-1, Mar. 26, 1981, p 5397.

The Speaker's referral authority may also be invoked with respect to Senate amendments which remain undisposed of after House action. But he may permit the amendments to remain on the Speaker's table to await further action by the House. 91-2, June 17, 1970, pp 20159, 20198-200. Likewise, if objection is made to a unanimous-consent request to disagree to the amendments and agree to a conference, the Speaker is not required 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 has an opportunity to act or until the House takes other action. 87-1, Mar. 29, 1961, p 5288; 87-1, Sept. 26 [Legislative Day, Sept. 25], 1961, p 21475.

#### **Motions to Refer**

A motion to refer a Senate amendment under debate may be initiated by a Member pursuant to Rule XVI clause 4 (*Manual* § 782). That motion takes precedence over the motions to agree, disagree or amend. 5 Hinds §§ 6172-6174. *Manual* § 528b. The motion to refer is in order even after the previous question has been ordered on a motion to agree to the Senate amendment. 5 Hinds § 5575.

#### **Referrals By Special Rule**

A Senate amendment may be referred to a standing committee pursuant to the terms of a special rule from the Committee on Rules. 87-1, Sept. 26, 1961, p 21475.

### **§ 8. Consideration in the House**

House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of in the House as the House may determine. Rule XXIV clause 2 (*Manual* § 882). This rule is applied to Senate amendments to House amendments as well as Senate amendments to House bills. 86-2, Aug. 30, 1960, p 18357. The Senate amendments that may be directly called up under this rule are few in num-

ber, because the vast majority involve a charge against the Treasury and therefore require consideration in the Committee of the Whole. *Manual* § 528a.

### § 9. Consideration in Committee of the Whole

House bills with Senate amendments which require consideration in Committee of the Whole may not be called up in the House as privileged for immediate consideration. 6 Cannon § 731. The stage of disagreement not having been reached on Senate amendments requiring consideration in the Committee of the Whole, motions in the House to dispose of the amendments are not inherently privileged, the only exception being a motion to ask or agree to a conference under Rule XX clause 1. 95–1, Dec. 7, 1977, p 38721. See also 98–2, Oct. 11, 1984, p 32308; 4 Hinds §§ 3149, 3150; 8 Cannon §§ 3185, 3194. Reaching the stage of disagreement, see § 16, *infra*.

An 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 if, originating in the House, it would be subject to that point. Rule XX clause 1. *Manual* § 827. The point of order permitted by this rule applies only before the stage of disagreement has been reached on the Senate amendment; it is too late to raise a point of order that Senate amendments should have been considered in Committee of the Whole after the House has disagreed thereto and the amendments have been reported from conference. 89–2, Oct. 20, 1966, pp 28240–45; 94–1, Dec. 4, 1975, p 38714.

Because of these restrictions against immediate consideration of Senate amendments in the House, it was at one time a common practice to refer such amendments to the appropriate standing committee(s). 6 Cannon § 731. After committee consideration, they were taken up in the Committee of the Whole. 4 Hinds §§ 3108–3110. Under the modern practice, most Senate amendments are disposed of by a special order reported from the Committee on Rules, or by unanimous consent under suspension. §§ 11–13, *infra*.

### § 10. Consideration by House Order

If the House agrees to a request to take up a Senate amendment at this stage, and if the request specifies the disposition sought—to concur, to amend, or to disagree—only that action is in order. Such a special request does not place the Senate amendment before the House for any alternative dispositions. If, on the other hand, a Senate amendment is placed before the House (by unanimous consent, a suspension motion, or a special rule) “for consideration,” then various actions relating to the amendment are possible.

The Senate amendment is under debate, and motions to concur with an amendment, to concur, or to disagree are all possibilities. A motion to concur with an amendment can itself be amended, if the previous question is rejected, to propose another amendment. Similarly, where the House has adopted a special rule providing for the consideration of a motion to concur in Senate amendments which require consideration in the Committee of the Whole, only the motion to concur, made in order by the special rule, is in order, and other motions to dispose of the Senate amendments may not be offered as privileged pending or even after rejection of that motion. The rejection of such a motion does not result in disagreement to that amendment or permit disposition of that amendment by other motions (the stage of disagreement not having been reached). 95–1, Dec. 7, 1977, p 38724.

### § 11. — By Special Rule

#### Generally

Resolutions from the Committee on Rules may be used to authorize the consideration of a motion to dispose of a Senate amendment prior to the stage of disagreement. 98–2, Oct. 11, 1984, p 32149; 99–1, Dec. 11, 1985, p 35989. Thus, the Committee on Rules may report out a special rule taking a House bill with Senate amendments (requiring consideration in the Committee of the Whole) from the Speaker’s table and make in order the consideration of such amendments in the House. 95–1, Dec. 7, 1977, pp 38780–86. Illustrative rules from the Committee on Rules have provided for:

- The consideration of a motion to concur in a Senate amendment. 95–1, Dec. 7, 1977, p 38724.
- The consideration of a motion, if offered by the chairman of the committee with jurisdiction, to take a House-passed bill from the Speaker’s table with a Senate amendment and to concur in the Senate amendment with an amendment. 98–2, Oct. 11, 1984, p 32149.
- A motion in the House, if offered by a designated Member or his designee, to amend a Senate amendment to a House joint resolution on the Speaker’s table with the text of an amendment printed in the Record. 99–1, Dec. 11, 1985, p 35989.
- The consideration in the House of a motion to take from the Speaker’s table a House measure with Senate amendments thereto and concur in the Senate amendments without intervening motion. 95–1, Dec. 7, 1977, p 38721.

- Disagreeing to Senate amendments and for messaging such action to the Senate without intervening motion. 93–1, Nov. 29, 1973, p 38675.
- The consideration of a reported bill and for the consideration, after passage, of Senate amendments to another House bill, so as to commit the matters contained in both House-passed bills to one conference with the Senate. 95–2, Sept. 29, 1978, p 32664.

If the previous question is voted down on a resolution providing for consideration of the Senate amendments, the resolution is open to germane amendment. 91–2, June 17, 1970, pp 20159, 20198–200.

Should a resolution providing for concurring in Senate amendments to a House bill be rejected, the bill and amendments remain on the Speaker's table for further action by the House. 91–2, June 17, 1970, pp 20159, 20198–200.

### **Self-executing Special Orders**

A recent trend in House-Senate relations has been the use of so-called “self-executing” special orders—that is, resolutions from the Committee on Rules which, if adopted by the House, make some legislative disposition of a Senate amendment, and eliminate the need for a motion to agree with, recede from, or otherwise dispose of the amendment. Such resolutions are sometimes referred to as “hereby” special orders because the House, in adopting the resolution as drafted, “hereby” agrees to the disposition of the amendment as proposed by that resolution. If the House adopts a resolution which by its terms takes a House bill with a Senate amendment from the Speaker's table and “hereby” agrees to that amendment (see, for example, 99–1, Mar. 5, 1985, p 4347), no further action by the House is required, and the amendment is never itself before the House for separate consideration. See Deschler's Ch 21 §§ 27.16, 27.19. In one recent instance, the special order disposed of Senate amendments to a House concurrent resolution on the Speaker's table in three ways: (1) by disagreeing to several designated amendments; (2) by agreeing with a specified amendment to one Senate amendment; and (3) by agreeing to the remainder of the Senate amendments. 99–2, Oct. 17, 1986, p 32982.

Special orders of this nature may include provisions for a motion to dispose of a Senate amendment as well as “self-executing” provisions applicable to a related proposition. The Committee on Rules may recommend a special order of business providing that a Senate amendment pending at the Speaker's table and otherwise requiring consideration in Committee of the Whole be “hereby” considered as adopted, which special order if adopted would abrogate the requirement of Rule XX. *Manual* § 828a. In one instance, a resolution permitted a separate motion to concur in a Senate

amendment prior to the stage of disagreement and also contained a “self-executing” provision adopting a separate resolution expressing the legislative intent of the House in concurring in the Senate amendment. 99–2, Sept. 12, 1986, p 23119.

## § 12. — By Unanimous Consent

### Generally

Senate amendments may be considered in the House by unanimous consent (89–1, Oct. 19, 1965, p 27412), even though such amendments would normally require consideration in Committee of the Whole. 86–2, Sept. 1, 1960, p 18920; 87–1, July 31, 1961, p 14050; 87–2, Aug. 8, 1962, pp 15854, 15856. Typically, the House will agree by unanimous consent to take from the Speaker’s table a House bill with Senate amendments and concur in or otherwise dispose of the amendments or permit the consideration of those amendments in the House. 88–1, Dec. 20, 1963, p 25365; 89–1, Oct. 19, 1965, p 27412. It may make such consideration in order on a future day. 95–2, Oct. 11, 1978, p 35736.

This procedure may be invoked to permit the House to consider a Senate amendment and concur in the Senate amendment with an amendment consisting of the text of a House-passed bill. 95–1, May 11, 1977, pp 14390 *et seq.* In one instance, pursuant to a single unanimous-consent request, the House amended a Senate amendment with the text of another bill introduced in the House, insisted on the House amendment, and requested a conference. 97–2, Mar. 16, 1982, p 4227. In a more recent instance, the House by unanimous consent made in order the consideration of a motion to disagree to *any* Senate amendment which might be added to a House-passed bill then pending in the Senate. Subsequently, pursuant to this authority, the House considered and adopted a motion disagreeing to a Senate amendment. 99–2, Aug. 15, 1986, p 22132.

### Guidelines for Recognition

Recognition for unanimous consent to consider a Senate amendment on the Speaker’s table may be subject to announced guidelines imposed by the Speaker as a pre-condition to such recognition. In recent years, the Speaker has indicated that he would entertain a unanimous-consent request for the disposition of a Senate amendment to a House-passed bill on the Speaker’s table only if made by the chairman of the committee with jurisdiction, or by another member of the committee authorized formally or informally by the committee to make the request. Committee authorization of a Member to seek unanimous consent in the House to dispose of such amendments

need not necessarily be the result of an official vote of the committee, but may be informally communicated to the Chair by the committee chairman. See for example, 98–2, Apr. 26, 1984, p 10194; 100–1, Feb. 4, 1987, p 2675.

#### **Form of Request as Affecting Recorded Votes**

The pendency of a unanimous-consent request to take from the Speaker's table a measure with a Senate amendment and concur in the amendment precludes a demand for a roll call vote on the amendment, since it would be disposed of if the request is granted. 92–1, June 30, 1971, p 23095. The failure of a Member to object to the unanimous-consent request constitutes final House action on the measure, thereby precluding a vote on the amendment. However, a unanimous-consent request invoked merely to consider a Senate amendment in the House permits a vote on a subsequent motion to concur in the Senate amendment. 94–1, Sept. 26, 1975, pp 30616, 30617; 94–2, Mar. 11, 1976, p 6148; 94–2, June 29, 1976, p 21141.

#### **§ 13. — By Suspension of the Rules**

The House may consider a proposition, offered under suspension of the rules, taking a House bill with one or more Senate amendments from the Speaker's table and concurring in, disagreeing to, or making some other disposition of, the amendment(s). 93–1, Dec. 20, 1973, pp 42917, 42918; 94–1, Dec. 19, 1975, p 41876. Thus, the House may agree to a motion to suspend the rules and to a resolution taking such a bill from the Speaker's table and agreeing to the Senate amendment. 87–2, Aug. 27, 1962, pp 17671, 17681.

The House may agree to a motion to suspend the rules and adopt a resolution providing for the taking of a House bill with Senate amendments from the Speaker's table and concurring in the amendments with a designated amendment. 93–1, Dec. 30, 1973, pp 42883, 42884; 94–1, Dec. 19, 1975, p 41869. The language of the designated amendment may be stated in the motion. 94–1, Dec. 19, 1975, p 41954; 95–1, July 12, 1977, p 22483. Or the designated amendment may be set forth in the text of the resolution. 92–2, Oct. 14, 1972, pp 36477–83; 93–1, Dec. 20, 1973, pp 42883, 42884; 95–1, Sept. 27, 1977, p 31040. The House has also agreed to a motion to suspend the rules and agree to a resolution whereby the House “shall be considered” to have taken from the Speaker's table a House bill with a Senate amendment thereto, and to have agreed to the Senate amendment with a further amendment, and to have insisted on the House amendment and to have requested a conference with the Senate. 98–2, Aug. 8, 1984, p 22963.

The suspension procedure in such cases does not always require a resolution. The House has agreed to a motion to suspend the rules and take from the Speaker's table a Senate bill with a Senate amendment to House amendments thereto, and to concur in the Senate amendment. 93-2, May 6, 1974, p 13085; 95-1, Oct. 18, 1977, pp 34086, 34087, 34091.

#### § 14. — By Sending to Conference

House bills returned with Senate amendments requiring consideration in the Committee of the Whole may be taken from the Speaker's table and sent to conference by unanimous consent. 6 Cannon § 732. Such amendments may also be sent to conference by motion under the provisions of House Rule XX clause 1. 91-2, July 9, 1970, pp 23518, 23524; 92-1, June 28, 1971, pp 22406-13, 22429. That rule provides that a motion to disagree with an amendment of the Senate to a House bill and to 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. Rule XX clause 1. *Manual* § 827. On a bill that has been jointly referred, the motion must be authorized by all committees reporting thereon. 95-2, Sept. 26, 1978, p 31623. But a committee discharged from a sequential referral need not authorize a motion made by direction of the committee that reported the bill. 103-2, Oct. 4, 1994, p \_\_\_\_\_. The motion is privileged at any time the House is in possession of the papers if the appropriate committee has authorized the motion and the Speaker in his discretion recognizes for that purpose. 94-1, Mar. 20, 1975, p 7646. Generally, see CONFERENCES BETWEEN THE HOUSES.

While a privileged motion to go to conference under clause 1 Rule XX is pending, preferential motions to concur or to concur with amendment are not in order (the stage of disagreement not having been reached). Compare 95-1, Dec. 7, 1977, p 38724.

#### § 15. Motions; Precedence Before Disagreement

The stage of disagreement not having been reached on a Senate amendment, motions in the House to dispose of the amendment are not privileged and require unanimous consent or a special rule from the Committee on Rules, the only exception being a motion to ask or agree to a conference under Rule XX clause 1. 95-1, Dec. 7, 1977, p 38721. See also 98-2, Oct. 11, 1984, p 32308. But if the amendment has been called up by House order pursuant to a unanimous-consent request or a special rule, and the House order does not specify the motion to be considered, the amendment may

then be disposed of by invoking one of the motions shown in Chart No. 1 below. Such motions are available in the specified sequence (*Manual* § 528b), and are arranged in order of precedence.

The preferential sequence of motions at this stage is intended to allow the House to perfect the amendment—that is, to first consider any amendments to the Senate amendment before considering whether to agree or disagree to it. Thus, at this stage, the motion to concur with an amendment takes precedence over the motion to concur. 91–2, Dec. 30, 1970, pp 44116, 44123. These motions yield to the motion to disagree and send to conference by direction of the committee under Rule XX. *Manual* § 528a.

A motion in the House to dispose of a Senate amendment to a House bill is itself subject to the secondary motions ordinarily applicable to any question which is under debate—to table, to postpone to a day certain, to amend, and to refer—all of which remain privileged under clause 4 of Rule XVI. See *Manual* § 528b. However, 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, or unless the previous question on the motion is defeated. 88–1, May 14, 1963, pp 8508–11.

On rejection of a preferential motion to concur in a Senate amendment with an amendment, the question recurs on a pending motion to concur in the Senate amendment. 92–2, June 28, 1972, pp 22959, 22974. On rejection of a motion to concur in a pending Senate amendment, the amendment is open to germane amendment or to a motion to disagree. 90–1, July 17, 1967, p 19033.

A motion to concur in a Senate amendment with an amendment (prior to the stage of disagreement) is not subject to a demand for a division of the question. 8 Cannon § 3176. Divisibility after the stage of disagreement, see §§ 20, 21, *infra*.

## B. Reaching the Stage of Disagreement

### § 16. In General

Reaching the stage of disagreement is a critical threshold in the disposition of amendments between the Houses. Before the stage of disagreement is reached on Senate amendments, motions in the House to dispose of amendments which require consideration in Committee of the Whole are not privileged and require unanimous consent unless other action is made in order by special rule or by the exception to Rule XX clause 1, relating to motions to ask or agree to a conference. §§ 8, 15, *supra*. After the stage of disagreement has been reached, motions in the House to resolve the matter

**§ 16**

HOUSE PRACTICE

in disagreement are privileged and do not require unanimous consent for their consideration. § 17, *infra*. The stage of disagreement having been reached, a bill with Senate amendments may be called up as privileged. 8 Cannon § 3194.

Whether or not the House has reached the stage of disagreement is also important in determining the kinds of motions that may be sought and the precedence thereof. These motions (*Manual* § 528), which may be sought by any Member, are shown in Chart No. 1 and are preferential in the order listed.

<u>MOTIONS TO DISPOSE OF SENATE AMENDMENTS</u>	
SENATE AMENDMENT	
Motions before the stage of disagreement	Motions after the stage of disagreement
<ol style="list-style-type: none"> <li>1. Concur with amendment(s)</li> <li>2. Concur</li> <li>3. Disagree and request or agree to conference</li> <li>4. Disagree</li> </ol>	<ol style="list-style-type: none"> <li>1. Recede and concur</li> <li>2. Recede and concur with amendment(s)</li> <li>3. Insist on disagreement and request or agree to a (further) conference</li> <li>4. Insist on disagreement</li> <li>5. Adhere</li> </ol>
Chart No. 1.	

The stage of disagreement between the two Houses is reached after the House in possession of the papers has either disagreed to the amendment(s) of the other House or has insisted on its own amendment to a measure of the other House and has messaged that action to the other body. *Manual* § 828b. Thus, the House having disagreed to a Senate amendment and the

Senate having insisted thereon, the stage of disagreement is reached when the Senate action is messaged to the House; and motions to dispose of the matter in disagreement are then privileged for consideration in the House. 95-1, Nov. 29, 1977, p 38013.

The House has reached the stage of disagreement on a bill when it has disagreed to a Senate amendment or insisted on a House amendment (with or without requesting or agreeing to a conference) and has informed the Senate by message of its action. Only previous insistence or disagreement by the House itself places the House in disagreement (and not merely disagreement, insistence, or amendment by the Senate). *Manual* § 528c. Compare 94-2, Sept. 16, 1976, p 20868.

Once the stage of disagreement has been reached on a bill with amendments, the House remains in the stage of disagreement until the matter is finally disposed of and motions for its disposition are privileged whenever the House is in possession of the papers. This principle applies both where the stage of disagreement is reached without a conference, and where matters remain in disagreement after conferees have reported. *Manual* § 528c. Where a Senate amendment reported from conference in disagreement remains in disagreement following subsequent action by the House and the Senate, a further motion to dispose of that Senate amendment in the House is privileged and subject to one hour of debate under Rule XXVIII clause 2(b). 95-2, Feb. 22, 1978, p 4061.

In one instance, the stage of disagreement between the two Houses was reached when the House communicated to the Senate its insistence upon its amendment and its request for a conference, even though the Senate subsequently disregarded the House request and further amended the House amendment without specifically disagreeing to the House amendment. 94-2, Sept. 16, 1976, p 30872.

### **C. After the Stage of Disagreement; Motions**

#### **§ 17. In General; Privilege of Motions**

Once the stage of disagreement has been reached and the House is in possession of the papers, motions in the House to resolve the matter in disagreement no longer require unanimous consent for their consideration. 90-1, Nov. 9, 1967, pp 31878, 31880; 94-2, Sept. 16, 1976, p 30872. The House having disagreed to a Senate amendment and the Senate having insisted thereon, motions to dispose of the matter in disagreement are privileged for consideration in the House. 95-1, Nov. 29, 1977, p 38013. The stage of disagreement having been reached, the motion is privileged when

offered by any Member. 99–2, Mar. 18, 1986, p 5217. Such motions are privileged for consideration in the House even where the Senate has receded from an amendment (to which the House has disagreed) and concurred with a further amendment which is before the House for the first time. The House has not expressed its position on the new Senate amendment, but since the stage of disagreement has been reached, motions to dispose of the new amendment are privileged. 95–1, Nov. 29, 1977, p 38033. Once the stage of disagreement has been reached between the two Houses on an amendment to a House bill, motions in the House to dispose of the matter at subsequent permissible stages of amendment remain privileged. 94–2, Sept. 16, 1976, p 30872.

### § 18. Motions in Order; Precedence of Motions

#### Generally

The stage of disagreement having been reached on a Senate amendment, the amendment is subject to disposition in the House by various motions. The primary motions to dispose of the amendment, arranged in preferential order (*Manual* § 528d), are shown in Chart No. 1, § 16. These motions have precedence in the order shown without regard to the order in which they may be offered. 5 Hinds § 6324. A demand for the previous question by the Member in charge of a bill does not preclude consideration of a preferential motion. 8 Cannon § 3204.

In theory preferential status is accorded to that motion which tends most quickly to bring the Houses into agreement. 8 Cannon § 3204; 88–1, Dec. 10, 1963, pp 23950, 23952; 89–1, Apr. 29, 1965, pp 8861, 8866; 90–1, Nov. 9, 1967, pp 31878, 31880. Thus, the stage of disagreement having been reached, the motion to recede and concur 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. 91–2, Dec. 30, 1970, pp 44116, 44123. Under the same rationale, the motion to recede and concur takes precedence at this stage over the motion to insist on disagreement. 90–1, Sept. 12, 1967, pp 25201, 25211; *Manual* § 528d.

Preferential status of motion to insist on disagreement to a Senate amendment providing legislation on an appropriation bill, see CONFERENCES BETWEEN THE HOUSES.

Where the matter in disagreement is a House amendment, see § 28, *infra*.

### Secondary Motions

Secondary motions applicable when any question is under debate such as the motion to table, to refer, or to postpone (*Manual* § 782), are available to dispose of a Senate amendment and are in order if and when they are preferential. The motion to table a Senate amendment in disagreement is preferential over other motions to dispose of the amendment. § 19, *infra*. The motion to refer a Senate amendment is preferential only to the motion to adhere to disagreement. *Manual* § 528d. And a motion to recommit with instructions to report back forthwith with an amendment may not be offered after the previous question has been ordered on a motion to recede and concur, a motion of higher privilege. 94–2, Sept. 16, 1976, p 30887. Motions to postpone, either to a day certain or indefinitely, may be presumed to have the lowest privilege with respect to a Senate amendment after the stage of disagreement has been reached. *Manual* § 528d.

### § 19. — To Lay on the Table

The stage of disagreement having been reached, a motion to table a Senate amendment to a House bill is in order (5 Hinds §§ 5424, 6201–6203) and takes precedence over other motions to dispose of the amendment (*Manual* § 528d), including the motion to insist on disagreement. 95–2, Sept. 28, 1978, p 32334. Adoption of a motion to table the amendment carries the bill to the table. *Manual* § 785.

Laying on the table a motion to dispose of a Senate amendment should be distinguished from the tabling of the Senate amendment itself. A privileged motion to dispose of a Senate amendment in disagreement is itself subject to the motion to table. 95–2, Feb. 22, 1978, p 4072. Thus, a motion to recede and concur is subject to the motion to table (95–2, Feb. 22, 1978, p 4072), as is the motion to concur with an amendment (95–2, May 16, 1978, p 13921). A motion to table a privileged motion to dispose of an amendment between the Houses is in order before debate thereon or at the end of debate (and before the previous question is ordered). 99–2, Mar. 18, 1986, pp 5217–20.

Adoption of a motion to table a motion to dispose of an amendment represents final adverse disposition of that motion at that stage of the question, but would not necessarily dispose of the amendment or the bill, since other motions could still be available to dispose of the amendment. See 99–2, Mar. 18, 1986, pp 5217–20.

## § 20. — To Recede and Concur

### In General

A Senate amendment in disagreement is subject to disposition in the House pursuant to a privileged motion to recede from disagreement and concur in the amendment. 99–2, Mar. 20, 1986, p 5796. The motion to recede and concur is highly preferential, yields only to the motion to table (§ 19, *supra*), and takes precedence over:

- The motion to recede and concur with an amendment. 8 Cannon §§ 3198, 3202; 91–2, Dec. 30, 1970, p 44116.
- The motion to insist on disagreement. 5 Hinds § 6208; 8 Cannon § 3194; 92–2, June 28, 1972, p 22959.
- A motion to disagree and request a conference. 94–2, Jan. 27, 1976, p 1036; 95–1, Oct. 13, 1977, p 33689.
- A motion to adhere. 5 Hinds § 6271; 87–1, July 20, 1961, pp 13079–84.

A motion to recede and concur is in order even after the previous question has been demanded on a motion of lesser privilege, such as a motion to insist. 5 Hinds § 6208.

If the House agrees to the motion to recede and concur, other less preferential motions to dispose of the amendment fall and are not voted upon. 86–1, Sept. 14, 1959, pp 19740–42. But if the House rejects the motion to recede and concur, further action must be taken to dispose of the amendment. *Manual* § 488. If the motion to recede and concur in the Senate amendment is defeated, a further motion relating to the amendment in disagreement is in order. 90–1, Oct. 17, 1967, pp 29044, 29048. If a motion to insist on disagreement to the Senate amendment was pending, the question would recur on that motion. 87–2, Sept. 19, 1962, p 19945; 88–1, Dec. 17, 1963, pp 24815–22.

### Dividing the Question

The question on a motion to recede and concur in a Senate amendment may be divided on demand of any Member. 8 Cannon § 3203. 86–2, June 23, 1960, pp 14074, 14081; 88–1, May 14, 1963, p 8506; 94–2, Aug. 10, 1976, pp 26781, 26782. The division may be demanded as a matter of right (under clause 6, Rule XVI); the House does not vote on whether to permit a division of the question. 92–2, June 28, 1972, pp 22959, 22974.

If the question on receding and concurring is divided before the ordering of the previous question, the hour rule for debate applies to each motion separately. See 94–1, Dec. 4, 1975, p 38717.

If the question has been divided and the motion to recede is agreed to, then the question of concurring is before the House. 88–1, May 14, 1963,

pp 8508–11. However, the House having receded, it is no longer in the stage of disagreement with the Senate on that amendment, and in that event a motion to amend takes precedence over the motion to concur (5 Hinds §§ 6209–6211; 8 Cannon § 3198). Thus, where a motion to recede and concur has been divided, and the House recedes, a motion to concur with an amendment then takes precedence over the motion to concur, is considered as pending if part of the original motion, and is voted on first. 100–2, Sept. 30, 1988, pp 27268–74; 101–1, Oct. 11, 1989, p 24097; *Manual* § 525.

### § 21. — To Recede and Concur With an Amendment

A Senate amendment in disagreement is subject to disposition in the House pursuant to a motion to recede from disagreement and concur in the amendment with an amendment. See for example 97–1, May 20, 1981, p 10319. This motion ordinarily yields to the motion to recede and concur (5 Hinds §§ 6219–6223; 8 Cannon §§ 3200, 3202) but takes precedence over the motion to insist (5 Hinds § 6223) and over the motion to adhere. *Manual* § 528d.

A motion to recede and concur with an amendment is subject to amendment if the previous question is voted down (90–1, Dec. 11, 1967, pp 35811–33, 35841), or if the Member in control of the floor yields for that purpose. 94–1, Dec. 15, 1975, p 40713; 94–2, Sept. 27, 1976, p 32720. And 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. 87–2, Oct. 13, 1962, pp 23474, 23476–83; 90–1, Oct. 25, 1967, pp 29933, 29942–44; 92–1, May 20, 1971, pp 16197, 16201.

A motion to recede from disagreement to a Senate amendment and concur therein with an amendment may, on demand of any Member, be divided to permit separate votes; the House votes first on the motion to recede, and (if the House does recede) then on the motion to concur with an amendment. 94–1, Oct. 7, 1975, p 32604; 99–1, Nov. 1, 1985, pp 30147, 30163. If the House refuses to recede, the motion to further insist is in order. § 22, *infra*.

### § 22. — To Insist

A Senate amendment in disagreement may be disposed of pursuant to a motion to insist on disagreement or to the compound motion to insist on disagreement and request a (further) conference. Since the motion to insist on disagreement and request a conference is more likely to bring the two Houses together, that motion takes precedence over the simple motion to in-

sist. See *Manual* § 528d. Where both Houses insist and neither House asks for a conference or recedes the bill fails. 5 Hinds § 6228.

A motion to insist on disagreement to a Senate amendment yields to preferential motions, such as a motion to recede and concur in the amendment (5 Hinds § 6225; 8 Cannon § 3183), but takes precedence over the motion to refer (5 Hinds § 6225). A motion to insist on disagreement and request a further conference is not in order so long as preferential motions to dispose of amendments in disagreement are pending. 90–1, Oct. 17, 1967, pp 29044, 29048.

The motion to insist on disagreement is in order and most commonly used after the House has refused to recede from disagreement to a Senate amendment. 89–1, Apr. 29, 1965, pp 8867, 8871; 93–1, June 29, 1973, pp 22381 *et seq.* Thus where the House refuses to recede from its disagreement to a Senate amendment—the motion to recede and concur having been divided on demand of a Member—the motion to insist on disagreement is in order. 97–2, Dec. 16, 1982, p 31719. See also 91–1, Dec. 22, 1969, pp 40902, 40914, 40921. Similarly, a motion to recede and concur with an amendment having been divided, and the House refusing to recede, the question recurs on a pending motion to insist upon disagreement. 95–2, Oct. 12, 1978, p 36396. Underlying these precedents is the reasoning that since the refusal of the House to recede is not equivalent to insisting upon disagreement, the House may vote separately on that question pursuant to the motion to insist on disagreement. 93–1, June 25, 1973, pp 21171 *et seq.*

A motion to further insist on disagreement and request a further conference may be in order after the rejection of a conference report (87–2, Sept. 20, 1962, pp 20094, 20105, 20128) or after the conference managers have reported a Senate amendment in disagreement (91–1, Dec. 3, 1969, p 36759). For example, on rejection of a motion to recede and concur in a Senate amendment with an amendment, the manager of the report may be recognized to offer a motion that the House insist on its disagreement to the amendment. 96–1, May 23, 1979, p 12489. And where a motion to recede and concur with an amendment to an amendment reported in disagreement from conference has been divided, and the motion to recede is rejected, the manager is entitled to recognition to offer a motion to insist on disagreement. 94–1, Sept. 24, 1975, pp 30081, 30082.

Rejection of a motion to insist upon disagreement to a Senate amendment is not tantamount to concurrence; further action is required to dispose of the Senate amendment. Indeed, a motion to insist having been rejected, the same Member who had offered the motion may be recognized to offer a motion to recede and concur. 87–2, Sept. 19, 1962, p 19945.

**§ 23. — To Refer to Committee**

A Senate amendment in disagreement may be disposed of pursuant to a motion to refer (or recommit) to committee when and if such motion is preferential. The simple motion to refer is preferential only to the motion to adhere. *Manual* § 528d. The motion to refer must yield to other motions of higher preferential status, such as the motion to recede and concur (8 Cannon § 3259) and the motion to insist (5 Hinds § 6225). A motion to recommit with instructions may be offered, but it too must yield to preferential motions to dispose of the amendment. Thus, a motion to recommit with instructions to report back forthwith with an amendment may not be offered after the previous question has been ordered on a motion to recede and concur, a motion of higher privilege. 94–2, Sept. 16, 1976, p 30887. But after the House has receded from disagreement to a Senate amendment, a motion to amend is preferential, so that, after the previous question is ordered on a motion to concur, the House having already receded, a motion to recommit with instructions to amend would be in order. 8 Cannon § 2744.

**§ 24. — To Adhere**

Where the House has expressed its disagreement to a Senate amendment and the amendment remains in disagreement after a Senate response thereto, a motion that the House adhere to its disagreement is in order. See for example 5 Hinds § 6239. This motion yields to motions of higher precedence, such as the motion to recede and concur and the motion to insist. 5 Hinds § 6324. See also *Manual* § 528d. The motion to adhere is rarely used in modern practice, but when both Houses have insisted, neither inclining to recede, it is in order. 5 Hinds § 6163. When both Houses adhere the bill fails (5 Hinds §§ 6163, 6313, 6324, 6325) even though the disagreement may be over a very minor amendment (5 Hinds §§ 6233–6240).

The adoption of a motion of higher preferential status—to recede from disagreement to the amendment—precludes a motion to adhere to the same amendment. But the House may recede from its disagreement to certain amendments and adhere to it as to other amendments to the same bill. See 5 Hinds § 6229. Adherence to House amendment, § 28, *infra*.

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. The House that votes to adhere does not ask a conference, although it may agree to one, whereas the other House may vote to insist and, at the same time, seek a conference. 5 Hinds §§ 6241, 6308. And one House, having adhered, may recede from its adherence and agree

to a conference asked by the other, or it may vote to further adhere. 5 Hinds § 6251.

### § 25. Debate; Recognition

Debate in the House on a privileged motion to dispose of a Senate amendment in disagreement is under the hour rule. 94–1, Dec. 4, 1975, p 38717. When an amendment is reported from conference in disagreement, the Speaker recognizes the manager of the report for a motion to dispose of the amendment, which motion is debatable for one hour, equally divided between the majority and minority (and sometimes a third Member) pursuant to Rule XXVIII clause 2(b). (See CONFERENCES BETWEEN THE HOUSES.) The equal division of debate between the majority and minority parties under Rule XXVIII clauses 2(a) and (b) technically applies to conference reports and to motions to dispose of amendments reported from conference in disagreement, and does not apply to the Member offering the initial motion to dispose of an amendment in disagreement which has not been reported from conference but which is subsequently before the House. 94–2, Jan. 27, 1976, p 1036. However, the current practice in the House is to divide the time in this fashion on all motions to dispose of amendments still in disagreement following a conference. *Manual* § 912b.

While a motion to dispose of the amendment in disagreement may be displaced by a preferential motion, the Member offering the preferential motion does not thereby gain control of time for debate. 89–1, Apr. 29, 1965, pp 8861, 8866; 90–1, Sept. 12, 1967, pp 25201, 25211; 90–1, Oct. 24, 1967, pp 29837, 29842. Thus, although the motion to concur in a Senate amendment takes precedence over the motion to disagree where the stage of disagreement has been reached, the Member offering the preferential motion does not thereby gain control of the time for debate, which remains in the control of the proponent of the original motion under the hour rule. 95–1, Oct. 13, 1977, p 33689; 95–1, Nov. 29, 1977, p 38033.

Similar rules are applied to amendments reported from conference in disagreement. The motion to recede and concur with an amendment has preference over a motion to insist on disagreement, but the proponent of the preferential motion does not thereby gain control of the time for debate. 94–1, May 14, 1975, pp 14385, 14386. And while the motion to recede and concur in a Senate amendment reported from conference in disagreement is preferential to the motion to recede and concur with an amendment, the Member offering the preferential motion does not thereby gain control of time for debate. 94–1, Dec. 4, 1975, p 38714.

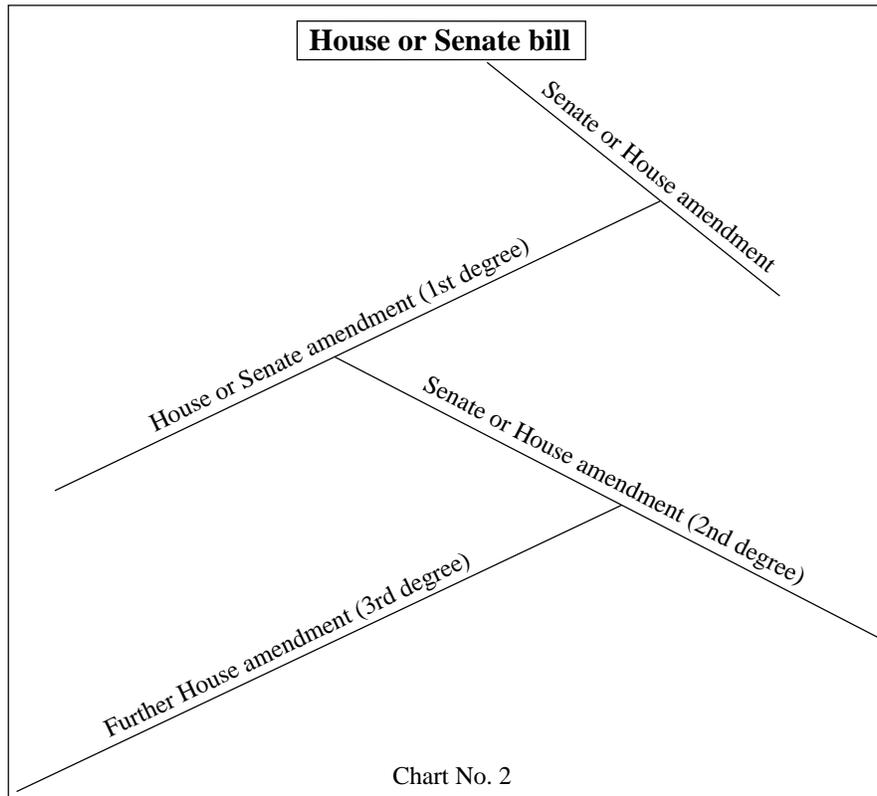
### § 26. Disposition of Nongermane Senate Provisions

Under recent changes in the rules, points of order may be made and separate votes demanded on motions to reject portions of conference reports and Senate amendments in disagreement containing language which would not have been germane if offered in the House. Clauses 4 and 5 of Rule XXVIII (*Manual* § 913b). Clause 4 permits points of order against language in a conference report which was originally in a Senate bill and which would not have been germane if offered to the House-passed version, and permits a separate motion to reject such portion of the conference report if found nongermane. 99–2, Oct. 15, 1986, p 31498. Clause 5 permits a similar procedure if a Senate amendment or portion thereof would have been nongermane if offered in the House. Motions to reject under these clauses are subject to 40 minutes of debate, equally divided between a proponent and opponent of the motion. *Manual* § 913c. See GERMANENESS.

## III. House Amendments to Senate Measures

### § 27. In General; Degree of Amendment

A Senate bill may be subject to amendment by the House when the bill is called up in the House pursuant to a unanimous-consent request or a motion authorized by a special rule from the Committee on Rules. §§ 2–4, *supra*. A Senate amendment to a House measure is also subject to amendment by the House; the motion to concur with an amendment will lie before the stage of disagreement (§ 15, *supra*), while the motion to recede and concur with an amendment is in order after the stage of disagreement (§ 21, *supra*). As pointed out elsewhere, however, an amendment to an amendment to an amendment is in the third degree and not in order. See AMENDMENTS. This rule governs the two Houses, according to Jefferson's Manual, and is applicable to amendments between the Houses (*Manual* § 529), as shown in Chart No. 2.



Where a bill of one House is amended by the other, the originating House may respond with an amendment, and the second House may offer an amendment to that amendment, but there the process stops; any further amendment is in the third degree and not in order. 5 Hinds § 6163. An amendment of one House being amended by the other, the first House may amend the last amendment, but further amendment is not permissible. 5 Hinds §§ 6176–6178. Thus, where a Senate amendment to a House bill has been reported in disagreement, and a House amendment thereto is amended by a further Senate amendment, motions in the House to agree or disagree to the Senate amendment to the House amendment are in order, but a motion to concur with a further amendment would be in the third degree and not in order. 93–1, Oct. 18, 1973, pp 34699, 34704. Likewise, where there is pending in the House a motion to amend a Senate amendment to a House amendment to a Senate bill, and the House adopts the motion, the Senate may then either concur in or disagree to the House amendment, but a further Senate amendment would be in the third degree. 94–1, Dec. 15, 1975, pp

40711, 40712. However, conference reports recommending amendments at this stage are not subject to a third degree point of order.

The House may consider a third degree amendment by unanimous consent, under suspension of the rules, or pursuant to a special order from the Committee on Rules. Unanimous-consent requests have been used to seek consideration of amendments in the fourth or fifth degree. 99–2, Mar. 20, 1986, p 5796. If the House adopts an amendment pursuant to such a procedure, the Senate may no longer consider itself bound by Jefferson’s prescription against third-degree amendments and amend further.

### § 28. Germaneness Requirements

An amendment offered in the House to a Senate amendment must ordinarily be germane to the particular Senate amendment to which it is offered, it not being sufficient that it be germane to the provisions of the bill. 5 Hinds § 6188; *Manual* § 797. Thus, where a motion is offered to concur in a Senate amendment with an amendment, the proposed amendment must be germane to the Senate amendment. 88–1, May 14, 1963, p 8506; 95–2, Feb. 22, 1978, p 4073. The test of germaneness of an amendment in the nature of a substitute to a Senate amendment—proposed in a motion to concur therein with an amendment—is the relationship between the proposed amendment in its entirety and the Senate amendment (and not the relationship between any one provision of the amendment and any one provision of the Senate amendment). 95–2, Oct. 4, 1978, p 33506.

The rule of germaneness applies to motions to recede and concur in a Senate amendment with an amendment. 92–1, July 29, 1971, p 28053. Such a motion must be germane to the Senate amendment. 98–2, Aug. 10, 1984, pp 23988, 23989. But where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken by the Senate amendment. 93–2, Dec. 12, 1974, pp 39272, 39273.

A House rule permits points of order against portions of motions to concur or concur with amendment in nongermane Senate amendments, the stage of disagreement having been reached; if such points of order are sustained, the rule permits separate motions to reject such nongermane matter. Rule XXVIII clause 5. *Manual* § 913c. For more comprehensive discussion, see GERMANENESS.

## § 29. Amending House-passed Amendments; Receding, Insisting, Adhering

### Generally

Jefferson reasoned that while the House may modify an amendment from the Senate, the House cannot amend its own amendment “because they have, on the question, passed it in that form.” *Manual* § 526. Thus while the House may recede from or insist on its own amendment, it may not couple an amendment with this action. 5 Hinds § 6163. Indeed, few motions are available to enable the House to act on its own amendment to a Senate measure. These motions (*Manual* § 528b), which are utilized primarily when the Senate has disagreed to the House amendment, are shown below:

- To recede.
- To insist and request or agree to a conference.
- To insist.
- To adhere.

These motions have precedence in the House in the order named without regard to the order in which they may be offered. 5 Hinds § 6324. Accordingly, the Senate having disagreed to a House amendment, the House may recede from or insist on its own amendment. When both Houses have insisted, neither inclining to recede, it is in order to adhere. 5 Hinds § 6163.

### Receding

The House may recede from its own amendment to a Senate bill by motion (*Manual* § 524) or by unanimous consent (87–1, Sept. 7, 1961, p 18595; 89–2, Apr. 18, 1966, p 8207). If the House recedes from its own amendment, the bill is passed unless the motion otherwise specifies, or unless the Senate has concurred in the House amendment with a Senate amendment. 96–1, Nov. 9, 1979, p 31755. If the House recedes from its amendment to a Senate amendment, further House action is in order: the House may either concur in the Senate amendment or amend it. *Manual* § 528d.

The stage of disagreement having been reached on a House amendment to a Senate amendment to a House proposition, the House may recede from its amendment and, having receded, may then concur in the Senate amendment with a different amendment (and such separate actions are not tantamount to the House’s receding from its own amendment with an amendment as proscribed by Jefferson’s *Manual*). 95–1, Oct. 12, 1977, p 33448. Of course, where the House has previously concurred in a Senate amendment

with an amendment, the House does not, merely by receding from its amendment, agree to the Senate amendment. *Manual* § 524.

### **Insisting**

The motion to insist on a House amendment yields to the motion to recede therefrom. 5 Hinds § 6270. But where both Houses insist and neither ask a conference or recede the bill fails. 5 Hinds § 6228.

The compound motion to insist on a House amendment and request or agree to a conference takes precedence over simple motions to insist or to adhere. Preferential status is accorded to the compound motion because of the greater likelihood that it will resolve the differences between the two Houses. *Manual* § 528b.

### **Adhering**

Although it has been permitted, adherence prior to the stage of disagreement has been extremely rare (5 Hinds § 6303) and is used infrequently under the modern practice even after the stage of disagreement. The motion to adhere to an amendment is the least privileged motion, yielding as it does to the motion to recede and the motion to insist. In addition, the ordinary motions applicable to any question which is under debate—to table, to postpone to a day certain, and to refer—remain privileged under clause 4 of Rule XVI. See *Manual* § 528b.

It has been held that after the previous question has been moved on a motion to adhere, a motion to recede may not be made. 5 Hinds § 6310.

### **Effect of Adherence; Adherence as Related to Conferences**

When both Houses adhere—one House adhering to its amendment and the other to its disagreement therewith—the bill fails. 5 Hinds §§ 6163, 6313, 6325. Adherence is to be distinguished from insistence in that adherence represents an uncompromising position and may not even be accompanied by a request for a conference. 5 Hinds § 6308. However, one House, having adhered, may recede from its adherence and agree to a conference asked by the other, or it may vote to further adhere. 5 Hinds § 6251. Conferences have often been asked and granted where only one House has adhered. 5 Hinds §§ 6241–6244.