

Chapter CCLXI.¹

AMENDMENTS BETWEEN THE HOUSES.

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3177. Where one House recedes from its amendment to a bill after the other has concurred in the amendment with an amendment, agreement has not been reached and the bill is not passed.

On October 3, 1913,² on motion of Mr. Oscar W. Underwood, of Alabama, the Speaker laid before the House the bill (H. R. 3321) to revise the tariff, with Senate amendment No. 609, from which the Senate had receded after the House had returned it to the Senate with a House amendment.

Mr. Underwood moved that the House recede from its amendment to Senate amendment No. 609 and agree to the action of the Senate in receding from said Senate amendment.

Mr. Asher C. Hinds, of Maine, characterized the motion as unnecessary and raised a question of order against it.

After debate, the Speaker³ held:

The gentleman from Alabama moves to concur in the action of the Senate relating to Senate amendment No. 609 to House bill 3321. The gentleman from Maine makes the point of order against the motion. The history of the transaction stated in brief is that the conferees agreed to this entire bill except the so-called Clarke cotton-futures amendment. The gentleman from Alabama offered an amendment in the nature of a substitute to the Clarke amendment, which passed the House, and the Underwood amendment went to the Senate. The Senate disagreed to

¹Supplementary to Chapter CXXXI.

²First session Sixty-third Congress, Journal, p. 373; Record, p. 5437.

³Champ Clark, of Missouri, Speaker.

the Underwood amendment, and also receded from the Clarke amendment. The only question in issue is whether the two Houses have ever come to an agreement—to the same state of mind.

What is the situation: did the Senate by disagreeing to the Underwood amendment and receding from its own amendment clear up the whole matter? If so, where is the Underwood amendment? What is its status? The House passed it; the House has never receded from it; the two Houses have never come to an agreement on this proposition, and therefore the Chair overrules the point of order. The question is on concurring in the action of the Senate relating to Senate amendment 609.

3178. A negative vote on a motion to concur in a Senate amendment was held equivalent to an affirmative vote to disagree.

A two-thirds vote is required on motions disposing of Senate amendments to propositions requiring a two-thirds vote for passage.

On June 21, 1991,¹ the Speaker laid before the House the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing for election of Senators, with a Senate amendment in the nature of a substitute.

Mr. Marlin E. Olmsted, of Pennsylvania, moved that the House concur in the Senate amendment.

After debate, the ayes and noes were ordered and the vote being yeas 111, noes 171, the Speaker² announced that two-thirds having failed to vote in the affirmative, the House had disagreed to the Senate amendments.

Mr. William H. Rucker, of Missouri, rising to a parliamentary inquiry, asked if it was not in order to vote on a motion to disagree.

The Speaker ruled:

At first the Chair was inclined to take the gentleman's view of it, but after consultation with the parliamentary clerk and the gentleman from Illinois, Mr. Mann, and finally with the great authority on parliamentary law, Mr. Hinds, of Maine, we all agreed that the failure of the motion to concur was equivalent to a motion to disagree.

The House refuses to concur in the Senate amendment.

3179. A negative vote on the motion to concur is tantamount to a vote to nonconcur and disposes of Senate amendments without further motion.

The motion to concur in a Senate amendment takes precedence of the motion to disagree.

On August 3, 1911,³ on motion of Mr. Oscar W. Underwood, of Alabama, the bill (H. R. 4413), to place agricultural implements and certain other commodities on the free list, was taken from the Speaker's table with Senate amendments.

Mr. Underwood moved that the House disagree to Senate amendments Nos. 1 to 7, inclusive.

Mr. Burton L. French, of Idaho, offered, as preferential, a motion to concur in the first seven amendments of the Senate.

The Speaker recognized Mr. French and put the question on the motion to concur.

The vote being taken and being decided in the negative, the Speaker² said:

That is equivalent to nonconcurrency in the Senate Amendments.

¹ First session Sixty-second Congress, Record, p. 2434.

² Champ Clark, of Missouri, Speaker.

³ First session Sixty-second Congress, Record, p. 3585.

3180. On June 10, 1912,¹ on motion of Mr. Oscar W. Underwood, of Alabama, 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. 18642) to revise the metal schedule, with Senate amendments.

Mr. Underwood moved that the house disagree to Senate amendment No. 3, relating to the Canadian reciprocity act.

Mr. Irvine L. Lenroot, of Wisconsin, interposed a motion that the House agree to the Senate amendment.

The Speaker² recognized the motion to agree as preferential. Thereupon, Mr. Underwood inquired if a negative vote on the motion to concur would be equivalent to affirmative action on a motion to disagree.

The Speaker replied in the affirmative, and the vote being taken on the motion to concur the yeas were 101, the nays were 145, and the House disagreed to the Senate amendment.

3181. On December 20, 1913,³ on motion of Mr. Carter Glass, of Virginia, by unanimous consent, the bill (H. R. 8737) to provide for the establishment of Federal reserve banks, was taken from the Speaker's table for the consideration of the Senate amendment thereto.

Mr. William H. Murray, of Oklahoma, moved that the House concur in the Senate amendment.

Mr. Asbury F. Lever, of South Carolina, submitted a parliamentary inquiry as to whether it would be in order for the House to instruct conferees if the motion to concur was rejected.

The Speaker² said:

The Chair will state the parliamentary situation. If this motion is voted down, that is equivalent to a disagreement, and then a motion to instruct the conferees will be in order.

3182. In the Committee of the Whole, as in the House, a negative vote on the motion to concur is equivalent to an affirmative vote to disagree.

On September 23, 1918,⁴ the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of Senate amendments to the bill (H. R. 11945) to stimulate the production of food.

Mr. William H. Stafford, of Wisconsin, moved to concur in Senate amendment No. 3, providing an appropriation for the dissemination of information on the manufacture of cottage cheese.

The question being taken and being decided in the negative, Mr. Charles Pope Caldwell, of New York, proposed to offer a motion to disagree to the amendment.

The Chairman⁵ declined to entertain the motion and said:

The motion is lost, which was equivalent to a motion to disagree.

¹ Second session Sixty-second Congress, Record, p. 7937.

² Champ Clark, of Missouri, Speaker.

³ Second session Sixty-third Congress, Record, p. 1307.

⁴ Second session Sixty-fifth Congress, Record, p. 10687.

⁵ Ben Johnson, of Kentucky, Chairman.

3183. A motion to insist on disagreement to a Senate amendment yields to a motion to agree and is not acted on in event of rejection of the latter motion.

Instance wherein the Senate receded from its own amendment to a House bill with an amendment.

A Member proposing a preferential motion is entitled to recognition prior to disposition of the pending motion, but may not by offering such motion deprive another of the floor.

On February 21, 1929,¹ Mr. Louis C. Cramton, of Michigan, called up the Department of the Interior appropriation bill with Senate amendment No. 39, exempting privately owned lands occupied for religious purposes from condemnation for park purposes, still in disagreement between the two Houses, but from which the Senate had receded with an amendment.

Mr. Cramton having offered a motion that the House insist on its disagreement to the amendment of the Senate, Mr. John M. Evans, of Montana, proposed that the House recede from its disagreement and concur in the amendment.

In response to a parliamentary inquiry by Mr. Evans, the Speaker pro tempore² held that the motion to agree was preferential to the motion to insist and was in order notwithstanding another Member had the floor, but could not deprive such other Member of the floor for debate.

The Speaker pro tempore continued:

The Chair is confronted with a somewhat puzzling problem in this connection, owing to the very peculiar parliamentary situation. It seems that the Senate has taken a most unusual course, to say the least, in receding from its own amendment and amending the same. In view of this situation the motion of the gentleman from Montana now is that the House agree to the Senate amendment as amended, and the question is on this motion.

The motion having been rejected, the Speaker pro tempore in response to an inquiry from Mr. Cramton, held:

The exact opposite of the gentleman's motion having been disagreed to, the Chair thinks it equivalent to an affirmative vote on the gentleman's motion, and therefore will not put the question.

3184. A motion proposing a substitute for a Senate amendment yields to a motion for a perfecting amendment.

On February 26, 1921,³ during the consideration of Senate amendments to the legislature, executive and judicial appropriation bill, the House voted to recede from its disagreement to Senate amendment No. 113.

Whereupon Mr. William R. Wood, of Indiana, proposed an amendment in the nature of a substitute for the Senate amendment.

Mr. Eugene Black, of Texas offered an amendment proposing to perfect the Senate amendment.

Mr. Carl R. Chindblom, of Illinois, made the point of order that a substitute proposed by Mr. Wood was pending and the amendment offered by Mr. Black was not in order.

¹ Second session Seventieth Congress, Record, p. 3990.

² John Q. Tilson, of Connecticut, Speaker pro tempore.

³ Third session Sixty-sixth Congress, Record, p. 4005.

The Speaker pro tempore ¹ overruled the point of order and said:

The Chair thinks that the motion offered by the gentleman from Texas is a motion to amend the Senate amendment. The Chair will state that the amendment of the gentleman from Indiana was one offered apparently as a substitute for the Senate amendment. The amendment offered by the gentleman from Texas is an amendment which apparently seeks to perfect the text of the Senate amendment, and therefore would be in order. The question is upon the motion of the gentleman from Texas.

3185. The Senate having proposed an amendment to a Senate bill which had passed both Houses, the House declined to entertain the amendment and by message informed the Senate that it could not act on a matter not in disagreement between the two Houses.

On February 6, 1924,² the House disagreed to the amendment of the Senate to the bill (S. 876) to provide for the disposition of bonuses, rentals and royalties received from the mining of coal, phosphate, oil, gas, and sodium on the public domain and in requesting conference with the Senate made the following order:

Ordered, That the Clerk notify the Senate thereof; and that in respect to the proposed amendment of the Senate to the original text of the bill, not in disagreement between the two Houses, having already been agreed upon, the House can not now act.

Subsequently, on March 3, when Mr. Carl Hayden, of Arizona, called up the conference report on the bill, Mr. Frederick W. Dallinger, of Massachusetts, made the point of order that the conferees had exceeded their authority by reporting amendments to the text of the bill to which both Houses had agreed.

In controverting the point of order, Mr. Hayden explained that the change in that portion of the text of the bill not in disagreement had not been made by the managers in conference but had been made by the Senate after the bill was returned from the House and before conferees had been appointed, and that the matter objected was therefore properly before the conferees.

The Speaker pro tempore ³ ruled:

The bill as passed in the House and the bill as passed in the Senate contain the same text which has been amended in conference. That matter was not the subject matter of the conference, because in that respect there was no disagreement between the two Houses, and the amendment is not to that portion of the bill or to that subject matter which was in disagreement between the two Houses, and which was properly the subject matter of the conference.

The conferees changed the text of the bill in the particular in which there was no disagreement between the House and the Senate; therefore that report of the conferees comes squarely within the rules, which provide that the managers of the conference must confine themselves to the differences submitted to them, and, more specifically, the managers of a conference may not change the text to which both Houses have agreed.

The House took no action on the amendment that the Senate put on the bill after it had passed the House and had gone back to the Senate with House amendments.

It was not in disagreement between the two Houses, the House not having acted upon the Senate amendment. The Chair sustains that point of order.

¹ Joseph Walsh, of Massachusetts, Speaker pro tempore.

² Second session Sixty-eighth Congress, Journal p. 210; Record, p. 3142.

³ Frederick R. Lehlbach, of New Jersey, Speaker pro tempore.

3186. Items agreed to in a partial conference report are no longer in dispute and are not subject to modification in the consideration of amendments remaining in disagreement.

On March 19, 1930,¹ the Senate resumed consideration of amendments on which the two Houses are still in disagreement, to the bill (H. R. 9979) the urgent deficiency appropriation bill, differences on the remaining amendments having been composed in a conference report previously adopted.

Mr. William Henry McMaster, of South Dakota, offered a motion relating to items disposed of in the conference report.

Mr. Carl Hayden, of Arizona, interposed a question of order.

The President pro tempore¹² held:

The House and the Senate both having approved the conference report upon these items, they are no longer in dispute between the two bodies, and that is not in order. The Chair holds the point of order to be well taken.

3187. A House bill messaged from the Senate with amendments requiring consideration in Committee of the Whole goes to the Speaker's table, and if not disposed of by unanimous consent is referred by the Speaker to its appropriate committee.

General appropriation bills with Senate amendments reported back to the House from the Committee on Appropriations are privileged and are subject to motions authorized by the Committee.

When a bill with Senate amendments is taken from the calendar for consideration, only the amendments are before the House, and the remainder of the bill, having been agreed to by both Houses, is not subject to further consideration.

Amendments may not be offered in time yielded for debate only, and a Member yielding to another to propose an amendment loses the floor.

Form of unanimous-consent agreement for the consideration of a Senate amendment.

A motion to amend an amendment from the other House takes precedence of a motion to agree or disagree.

On January 23, 1931³ following the disposition of business on the Speaker's table, the Speaker⁴ announced:

The Chair desires to make a statement at this time:

The Interior Department appropriation bill with Senate amendments is on the Speaker's table. It is entirely within the discretion of the Chair what course should be taken with regard to the disposition of this bill. Ordinarily a request is made for unanimous consent to send such bills to conference at once. The other course is that the Speaker himself shall refer the bill to the appropriate committee. In view of the tremendous importance of the question arising under the Senate amendment providing for a \$25,000,000 appropriation to the Red Cross, in view of the request of the members of the Appropriations Committee that hearings should be had and that the Red Cross may have the opportunity of stating its position, the Chair is going to take the course of referring

¹Second session Seventy-first Congress, Record, p. 5608; Senate Journal, p. 222.

²George H. Moses, of New Hampshire, President pro tempore.

³Third session Seventy-first Congress, Record, p. 2975.

⁴Nicholas Longworth, of Ohio, Speaker.

this bill to the Appropriations Committee, and refers the bill with Senate amendments to the Appropriations Committee and orders it printed.

On January 29,¹ Mr. Louis C. Cramton, of Michigan, by direction of the Committee on Appropriations, reported the bill back to the House with the recommendation that the amendments of the Senate be disagreed to and the bill be sent to conference.

The bill having been referred to the Union Calendar and ordered to be printed, Mr. Joseph W. Byrns, of Tennessee, submitted a parliamentary inquiry as to the privilege of the bill and as to whether it would be in order for any Member to move that the House resolve itself into the Committee of the Whole on the state of the Union for its consideration.

The Speaker replied:

The bill has just been ordered reported, but the report has not been printed, and any motion to be privileged would require the direction of the Committee on Appropriations. Therefore nothing would be in order at this stage except by unanimous consent.

To-morrow, the bill being on the calendar, the Chair thinks that if the committee authorized any gentleman to take any appropriate action, it being a privileged bill, it would be proper.

In response to a further inquiry from Mr. Robert G. Simmons, of Nebraska, the Speaker held that a member yielding to another to offer an amendment yielded the floor,

The Speaker further held:

It is not a bill that the House would be considering. It is simply a report from the Committee on Appropriations and the House will be considering only Senate amendments and not the bill itself. In view of the agreement between the House and the Senate on all matters, except the Senate amendments, nothing is under consideration except the Senate amendments.

Thereupon, on motion of Mr. Cramton, by unanimous consent, it was ordered that all amendments, except amendment No. 144, providing an appropriation of \$25,000,000 to be disbursed by the Red Cross in the drouth areas, be disagreed to; that debate on amendment No. 144 be limited to two hours, to be equally divided between Mr. Cramton and Mr. Edward T. Taylor, of Colorado; that any Member yielded time to be permitted to offer amendments on motions relating to the disposition of amendment No. 144; that at the expiration of the two hours the previous question be considered as ordered; and Senate amendment No. 144 being disposed of, the House should ask conference and the Speaker appoint conferees.

Debate on Senate amendment No. 144 having been concluded, Mr. Cramton moved that the House disagree to the amendment.

As a preferential motion, Mr. Taylor moved that the House concur in the amendment with an amendment providing that the \$25,000,000 be administered by the President instead of by the Red Cross.

Mr. William H. Stafford, of Wisconsin, made the point of order that at this stage of disagreement a motion to concur would take precedence of a motion to concur with an amendment.

The Speaker held that a motion to amend or to concur with an amendment took precedence over the motion to agree or disagree, and put the question on the motion of Mr. Taylor to concur with an amendment.

¹Third session Seventy-first Congress, Record, p. 3445.

3188. On June 28, 1932,¹ the House had agreed to the conference report on the naval appropriation bill and was considering the amendments remaining in disagreement between the two Houses.

The Clerk read a Senate amendment proposing to substitute the amount of \$1,191,850 for the amount of \$1,014,250 provided by the House bill for increased pay of Navy officers.

Mr. William A. Ayres, of Kansas, moved that the House recede and concur in the Senate amendment with an amendment substituting the amount of \$1,157,535 for the amounts indicated, and proposing additional legislation.

Mr. Fiorello H. LaGuardia, of New York, interposed the point of order that the only disagreement between the two Houses was a matter of amounts and the proposal of additional legislation was not in order.

The Speaker² held that the House was not circumscribed in consideration of Senate amendments by previous action taken by either the House or the Senate, and said:

On the grounds the gentleman makes his point of order the Chair will overrule it. The question is on the motion to concur with an amendment.

The question was taken and the motion was agreed to, when the Speaker added:

Let the Chair say in connection with that point of order that if the gentleman from New York had made the point of order that the proposed amendment was not germane to the Senate amendment, the Chair thinks it would have been sufficient, but the gentleman from New York said it was beyond the jurisdiction of the conferees, and the motion to concur with an amendment is not subject to that point of order.

3189. In amending a Senate amendment the House is not confined within the limits of amount set by the original bill and the Senate amendment.

On June 20, 1932,³ the House agreed to the conference report on the legislative appropriation bill, and the Clerk reported the Senate amendment remaining in disagreement, in part as follows:

During the fiscal year ending June 30, 1933, the compensation for each civilian and noncivilian office, position, employment, or enlistment in any branch or service of the United States Government or the government of the District of Columbia is hereby reduced as follows: Compensation at an annual rate of \$2,500 or less shall be exempt from reduction; and compensation at an annual rate in excess of \$2,500 shall be reduced by 11 percent of the amount thereof in excess of \$2,500.

Mr. John McDuffie, of Alabama, moved that the House recede from its disagreement to the Senate amendment and concur in it with an amendment in part as follows:

During the fiscal year ending June 30, 1933, the rate of compensation for each civilian or noncivilian office, position, or employment in any branch or service of the United States Government or the government of the District of Columbia, is reduced as follows: If more than \$1,200 per annum, but less than \$12,000 per annum, 10 percent; if \$12,000 per annum or more, but

¹First session Seventy-second Congress, Record, p. 14208.

²John N. Garner, of Texas, Speaker.

³First session Seventy-second Congress, Record, p. 13525.

less than \$15,000 per annum, 12 per cent; if \$15,000 per annum or more, but less than \$20,000 per annum, 15 per cent; if \$20,000 per annum or more, 20 per cent.

Mr. John C. Schafer, of Wisconsin, made the point of order that the proposed amendment was not within the range between the original bill and the Senate amendment, neither providing for a reduction of salaries below \$2,500.

The Speaker pro tempore¹ overruled the point of order and said:

The gentleman from Wisconsin interposes a point of order against the amendment offered by the gentleman from Alabama to the Senate proposal, upon the ground that the provisions embodied in the motion of the gentleman from Alabama to recede and concur with an amendment to the Senate amendment was beyond the limits fixed in either the House bill or the Senate amendment. A syllabus of an opinion by Chairman Hepburn, of Iowa, made on February 26, 1922, which may be found in *Hinds' Precedents* (vol. 5, sec. 6187) is as follows: "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 thinks that that decision disposes of the point of order raised by the gentleman from Wisconsin. The Chair desires to say in passing upon these points of order that in cases of this kind the only requirement is that the amendment proposed in the motion to recede and concur with an amendment must be germane to the Senate amendment. This question arose on May 3, 1922, when Mr. Speaker Gillett, in overruling a point of order similar to this, held that to a Senate amendment providing a new method of taxation in the District of Columbia and revising the fiscal relationship of the District of Columbia and the United States with other incidental propositions and an amendment proposing a different scheme is germane, although different in detail.

The Chair thinks that these decisions fully cover point of order raised by the gentleman from Wisconsin, and therefore overrules the point of order.

3190. Where the Senate had amended a House bill by striking out a section, it was held in order in the House to concur with an amendment inserting a new text in lieu of that stricken out.

On February 21, 1923,² the House was considering the War Department appropriation bill which has been returned from conference with certain Senate amendments still in disagreement.

The Clerk read the following:

Amendment No. 38: Page 23 of the bill, after line 16, strike out the following: "None of the funds appropriated in this act shall be used for payment of any officer of the Army on the active or retired list while such officer is engaged in the business of selling supplies or services to the United States or is employed by any individual, partnership, or corporation which engages in such business."

Mr. Daniel R. Anthony, jr., of Kansas, moved that the House recede from its disagreement to the Senate amendment and concur with an amendment as follows:

Amendment No. 38: None of the money appropriated in this act shall be used to pay any officer on the retired list of the Army who is employed by any individual, partnership, corporation, or association as a sales or contract agent or as the manager or directing head of sales or contracts for the purpose of selling, contracting for the sale of, negotiating for the sale of, or furnishing to the Army or the War Department any supplies, materials, equipment, lands, buildings, plants, vessels, or munitions. And none of the money appropriated shall be used to pay any officer on the retired list of any of the services hereinbefore enumerated who is employed by any individual, partnership, corporation, or association regularly or frequently engaged in making direct sales of any merchan-

¹ William B. Bankhead, of Alabama, Speaker pro tempore.

² Fourth session Sixty-seventh Congress, Record, p. 4200.

dise or material to the particular service hereinbefore enumerated from which such officer was retired.

Mr. Tom Connally, of Texas, made the point of order that the amendment with which it was proposed to concur involved legislation which neither House had submitted to the conferees.

Mr. Anthony submitted that any germane amendment to the language which the Senate amendment proposed to strike from the House bill was in order, and that the additional language in the amendment which he proposed was in the nature of a limitation.

The Speaker¹ overruled the point of order and said:

The difference between the two Houses is the House amendment that was stricken out by the Senate, so the House amendment is before the House. The Senate amendment is to strike out the House provision, which brings the subject before the House. The Chair overrules the point of order.

3191. Under the later practice, Senate amendments when reported from the Committee of the Whole are voted on en bloc and only those amendments are voted on severally on which a separate vote is demanded.

On September 23, 1918,² the Committee of the Whole House on the state of the Union reported back to the House the Senate amendments to the bill (H. R. 11945) to stimulate the production of food, with the recommendation that Senate amendment No. 13 be agreed to with an amendment and that the remaining Senate amendments be disagreed to.

The previous question having been ordered, the Speaker³ put the question on agreeing to the recommendation of the Committee of the Whole.

Mr. Frank W. Mondell, of Wyoming, raised the question of order that each amendment should be voted on severally and cited section 6193 of Hinds' Precedents in support of his contention.

The Speaker dissented and said:

The procedure is exactly like that in any other case, and the business of the Chair is to ask if a separate vote is desired on any amendment.

The Chair was starting to put the question whether a separate vote was desired on any amendment when the gentleman intervened.

There is nothing more sacred about these amendments than the amendments to any ordinary bill.

Mr. Julius Kahn, of California, having requested a separate vote on Senate amendment No. 13, the Speaker put the question as follows:

The gentleman from California has demanded a separate vote on amendment No. 13. Is a separate vote demanded on any other? If not, the Chair will put them en gross.

The question is on the recommendation of the Committee of the Whole House on the state of the Union to disagree to all the amendments except to Senate amendment No. 13.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² Second session Sixty-fifth Congress, Record, p. 10693.

³ Champ Clark, of Missouri, Speaker.

3192. When a Senate amendment is reported back to the House from Committee of the Whole with an amendment and with the recommendation that the Senate amendment as amended be concurred in, the vote is taken first on the proposed amendment and then on concurrence.

On September 23, 1918,¹ Mr. Ben Johnson, of Kentucky, Chairman of the Committee of the Whole House on the state of the Union, reported to the House that the Committee had had under consideration Senate amendments to the bill (H. R. 11945) the food stimulation bill, and had directed him to report them back to the House with the recommendation that Senate amendment No. 13 be agreed to with an amendment and the remaining Senate amendments be disagreed to.

The Speaker² was proceeding to put a question on agreeing to the amendment to Senate amendment No. 13 recommended by the Committee of the Whole when Mr. William L. Igoe, of Missouri, made the point of order that it was not necessary to vote on the amendment to the Senate amendment, but that the vote should be taken on the Senate amendment as amended.

The Speaker ruled that the vote came first on the amendment proposed by the Committee of the Whole to the Senate amendment and then on the recommendation of the Committee of the Whole for disposition of the Senate amendment as amended.

3193. The motion to recede from disagreement and concur in a Senate amendment has precedence of a motion to insist further, but a Member by offering such motion may not deprive the Member in charge of the floor.

On March 10, 1930,³ the house having agreed to the conference report on the first deficiency appropriation bill, proceeded to the consideration of Senate amendments still in disagreement between the two Houses.

Senate amendment No. 27, having been read, Mr. William R. Wood, of Indiana, moved that the House insist on its disagreement to the amendment.

Mr. Edward H. Wason, of New Hampshire, proposed, as preferential, a motion that the House recede from its disagreement and concur in the amendment.

In response to a point of order raised by Mr. Louis C. Cramton, of Michigan, the Speaker pro tempore⁴ held that while the motion to recede and concur was preferential, it did not take the floor from the Member in charge of the bill.

3194. A bill with amendments of the other House is privileged after the stage of disagreement has been reached.

The motion to recede and concur takes precedence of the motion to further assist.

On July 16, 1932,⁵ Mr. Henry B. Steagall, of Alabama, called up from the Speaker's table, as privileged, the bill (H. R. 12280) to create Federal home loan banks, returned from the Senate with amendments, and moved that the House *further insist* on its disagreement to the amendments of the Senate.

¹ Second session Sixty-fifth Congress, Record, p. 10694.

² Champ Clark, of Missouri, Speaker.

³ Second session Seventy-first Congress, Record, p. 5638.

⁴ Bertrand H. Snell, of New York, Speaker pro tempore.

⁵ First session Seventy-second Congress, Record, p. 15746.

Mr. C. William Ramseyer, of Iowa, objected that the proposal was not privileged.

The Speaker¹ overruled the point of order and said:

This is a House bill with Senate amendments on which there is a disagreement between the two Houses, and it has been uniformly held that this is a privileged motion.

Thereupon, Mr. Ramseyer offered, as preferential, a motion that the House recede from its disagreement and concur in the Senate amendments.

The Speaker held that the motion to recede and concur took precedence over the motion to further insist and put the question:

The gentleman from Iowa moves that the House recede and concur in Senate amendments No. 46 and No. 47. The question is on the motion of the gentleman from Iowa to recede and concur in the Senate amendments.

3195. The rejection of a motion to recede from disagreement to a Senate amendment and concur therein is equivalent to further disagreement to the amendment.

On April 15, 1926,² the House was considering Senate amendments to the independent offices appropriation bill remaining in disagreement after the adoption of the conference report.

Mr. William R. Wood, of Indiana, moved that the House recede from its disagreement to Senate amendment No. 1, and agree thereto. The question being taken on the motion, it was decided in the negative.

Whereupon, Mr. Tom Connally, of Texas, inquired as to the effect of the rejection by the House of the motion to recede and concur.

The Speaker³ held that the effect of the vote was to further disagree to the Senate amendment.

3196. The stage of disagreement having been reached, the motion to recede and concur takes precedence over the motion to recede and concur with an amendment, but the motion to recede and concur having been divided, and the House having receded, the motion to concur is first voted on and if rejected then the motion to concur with an amendment.

On June 17, 1921,⁴ the House having agreed to the conference report of the army appropriation bill, was considering the Senate amendments still in disagreement.

The Clerk read Senate amendment No. 10, increasing the appropriation for the Army from \$72,678,659 to \$81,000,000.

Mr. Daniel R. Anthony, jr., of Kansas, moved that the House recede from its disagreement and concur in the amendment with an amendment increasing the amount from \$72,678,659 to \$77,741,370.

Mr. Julius Kahn, of California, offered, as a preferential, a motion to recede from disagreement and concur in the Senate amendment.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the motion was not preferential.

¹John N. Garner, of Texas, Speaker.

²First session Sixty-ninth Congress, Record, p. 7543.

³Nicholas Longworth, of Ohio, Speaker.

⁴First session Sixty-seventh Congress, Record, p. 2727.

The Speaker pro tempore¹ overruled the point of order and said:

The Chair would state that the rulings are to the effect that the stage of disagreement having been reached, as would appear to be the case here in this instance, a motion to recede and concur takes precedence over a motion to recede and concur with an amendment. The Chair, following that precedent, will overrule the gentleman's point of order.

After debate, on motion of Mr. Anthony, the previous question was ordered on the pending motions.

Mr. Garrett demanded a division of the question.

The question being divided and the ayes and noes being ordered on the motion to recede, it was decided in the affirmative, yeas 154, nays 135; and being taken on the motion to concur, was decided in the negative without division.

The question then recurring on the motion to concur with an amendment, and being taken, it was decided in the affirmative, yeas 158, nays 128. So the motion to concur with an amendment was agreed to.

3197. A motion to recede is preferential as tending to bring the Houses to agreement.

The motion to recede and concur is divisible, and being divided and the House having receded, a motion to amend has precedence of the motion to concur.

A Member having control of time for debate can not exclude the preferential motion to recede and concur, but may not be deprived of the floor by such motion.

On June 31, 1909,² the House was considering the bill (H. R. 1033) to provide for the thirteenth and subsequent decennial censuses, with Senate amendments, the Senate having rejected a conference report and asked for further conference.

During debate relating to Senate amendment No. 15, in time allotted to Mr. Edgar D. Crumpacker, of Indiana, the Speaker³ in response to a parliamentary inquiry from Mr. Thetus W. Sims, of Tennessee, ruled:

A motion that the House recede from its disagreement to the Senate amendment would tend to bring the two bodies together and would be a preferential motion. Ordinarily the motion is made that the House do recede and concur. That motion, however, is divisible, and if the House should recede from its disagreement then it could concur in the Senate amendment with an amendment.

Thereupon, Mr. Sims moved that the House recede from its disagreement to Senate amendment No. 15 and concur therein.

Mr. Crumpacker raised the point of order that he had the floor and had declined to yield for the motion.

The Speaker held:

It occurs to the Chair that at the proper time, under the circumstances, the gentleman from Tennessee ought to be recognized to make the motion.

Of course he could not take the gentleman from Indiana from the floor in his hour.

¹ Joseph Walsh, of Massachusetts, Speaker pro tempore.

² First session Sixty-first Congress, Record, p. 3618.

³ Joseph C. Cannon, Illinois, Speaker.

3198. The stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment.

A motion to recede and concur is divisible, and being divided and the House having receded, a motion to amend has precedence of the motion to concur.

On September 30, 1913,¹ the House agreed to the conference report on the tariff bill and proceeded to the consideration of Senate amendment No. 609, relating to cotton futures, still in disagreement.

Mr. Oscar W. Underwood, of Alabama, moved that the House recede from its disagreement to the amendment and agree to the same with an amendment providing for a tax on transactions in cotton for future delivery.

Mr. Otis Wingo, of Arkansas, proposed a preferential motion that the House recede from its disagreement and concur in the amendment as received from the Senate.

Mr. Thomas W. Hardwick, of Georgia, announced that if the motion to recede and concur was entertained, he proposed to demand a division of the question.

Mr. Underwood, as a parliamentary inquiry, requested that the Speaker rule as to which motion had precedence.

The Speaker² ruled:

The gentleman from Alabama moves to recede from the disagreement of the House to the Senate amendment No. 609 and concur in that amendment with the amendment that has just been read. The gentleman from Arkansas moves that the House recede from its disagreement and concur in the Senate amendment. The gentleman from Alabama asks for a ruling as to which motion is preferential.

The whole subject has been somewhat complicated by a misunderstanding which exists as to the practices of the House in slightly different parliamentary situations. When the House passes a bill and it goes over to the Senate and comes back with a Senate amendment, the regular course is for the Senate amendment to be considered in the House. Three motions are then in order—to disagree, to concur, or to concur with an amendment. It has always been held that a motion to concur in the Senate amendment takes precedence of a motion to disagree. This grows out of the fact that it is the business of the House to do business and not to retard business. The motion to concur tending to dispose of the matter in issue without further negotiations is held preferential on the ground that it expedites the business of the House. However, a motion to concur with an amendment takes precedence of the simple motion to concur. The practice is well established, and if this were the situation to-day, the Chair would hold the motion to concur with an amendment preferential, but this is not the situation before us. The House has taken up this amendment together with all the other Senate amendments to the tariff bill and disagreed to them en bloc and sent the bill to conference. We now have a conference report settling all the other amendments and leaving only this amendment in disagreement between the two Houses. The practice of the House has always been, apparently, that when a state of disagreement has been reached between the two Houses, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment. Sections 6219, 6220, 6221, and 6222 of Hinds' Precedents contain precedents to this effect.

The Speaker then read section 6219 of Hinds' Precedents and continued:

This decision follows the logical rule in such matters and is directly in point. It is precisely the situation that is before us. The Chair therefore holds that the motion of the gentleman from

¹First session Sixty-third Congress, Record, p. 5276.

²Champ Clark, of Missouri, Speaker.

Arkansas has precedence. The Chair will go a little further in explanation of the situation, inasmuch as he is informed that the gentleman from Georgia proposes to demand a division of the motion of the gentleman from Arkansas. A motion to recede and concur is divisible. If a division should be demanded, the motion to recede would first be put; if that were carried, the situation would be exactly the same as if the amendment had just been received from the Senate and no action ever taken upon it. The question would then recur upon the motion to concur; but here the anomalous rule referred to a moment ago would again interfere, and if any gentleman desired to offer a motion to concur with an amendment this would take precedence over the simple motion to concur. This exact situation was passed on by Mr. Speaker Cannon in 1907 in an exhaustive opinion contained in section 6209 of Hinds' Precedents. Mr. Speaker Cannon there reached the conclusion which the Chair has indicated, and that conclusion the present occupant of the Chair believes to be the correct one and if the situation should arise will so hold.

3199. By receding from an amendment with which it agreed to a Senate amendment, the House does not thereby agree to the Senate amendment.

The question on a motion to recede from an amendment to a Senate amendment and concur in the Senate amendment may be divided on the demand of any Member.

On February 21, 1910,¹ the House was considering Senate amendments to the urgent deficiency appropriation bill still in disagreement after the adoption of the conference report.

The Clerk read Senate amendment No. 39 making appropriation for the expenses of the immigration commission, which the House had agreed to previously with an amendment prohibiting the use of any part of the appropriation for field work.

Mr. Augustus P. Gardner, of Massachusetts, moved that the House recede from its amendment to Senate amendment No. 39 *and agree* to the Senate amendment, and inquired if an affirmative vote on his motion would amount to concurrence in the Senate amendment.

The Speaker² held:

It seems to the Chair that the point made by the gentleman from Minnesota, although the Chair was inclined to take the other view of it, is well taken, namely, that the motion to recede and concur in the Senate amendment was conditional with the House amendment; and it seems to the Chair that if the House should recede from its former action when it agreed to the House amendment, that would leave the proposition open either for concurring in the Senate amendment unconditionally or to a House amendment.

Mr. Swagar Sherley, of Kentucky, submitted a parliamentary inquiry as to whether the motion to recede from the amendment and concur in the Senate amendment was divisible.

The Speaker said:

The Chair thinks that on demand it would be divisible.

3200. When first taken from the Speaker's table for consideration, the motion to amend, usually presented in the form of a motion to concur with an amendment, takes precedence of the motion to concur, and the

¹ Second session Sixty-first Congress, Record, p. 2180.

² Joseph G. Cannon, of Illinois, Speaker.

latter motion may not be made while the former is pending, but the stage of disagreement having been reached, the motion to concur is in order and is preferential.

On August 17, 1912,¹ the House proceeded to the consideration of the conference report on the naval appropriation bill which had been submitted with several Senate amendments still in disagreement.

The conference report having been agreed to, Mr. Lemuel P. Padgett, of Tennessee, moved to disagree to the remaining Senate amendments and ask for a conference.

Mr. George E. Foss, of Illinois, offered a motion to agree to Senate amendment No. 102, one of the amendments still in disagreement, authorizing the construction of two battleships.

Debate having been concluded, Mr. John A. Thayer, of Massachusetts, offered, in the nature of a substitute for the pending motion to concur, a motion to concur with an amendment substituting cruisers for battleships.

Mr. Padgett made the point of order that after conference a motion to concur with an amendment could not be made while a motion to concur was pending.

The Speaker² sustained the point of order and said:

The two Houses have attempted to get together by going into conference. They have been in conference, and under the precedents the preferential motion is to concur. Before going to conference the preferential motion is to concur with an amendment.

The Chair had occasion to go into that question very carefully a little time ago. The amendment of the gentleman from Massachusetts is out of order. The question is on agreeing to the motion of the gentleman from Illinois to agree to the Senate amendment.

3201. A motion to concur in a Senate amendment with an amendment is not in order while a motion to concur with another amendment is pending, but may be offered as an amendment or as a substitute for the pending motion.

On February 21, 1917,³ the House was considering Senate amendments to the Post Office appropriation bill when the Clerk read Senate amendment No. 34, prohibiting the transmission of mail matter advertising intoxicating liquor and providing a penalty.

Mr. Swagar Sherley, of Kentucky, moved that the House concur in the amendment with an amendment making the provision effective one year from the date of its approval.

Mr. John H. Small, of North Carolina, proposed a motion that the House concur with an amendment omitting the penalty.

Mr. James R. Mann, of Illinois, made the point of order that a motion to concur with an amendment was not in order while motion to concur with another amendment was pending.

¹ Second session Sixty-second Congress, Record, p. 11189.

² Champ Clark, of Missouri, Speaker.

³ Second session Sixty-fourth Congress, Record, p. 3795.

The Speaker¹ sustained the point of order:

You can not offer another motion to concur with an amendment while a motion to concur is pending. The proper construction to put on the motion of the gentleman from North Carolina is that it is an amendment to the Sherley amendment or a substitute for the Sherley amendment.

3202. The stage of disagreement not being reached, the motion to concur in an amendment of the other House with an amendment has precedence of the simple motion to concur, but, the stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment.

Instance wherein, under a unanimous consent agreement, a Senate amendment was taken up after the bill had been sent to conference and agreed to by the House without recommendation or report from the conferees.

On January 31, 1919,² on the motion of Mr. Claude Kitchin, of North Carolina, by unanimous consent, the House agreed to entertain a motion to instruct conferees on the revenue bill, with reference to Senate amendment No. 222 relating to taxation of campaign contributions.

Mr. William W. Rucker, of Missouri, moved that the House instruct its conferees to concur in the Senate amendment with an amendment making it effective on passage.

Mr. John N. Garner, of Texas, offered, as preferential, a motion to concur.

A question of order having been raised as to which motion was entitled to preference, Mr. James R. Mann, of Illinois, said in debating the question:

Mr. Speaker, the rule is perfectly patent, and I called attention to it when the gentleman asked to send this bill to conference. When the Senate amendment first comes before the House the preferential motion is to concur with an amendment, but after the Senate has insisted on the amendment and it comes before the House again, the preferential motion is to concur in the Senate amendment, which takes precedence over a motion to concur with an amendment, the design in each case being to bring the two bodies together in the easiest way. By analogy, the motion of the gentleman from Texas takes precedence.

The Speaker¹ acquiesced and said:

The gentleman has stated the case precisely as it is.

3203. When the Senate amendments are taken up for the first time, the motion to concur with an amendment takes precedence over the simple motion to concur, but after the House has disagreed the order is reversed and subsequently the motion to recede and concur takes precedence over the motion to recede and concur with an amendment.

The motion to recede and concur is divisible and being divided and the House having voted to recede, the motion to amend takes precedence over the motion to concur.

¹ Champ Clark, of Missouri, Speaker.

² Third session Sixty-fifth Congress, Record, p. 2455.

On July 12, 1932,¹ the House agreed to a conference report on the Army appropriation bill, and the Clerk read the first amendment remaining in disagreement between the two Houses.

Mr. Ross A. Collins, of Mississippi, moved that the House recede from its disagreement to the Senate amendment and concur with an amendment.

Mr. Henry E. Barbour, of California, offered as preferential a motion to recede from disagreement and concur in the Senate amendment.

Mr. Collins submitted the point of order that the motion to recede and concur with an amendment was of the higher privilege.

The Speaker pro tempore² held:

The motion of the gentleman from California to recede and concur is a preferential motion.

Whereupon, Mr. William H. Stafford, of Wisconsin, demanded that the question be divided and the vote taken first on the motion to recede.

The Speaker pro tempore held that the question was divisible and put the question on the motion to recede.

The question having been decided in the affirmative and the House having receded, Mr. Collins moved that the House concur in the Senate amendment with an amendment.

Mr. Barbour demanded recognition to move that the House concur in the Senate amendment.

The Speaker pro tempore denied recognition and said:

The motion of the gentleman from Mississippi to concur with an amendment is a preferential motion at this stage. The gentleman from Mississippi is recognized.

3204. The stage of disagreement having been reached, that motion which tends most quickly to bring the House into agreement is preferential.

In the consideration of Senate amendments to a House bill the motion to concur takes precedence over the motion to disagree further.

A demand for the previous question by the Member in charge of a bill does not preclude consideration of a preferential motion.

On January 12, 1917,³ the conference report on the bill H. R. 10384, the immigration bill, had been ruled out of order and the House had again taken up consideration of the Senate amendments to the bill.

Mr. John L. Burnett, of Alabama, moved that the House further disagree to the amendments of the Senate and ask for further conference, and on that motion demanded the previous question.

Mr. Williams S. Bennett, of New York, offered, as preferential, a motion to agree to Senate amendment numbered 6.

Mr. Burnett made the point of order that the motion to agree was not preferential and was not in order after the previous question had been demanded.

¹ First session Seventy-second Congress, Record, p. 15138.

² Clifton A. Woodrum, of Virginia, Speaker pro tempore.

³ Second session Sixty-fourth Congress, Record, p. 1295.

The Speaker¹ overruled the point of order and said:

The gentleman from New York makes a preferential motion to agree to Senate amendment numbered 6, which the Clerk will report.

3205. A motion to recede and concur in a Senate amendment takes precedence of a motion to insist further on disagreement to the Senate amendment.

On February 17, 1911,² the House agreed to the conference report on the Indian appropriation bill and proceeded to the consideration of three Senate amendments still in disagreement.

Mr. Charles H. Burke, of South Dakota, moved to insist further on the disagreement of the House to Senate amendment No. 48.

Mr. Louis B. Hanna, of North Dakota, proposed, as preferential, a motion that the House recede from its disagreement to Senate amendment No. 48 and concur in the same.

The Speaker³ held:

The chair has no doubt as to the priority of these motions. The gentleman from South Dakota was compelled to yield, having made his motion to further insist on the disagreement to the Senate amendment, to the preferential motion made by the gentleman from North Dakota that the House recede and concur. Both of those motions are preferential, but the one made by the gentleman from North Dakota was of the highest preference.

3206. On June 18, 1918,⁴ the House agreed to the conference report on the naval appropriation bill and proceeded to the consideration of certain Senate amendments not included in the report.

Senate amendment No. 33 being read, Mr. J. Fred C. Talbott, of Maryland, moved that the House recede from its disagreement and concur in the amendment.

In response to an inquiry from Mr. Thomas S. Butler, of Pennsylvania, the Speaker¹ held that rejection by the House of the motion to recede and concur would have the same effect as an affirmative vote on a motion to insist further on disagreement to the amendment.

3207. On February 28, 1920,⁵ during the consideration of Senate amendments to the second deficiency appropriation bill still in disagreement between the two House, Mr. George Holden Tinkham, of Massachusetts, moved that the House recede from its disagreement to Senate amendment numbered 34 and agree to the same.

The motion being rejected, the Speaker,⁶ in response to an inquiry from Mr. James W. Good, of Iowa, held that the refusal of the House to recede and concur was equivalent to a vote to disagree to the amendment.

¹ Champ Clark, of Missouri, Speaker.

² Third session Sixty-first Congress, Record, p. 2793.

³ Joseph G. Cannon, of Illinois, Speaker.

⁴ Second session Sixty-fifth Congress, Record, p. 7977.

⁵ Second session Sixty-sixth Congress, Record, p. 3649.

⁶ Frederick H. Gillett, of Massachusetts, Speaker.

3208. A vote to adhere may not be accompanied by a request for a conference.—On May 23, 1908,¹ Mr. Jesse Overstreet, of Indiana being recognized to offer a motion that the rules be suspended and that the House adhere to its disagreement to the Senate amendment to the Post Office appropriation bill fixing rates of transportation for ocean mail, coupled with the motion a provision that the conference be requested to adhere.

The Speaker² interposed:

One moment.—If the gentleman from Indiana will give his attention. If the House should adhere to its disagreement to the Senate amendments it should not ask for a conference. It is not the usual custom where the House adheres, and a simple motion to adhere would be sufficient if it is the sense of the House.

¹First session Sixtieth Congress, Record, p. 6862.

²Joseph G. Cannon, Illinois, Speaker.