

Chapter CXXXIII.

APPOINTMENT OF MANAGERS OF A CONFERENCE.

1. Speaker appoints. Sections 6326, 6327.
 2. Number of managers determined by each House. Sections 6328–6333.¹
 3. Conference managers constitute distinct committees. Sections 6334, 6335.
 4. Represent attitude of majority of House. Sections 6336–6340.²
 5. As to reappointing managers at second conference. Sections 6341–6368.
 6. Selection of managers when House overrules committee in charge of the bill. Sections 6369–6371.
 7. Changes of managers. Sections 6372–6378.
-

6326. In the House the Managers of a conference are appointed by the Speaker.—Section 2 of Rule X³ provides that the Speaker—

* * * shall * * * appoint all * * * conference committees which shall be ordered by the House from time to time.⁴

6327. In appointing managers of a conference the Speaker usually consults the Members in charge of the measure.—On June 14, 1880,⁵ Mr. Speaker Randall said that it was the usual custom for him to consult the gentleman in charge of the bill in the appointment of conference committees.

6328. Each House determines for itself the number of its managers at a conference.

In the earlier practice reports of inability of managers of a conference to agree were made verbally, and conference reports were not signed.

On May 19, 1836,⁶ a message from the Senate announced that they insisted on their third amendment to the bill (H. R. 264) authorizing the President to accept the service of volunteers, etc., which had been disagreed to by the House, and asked a conference on the subject-matter of the disagreeing vote of the two Houses on the said amendment. Although the message, in accordance with the usage of that

¹ See also section 6405 of this volume.

² Senate discussion as to principles governing appointment of. (Sec. 6529 of this volume.) Minority portion of the managers may not report. (Sec. 6406 of this volume.)

³ For full form and history of this rule, see section 4470 of Volume IV of this work.

⁴ In the Senate the Presiding Officer appoints managers only with permission of the Senate. See section 6405 of this volume for illustration of Senate practice.

⁵ Second session Forty-sixth Congress, Record, p. 4536.

⁶ First session Twenty-fourth Congress, Journal, pp. 854, 855, 859, 860, 861. Debates, pp. 3764, 3788.

time, did not announce the conferees, the Debates¹ show that the Senate had appointed Messrs. Calhoun, King of Alabama, and Buchanan managers on their part.

The House, on the same day, agreed to the conference and appointed Messrs. Lewis, McKay, Ripley, Carr, and Coles managers.

(It will be noticed that the House managers are five and the Senate managers three.)

On May 20, Mr. Lewis, for the House managers, reported verbally that the managers on the part of the House had met the managers on the part of the Senate and after conferring freely upon the subject-matter of the disagreeing vote had separated without coming to any agreement.

Mr. Lewis further reported that he was instructed by the managers on the part of the House to move that the House insist on its disagreement to the said third amendment of the Senate; which motion he made accordingly.

The House voted to insist and the Clerk was instructed to inform the Senate of this action.

Very soon thereafter a message from the Senate announced that they insisted on their amendment and asked a conference. Although the message did not announce it, they had appointed three conferees, two of them being members of the preceding conference.

The House agreed to the conference and five conferees were appointed, all but one of them being members of the preceding conference.

On May 21 Mr. Lewis, from the House managers, made a report embodying in full the whole agreement between the two Houses. This report, which appears in full in the Journal, was agreed to as a whole and the Clerk was ordered to acquaint the Senate with this fact.

This report was not signed, even by the conferees on the part of the House.

6329. On February 27, 1883,² the Senate received a message stating that the House had nonconcurrent in the amendments of the Senate to the bill (H. R. 5538) to reduce internal-revenue taxation (to which the Senate had appended a general tariff bill), and asked for a conference to be composed on the part of the House of five Members.

A question was at once raised that the House had determined on an unusual number of conferees, and that it had not named its conferees and notified the Senate of them, as was usual.

In reply it was urged that the House did not wish to name its conferees until the Senate had agreed to name a like number. It was also urged that the action of the House in naming five had no binding influence on the Senate, which might name three or ten, since conferees voted by Houses and not per capita.

The Senate finally agreed to the conference and appointed five conferees.

6330. On March 2, 1857,³ the conferees on the tariff bill were three in number—Senators R. M. T. Hunter, of Virginia; William H. Seward, of New York; S. A. Douglas, of Illinois; Members of the House Lewis D. Campbell, of Ohio; John Letcher, of Virginia; Alexander De Witt, of Massachusetts.

¹ Debates, pp. 1463, 1503–1511.

² Second session Forty-seventh Congress, Record, pp. 3328–3334.

³ Third session Thirty-fourth Congress, Journal, p. 609.

6331. On important measures one House has appointed five conferees, although the other named but three.—On January 13, 1905,¹ the House considered the Senate amendments to the bill (H. R. 14623) to amend an act approved July 1, 1902, entitled “An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,” and to amend an act approved March 8, 1902, entitled “An act temporarily to provide revenue for the Philippine Islands, and for other purposes,” and to amend an act approved March 2, 1903, entitled “An act to establish a standard of value and to provide for a coinage system in the Philippine Islands,” and to provide for the more efficient administration of civil government in the Philippine Islands, and for other purposes.

The Senate amendments were disagreed to, a conference was asked, and the Speaker² appointed five conferees.

On January 14³ the action of the House was communicated by message to the Senate, and on the same day the Senate agreed to the conference. Thereupon the Presiding Officer appointed three conferees.

6332. On March 2, 1903⁴ in the Senate, the President pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 12199) to regulate the immigration of aliens into the United States, and asking for a conference with the Senate on the disagreeing votes of the two Houses thereon.

The Senate voted to insist on its amendments and agree to the conference.

Thereupon Mr. Boise Penrose, of Pennsylvania, asked that the President pro tempore be authorized to appoint five conferees.

A question arose, the number of the House conferees being three; but the President pro tempore⁵ recalled precedents where a larger number than three had been appointed, and said:

There is no rule which limits the number of conferees to be appointed by either House.

On the same day, March 2⁶ (legislative day of February 26 in the House), the report was presented in the House, signed by two of the three House conferees and by the five Senate conferees.

6333. On June 27, 1902,⁷ a message from the Senate announced that they had disagreed to the amendment of the House to the bill (S. 2295) temporarily to provide for the affairs of civil government in the Philippine Islands, asked a conference with the House, and had appointed as conferees Messrs. Henry Cabot Lodge, of Massachusetts; William B. Allison, of Iowa; and Charles A. Culberson, of Texas.

The House thereupon insisted on its amendments and agreed to the conference.

¹ Third session Fifty-eighth Congress, Journal, p.—; Record, pp. 805, 806.

² Joseph G. Cannon, of Illinois, Speaker.

³ Record, p. 826.

⁴ Second session Fifty-seventh Congress, Record, p. 2868.

⁵ William P. Frye, of Maine, President pro tempore.

⁶ Journal, p. 339; Record, p. 2949.

⁷ First session Fifty-seventh Congress, Journal, pp. 859, 860; Record, pp. 7524, 7525.

The Speaker¹ thereupon appointed as conferees Messrs. Henry A. Cooper, of Wisconsin; Sereno E. Payne, of New York; Edgar D. Crumpacker, of Indiana; William A. Jones, of Virginia; and John W. Maddox, of Georgia. Three of these managers represented the majority side of the House and two the minority.

6334. The conference managers from the two Houses constitute practically two distinct committees, each of which acts by a majority.

Instances wherein managers of a conference, in reporting their inability to agree, submitted recommendations to their respective Houses.

On August 1, 1846,² the bill making appropriations for the support of the Army for the fiscal year ending June 30, 1847, was received from the Senate, with a message setting forth that the conferees on the part of the Senate had met the conferees on the part of the House, and, after free and full discussion on the subject of said disagreeing votes, had been unable to come to an agreement. The conferees had, therefore, recommended to the Senate to adhere to its amendments disagreed to by the House, and to its disagreement to the amendment of the House to the amendment of the Senate; and this report the Secretary notified the House that the Senate had agreed to.

Mr. James J. McKay, of North Carolina, from the managers on the part of the House at the conference, then reported that they had been unable to come to any agreement with the managers on the part of the Senate, and recommended that the House further insist on its amendment to the first amendment of the Senate, and also insist upon its disagreement to the remaining amendment of the Senate, and ask another free conference on the subject of the former conference.

Mr. George Ashmun, of Massachusetts, said he wished to be understood that this was not the report of the whole number of managers on the part of the House; it was the report of the majority only.³

6335. The members of a conference committee are properly called "Managers."—On June 26, 1876,⁴ the Journal was corrected in its reference to the managers of a conference as the "conferees." The term insisted on was "managers."⁵

6336. The majority of the managers of a conference should represent the attitude of the majority of the House on the disagreements in issue.

Managers of a conference are usually three in number, but the House or the Speaker sometimes varies the number.

In the modern practice managers of a conference are usually selected from the standing committee which reported the bill over which the disagreement arises.

¹ David B. Henderson, of Iowa, Speaker.

² First session Twenty-ninth Congress, Globe, p. 1179.

³ It is more usual, under the present practice, for the conferees simply to report that they have been unable to agree, without making recommendations to their respective Houses.

⁴ First session Forty-fourth Congress, Record, p. 4155.

⁵ In the early days the conferees were sometimes spoken of as "managers" (first session Sixth Congress, May 10, 1800; first session First Congress, September 23, 1789; etc.) and sometimes the "joint committee of conference" (first session Sixth Congress, May 13, 1800; December 29, 1803, first session Eighth Congress, Journal, pp. 247, 248).

In a conference the managers of the two Houses vote separately.

The House members of conference committees, called the managers¹ on the part of the House, are appointed by the Speaker.² They are usually three in number, but on very important measures the Speaker or the House sometimes increases the number.³ Thus, on February 27, 1883, the House authorized five House managers on the bill (H. R. 5538) to reduce internal-revenue taxation.⁴ On September 16, 1890, Mr. Speaker Reed appointed seven conferees on the bill (H. R. 9416) to reduce the revenue and equalize duties on imports;⁵ and on July 7, 1894, Mr. Speaker Crisp appointed the same number on the bill (H. R. 4864) to reduce taxation, provide revenue for the Government, etc. Again, on July 8, 1897, Mr. Speaker Reed appointed seven managers on the bill (H. R. 379) to provide revenue for the Government and to encourage the industries of the United States.⁶

In the selection of the managers the two large political parties are usually represented, and also care is taken that there shall be a representation of the two opinions which almost always exist on subjects of importance. Of course the majority party and the prevailing opinion have the majority of the managers. Thus, in 1883, three of the five managers were Republicans and represented the Republican principles on the subject of tariff, while two were Democrats representing Democratic principles. In 1890 four of the seven were Republicans and three were Democrats. In 1894 four were Democrats and three Republicans; and again, in 1897, the majority was reversed.

It is also almost the invariable practice in later years to select managers from the members of the committee which considered the bill. Thus, in the above mentioned cases, the managers were from the Ways and Means Committee, which reports the tariff bills. But sometimes, in order to give representation to a strong or prevailing sentiment in the House, the Speaker goes outside the ranks of the committee.

Thus, on August 1, 1888, a controversy arose over the army appropriation bill, which the Committee on Military Affairs reports, and Mr. Joseph D. Sayers, of Texas, representing the Appropriations Committee, offered a resolution insisting upon the House's disagreement to certain Senate amendments, and declaring that the House would not consent that appropriations for fortifications should be placed on the army bill, because that subject had been referred to the Committee on Appropriations. On August 28, Mr. Sayers having carried his point on the floor with regard to disagreeing to the objectionable amendments, Mr. Speaker Carlisle appointed him one of the conferees, thus going outside the Military Affairs Committee in the selection of managers on a bill coming from that committee.⁷

¹This is the title always used, although in the earlier history of the House the conferees some times subscribed themselves as the "Committee on the part of the House."

²See section 4470 of Vol. IV of this work.

³See instance on January 22, 1834, when the House ordered five managers. (See sections 6331-6333 of this chapter.)

⁴Second session Forty-seventh Congress, Record, p. 3356; Journal, p. 521.

⁵First session Fifty-first Congress, Journal, p. 1047.

⁶First session Fifty-fifth Congress, Record, p. 2512.

⁷First session Fiftieth Congress, Record, p. 7151, 7173, 7830, 8051, 8474.

Again, on April 7, 1896, on a bill providing for a free library in the District of Columbia, after the House had twice defined its attitude, Mr. H. Henry Powers, of Vermont, requested that the Speaker appoint a majority of the conferees from those who represented the sentiment of the larger portion of the House. Mr. Speaker Reed accordingly appointed Mr. Powers chairman of the managers, although he was not a member of the District of Columbia Committee.¹ In this case also the managers all were of one political party, the issue presented not relating in any way to majority and minority differences.

The managers of the two Houses while in conference vote separately, the majority in each body determining the attitude to be taken toward the propositions of the managers of the other House. When the report is made, the signatures of a majority of each board of managers are sufficient. The minority managers frequently refrain from signing the report,² and it is not unprecedented for a minority manager to indorse his protest on the report.³

When conferees have disagreed, or a conference report has been rejected, the usual practice is to reappoint the managers, although it was otherwise in former years.⁴

6337. Instance wherein the Senate managers of a conference were appointed entirely from the majority party, members of the minority having declined to serve.—On March 1, 1883,⁵ Messrs. Thomas F. Bayard, of Delaware, and James B. Beck, of Kentucky, who had been appointed as representatives of the minority party in the Senate on the conference on the disagreeing votes of the two Houses on the bill (H. R. 5538) “to reduce internal revenue taxation,” were excused from further service on the conference. The President pro tempore, whom the Senate had empowered to appoint conferees, appointed successively various other members of the minority party who successively asked to be excused and were excused.

On March 1,⁶ after the appointment had been tendered to other minority Senators who were excused on their request, and after the President pro tempore⁷ had been informed that no minority Senator would probably consent to serve, he appointed two Senators from the majority side to complete the number of managers, which in this conference was five.

6338. On a conference relating to the prerogatives of the two Houses, all the managers were selected to represent the attitude of the majority of the House.—On May 29, 1902,⁸ the House agreed to the following resolution from the Senate:

Resolved by the Senate (the House of Representatives concurring), That a committee consisting of three Senators be appointed by the Presiding Officer of the Senate to meet with a committee of like

¹ First session. Fifty-fourth Congress, Record, pp. 3687, 3698.

² See section 6323 of this volume.

³ See section 6489 of this volume.

⁴ See section 6345 of this chapter.

⁵ Second session Forty-seventh Congress, Record, pp. 3454–3458.

⁶ Record, p. 3466.

⁷ David Davis, of Illinois, President pro tempore.

⁸ First session Fifty-seventh Congress, Record, pp. 6118, 6119.

number to be appointed by the House of Representatives, to confer upon the matter of the message of the House of Representatives on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12804) entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1903."

The Senate had appointed as conferees Messrs. John C. Spooner, of Wisconsin; Redfield Proctor, of Vermont, and Edmund W. Pettus, of Alabama, who were understood, from their relations to the debate on the resolution, to be all in harmony with the attitude of the majority of the Senate on the question at issue—viz, the propriety of the House's action in instructing conferees and transmitting the instructions to the Senate by message.

The Speaker being about to appoint the House conferees, Mr. William P. Hepburn, of Iowa, rising to a parliamentary inquiry, asked if the conferees should not be appointed on a different principle from that governing the constitution of the ordinary conference committee.

The Speaker¹ said:

The Chair will say, in answer to the gentleman, that, in the opinion of the Chair, the committee should be made up to represent the views of the House on this question. The question is on agreeing to the resolution.

Thereupon the Speaker appointed Messrs. John Dalzell, of Pennsylvania, a member of the Committee on Rules; Mr. Joseph G. Cannon, of Illinois, who had moved the instructions in question, and Mr. James D. Richardson, of Tennessee, leader of the minority. All of these conferees were understood to represent the position of the House, and no one of them belonged to the Military Committee, which had reported the bill, and the members of which, so far as appeared in the debate, had opposed the instructions.

6339. Managers of a conference are selected to represent the opinions as well as the majority and minority divisions of the House.—On May 31, 1900,² the bill (S. 3419) to provide a code of laws and a civil government for Alaska was returned from the Senate with the message that the Senate had disagreed to the House amendments and asked a conference.

This bill originally had been reported in the House by the Committee on the Revision of the Laws, although, because of the provisions establishing a civil government, the Committee on Territories had an equal claim to jurisdiction. This claim was recognized in the division of time in the debate when the bill was considered in the House, on May 17.³

The House having voted to insist on its amendments and agree to the conference the Speaker⁴ appointed the following conferees: Mr. Vespasian Warner, of Illinois, chairman of the Committee on the Revision of the Laws; Mr. William S. Knox, of Massachusetts, chairman of the Committee on Territories; Mr. Henry R. Gibson, of Tennessee, of Revision of the Laws; Mr. James T. Lloyd, of Missouri, of Revision of the Laws; and Mr. John A. McDowell, of Ohio, of Territories. The two latter represented also the minority party in the House.

¹ David B. Henderson, of Iowa, Speaker.

² First session Fifty-sixth Congress, Record, p. 6303.

³ Record, p. 5656.

⁴ David B. Henderson, of Iowa, Speaker. The actual announcement was made, however, by Speaker pro tempore Henry S. Boutell, of Illinois.

6340. On April 28, 1900,¹ the House was considering the bill (S. 2799) to carry into effect the stipulations of Article VII of the treaty between the United States and Spain, etc., and a question having arisen as to the probable results of a conference, Mr. John F. Lacey, of Iowa, made a parliamentary inquiry which elicited this response from the Speaker pro tempore:²

The practice of the House is to appoint conference committees on the part of the House to uphold its position. That has been repeatedly done in this House—notably in the case, which the gentleman from Vermont will remember, of the library question. In the present case, if the House should amend the Senate bill so as to send this whole business to the Court of Claims, it would be the duty of the Chair, being bound by no rule except courtesy and the practice of the House, to appoint a committee of conference which would stand by the action of the House.

6341. In the later practice managers have generally been selected from the committee that reported the measure, have been reappointed for later conferences, and have embodied majority and minority representation.—In 1876,³ there were five conferences before the differences of the House and Senate over the legislative appropriation bill were settled. Four times the conferees returned with the report that they had been unable to agree. Each time this report, with the papers, was made first in the agreeing house. The chairman of the first House committee was Mr. Samuel J. Randall, of Pennsylvania, chairman of the Committee on Appropriations, which reported the bill. He remained chairman of each committee, although his associates were changed at each new conference, except the fifth and last, when the conferees of the fourth conference were reappointed. All the three conferees of the first conference were from the Appropriations Committee, two representing the majority party and one the minority. This proportion between majority and minority was maintained throughout. At the second conference two conferees were not of the Appropriations Committee, in the third all were from that committee, in the fourth two were from that committee. For the fifth conference the conferees were instructed to recede. The differences were over reduction of salaries.

6342. In 1877,⁴ Mr. Speaker Randall adopted quite generally the policy of taking the conferees on the appropriations bills from the Committee on Appropriations, and of reappointing the old conferees for new conferences. He maintained the proportion of two from the majority side of the House and one from the minority.

Thus, on the Post-Office appropriation bill (H. R. 4187) the three conferees of the first conference were all from the Appropriations Committee. Two of these were reappointed at the second conference, but the new conferee was also from the Appropriations Committee.

On the legislative appropriation bill (H. R. 4472) the first conferees were all from the Appropriations Committee. They made a partial report, and were reappointed for the second conference. They being unable to agree, a third conference was ordered. One of the conferees was changed, but he was still from the Appropriations Committee.⁵

¹First session Fifty-sixth Congress, Record, p. 4824.

²Charles H. Grosvenor, of Ohio, Speaker pro tempore.

³First session Forty-first Congress, Journal, pp. 1109, 1156, 1194, 1225, 1226, 1234, 1412, 1413, 1444.

⁴Second session Forty-fourth Congress, Journal, pp. 522, 631.

⁵Journal, pp. 653, 667, 677.

On the army appropriation bill (H. R. 4691) the three conferees at first were all from the Appropriations Committee. At the second conference two were reappointed, and the new one was not from the Appropriations Committee or even the Military Committee. At the third conference, the inability to agree continuing, the two old conferees were reappointed, but the place of the new one was taken by still another, not a member of the Appropriations Committee, but chairman of Ways and Means.¹

6343. In 1878,² in the two conferences on the Military Academy appropriation bill (H. R. 2507), Mr. Speaker Randall reappointed the conferees, and they were all from the Appropriations Committee, which reported the bill.

The same rule was followed in the three conferences on the legislative appropriation bill³ (H. R. 4104); and the same in the two conferences on the sundry civil bill⁴ (H. R. 3130).

6344. On March 1, 1865,⁵ the House disagreed to the committee of conference report on the bill (S. 390) relating to the postal laws, and after further insisting asked for a further conference. The Speaker⁶ appointed the same conferees that had officiated in the first conference. The Chairman had made the motion for a new conference, but it does not appear necessarily that this was the reason for the retention of the conferees.

6345. In the earlier practice the managers were changed for a second conference, and the Speaker did not particularly consider the committee reporting the measure or the majority and the minority divisions of the House.—On July 9, 1862,⁷ Mr. Speaker Grow appointed the following managers on the bill (H. R. 531) increasing temporarily the duties on imports: Messrs. Thaddeus Stevens, of Pennsylvania, Justin S. Morrill, of Vermont, and Elihu B. Washburne, of Illinois. All of these belonged to the majority party of the House.

On July 9, 1862,⁸ the same Speaker made Mr. William S. Holman, of Indiana, chairman of the House managers on the bill (H. R. 438) to grant pensions. Mr. Holman was a member of the minority party in the House.

6346. In 1857,⁹ there were four conferences between the Senate and the House on the deficiency appropriation bill, and for each conference three new managers were appointed. Of all these only one was a member of the Ways and Means Committee, which reported the bill.

6347. In 1857,¹⁰ the House managers on the tariff bill were all members of the Ways and Means Committee. But in the conference report on the legislative appropriation bill, also reported from the Ways and Means Committee, on March 3, 1857, the name of only one member of the Ways and Means Committee appears.¹¹

¹ Journal, pp. 665, 666, 678, 688.

² Second session Forty-fifth Congress, Journal, pp. 701, 1101, 1264. I15³ Journal, pp. 1237, 1304, 1346.

⁴ Journal, pp. 1418, 1433.

⁵ Second session Thirty-eighth Congress, Journal, p. 377; Globe, p. 1257.

⁶ Schuyler Colfax, of Indiana, Speaker.

⁷ Second session Thirty-seventh Congress, Journal, p. 1020.

⁸ Journal, p. 1021.

⁹ Third session Thirty-fourth Congress, Journal, pp. 40, 601, 655, 665, 676.

¹⁰ Third session Thirty-fourth Congress, Journal, p. 609.

¹¹ Journal, p. 648.

6348. In 1863¹ there were three managers on the bill (H. R. 659) to provide ways and means for the support of the Government. The chairman of the first committee on the part of the House was Mr. Thaddeus Stevens, chairman of the Committee on Ways and Means. For the second conference the managers were changed entirely, and for the third conference there was another entire change, except that Mr. Henry L. Dawes, of Massachusetts, who had been second on the second committee, became chairman of the third. With this exception no one man served on more than one of the conferences.

6349. In 1864² three conferences took place on the bill (H. R. 122) to increase the internal revenue, originally reported from the Committee on Ways and Means. On the first conference Mr. Speaker Colfax appointed as chairmen of the conferees Mr. Thaddeus Stevens, of Pennsylvania, who was chairman of the Ways and Means and a member of the majority in the House, and associated with him Mr. Fernando Wood, of New York, a member of the minority and not a member of the Ways and Means Committee, and Mr. Elihu B. Washburne, of Illinois, also not a member of the Ways and Means Committee, but a member of the majority party. Of the next conference Mr. Washburne was made chairman, and the second was Mr. John A. Kasson, of Iowa, who was a member of the Ways and Means Committee. Mr. John L. Dawson, of Pennsylvania, the third member, was not of the Ways and Means Committee, but was a member of the minority. At the third conference Mr. Justin S. Morrill, of Vermont, was chairman. He was a member of the Ways and Means Committee and of the majority party. Mr. Kasson was second, and Mr. R. P. Spalding, of Ohio, not a member of the Ways and Means, was also the majority party. So in this conference the minority had no representation.

6350. On May 31, 1864,³ on motion of Mr. George H. Pendleton, of Ohio, the House insisted, on its disagreement to the Senate amendments to the legislative appropriation bill, and agreed to the conference asked by the Senate. The Speaker⁴ appointed as conferees Mr. Pendleton (who was a member of the Ways and Means Committee reporting the bill, but also a member of the minority party on the floor), Mr. William Windom, of Minnesota, a member of the majority party, but not of the committee, and Mr. Orlando Kellogg, of New York, also of the majority party, but not of the committee. The conference report made on June 16 was disagreed to, and on motion of Mr. William S. Holman, of Indiana, the House further insisted on its disagreement and asked a further conference. Mr. Holman announced to the Speaker that he desired not to be made a member of the committee (apparently usage entitled him to be chairman) and recommended that for the good of the public service the former conferees be reappointed, as they were conversant with the subject. The Speaker did so, reappointing Messrs. Pendleton, Windom, and Kellogg for the second conference. This appears to be one of the first, if not the very first, occasion where the same conferees acted at a second conference.

¹Third session Thirty-seventh Congress, Journal, pp. 500, 502, 510.

²First session Thirty-eighth Congress, Journal, pp. 40, 295, 327, 338.

³First session Thirty-eighth Congress, Journal, pp. 726, 821, 822; Globe, p. 3018.

⁴Schuyler Colfax, of Indiana, Speaker.

6351. In 1864¹ there were three conferences on the Army bill. At the first conference the conferees were Messrs. Thaddeus Stevens, of Pennsylvania (chairman of the Committee on Ways and Means which had reported the bill), Robert C. Schenck, of Ohio, chairman of the Committee on Military Affairs, and William R. Morrison, of Illinois, who represented the minority party. At the second conference the conferees were Messrs. Justin S. Morrill, of Vermont (second on the Ways and Means Committee), John F. Farnsworth, of Illinois, second on Military Affairs, and John A. Griswold, of New York, representing the minority party. At the third conference the conferees were Mr. Stevens again, Mr. George H. Pendleton, of Ohio (of the Ways and Means Committee, and also of the minority on the floor), and Mr. Thomas T. Davis, of New York, of the majority party but not of either of the committees. The chairman was in each instance the Member making the motion to further insist.²

6352. The practice of changing managers at a second and subsequent conferences was so fixed in the earlier practice that their reappointment had a special significance.—On August 9, 1876,³ after four ineffectual conferences on the legislative appropriation bill, the House was considering a fifth conference, when attention was called to the fact that the Senate in asking a conference again had reappointed the same conferees in departure from the then prevailing custom. Mr. Samuel J. Randall, of Pennsylvania, stated to the House that this was, in parliamentary proceeding, notice to the House that the Senate would not recede. Mr. Randall was chairman of the conferees on the part of the House throughout, and also chairman of the Committee on Appropriations.

6353. The practice of having new managers at each new conference on a bill was carried so far as to change conferees for the second conference on the bill (H. R. 413) for the payment of bounties to volunteers, the first conference report on which was, on June 17, 1862,⁴ ruled out in the Senate after it had been agreed to by the House because the conferees had violated the parliamentary law in changing the text of the bill to which both Houses had agreed.

6354. In June, 1850,⁵ three conferences were held on the Post-Office appropriation bill, and for each conference a new committee was appointed.

6355. On March 3, 1855,⁶ the report of the committee of conference on the Army appropriation bill was disagreed to, and a new conference was authorized. At this second conference new managers on the part of the House were appointed.

6356. On May 2, 1856,⁷ the conferees on the deficiency appropriation bill reported that they had been unable to agree, and were discharged, and a further conference asked with the Senate. For the second conference new conferees on the part of the House were appointed. Again, on May 9,⁸ a third conference was agreed to, and still other conferees were appointed.

¹ First session Thirty-eighth Congress, Journal, pp. 40, 622, (678, 681, 700, 701, 799.

² See also sections 6364, 6365, of this chapter.

³ First session Forty-fourth Congress, Record, p. 5386.

⁴ Second session Thirty-seventh Congress, Journal, pp. 852, 906; Globe, pp. 2722, 2746.

⁵ First session Thirty-sixth Congress, Journal, pp. 1007, 1064, 1176, 1189.

⁶ Second session Thirty-third Congress, Journal, pp. 536, 537.

⁷ First session Thirty-fourth Congress, Journal, p. 919.

⁸ Journal, p. 946.

6357. In 1864,¹ three conferences took place on the bill (H. R. 122) to increase the internal revenue, two of them resulting in inability to agree. The managers were changed each time, but on the second was one member who had been on the first, and on the third was a member who had been on the second.

6358. On June 16, 1870,² the managers on the pension appropriation bill (H. R. 781) reported that they were unable to agree. A new conference having been ordered, Mr. Speaker Blaine reappointed the House managers. No comment was made in regard to this action. The chairman of the first committee made the motion which resulted in the second conference.

6359. In 1870,³ on July 12, after the report of the committee of conference on the funding bill (S. 380) had been disagreed to by the House, Mr. Speaker Blaine reappointed the conferees.

6360. In 1870,⁴ the conferees on the Indian appropriation bill were unable to agree and Mr. Speaker Blaine, in appointing new House conferees, for the second conference, named the chairman of the former conferees, and two new ones.

6361. On June 30, 1870,⁵ Mr. Speaker Blaine appointed for the second conference on the bill (S. 378) to provide a national currency of coin notes, etc., new managers. The report of the first conference had been disagreed to by the House.

6362. In 1871,⁶ there were two conferences on the bill (H. R. 320) to enforce the provisions of the fourteenth amendment to the Constitution of the United States, and at the second conference, after the first report had been rejected, the Speaker⁷ reappointed the chairman but changed the other two conferees.

6363. On May 24, 1872,⁸ the conferees on the Post-Office appropriation bill reported a partial agreement, leaving one amendment in dispute. The report having been agreed to, and a further conference asked, Mr. Speaker Blaine reappointed the former managers.

6364. On June 20, 1874,⁹ the House disagreed to the report of the committee of conference on the Indian appropriation bill, and a new conference being asked the Speaker⁷ appointed new conferees, although a member from the floor had suggested that the old conferees be reappointed.

The first conference on the bill had included, as chairman of the managers, a member of the Appropriations Committee, which reported the bill, the chairman of the Indian Affairs Committee, and a representative of the minority belonging to the Appropriations Committee. At the second conference the second on the committee was a member of the Committee on Appropriations, but the first and third belonged neither to Appropriations nor Indian Affairs.

On June 22, 1874,¹⁰ in a case where the Senate had disagreed to the report of the conferees on the Post-Office appropriation bill, Mr. Speaker Blaine reappointed

¹ First session Thirty-ninth Congress, Journal, pp. 295, 327, 338.

² Second session Forty-first Congress, Journal, pp. 1014–1016; Globe, pp. 4507–4510.

³ Second session Forty-first Congress, Journal, pp. 1168, 1169, 1179, 1223.

⁴ Second session Forty-first Congress, Journal, pp. 1120, 1135, 1139.

⁵ Second session Forty-first Congress, Journal, pp. 1101, 1120.

⁶ First session Forty-second Congress, Journal, pp. 169, 192.

⁷ James G. Blaine, of Maine, Speaker.

⁸ Second session Forty-second Congress, Journal, pp. 952, 981.

⁹ First session Forty-third Congress, Journal, pp. 1265, 1266; Record, p. 5320.

¹⁰ First session Forty-third Congress, Journal, pp. 1248, 1295; Record, p. 5392.

the old conferees, except that a new member was substituted for one who was absent. On the first conference two conferees had been appointed from the Appropriations Committee, which reported the bill, and one from the Post-Office and Post Roads Committee. This proportion was maintained in the second conference.

6365. In 1875¹ the conferees on the legislative appropriation bill reported inability to agree four times, and in all five conference committees were appointed before a result was reached in the form of a report. When the fourth report of inability to agree was made, Mr. Speaker Blaine reappointed the conferees. In the three preceding cases, he appointed each time a new committee, although on two of the three occasions he put with the new committee a member who had served on the preceding committee. But no one member served on each of the three conferences. On the first conference two of the managers were from the Appropriations Committee, which reported the bill. On the second conference the proportion from the Appropriations Committee was the same. On the third conference only one member of that committee was included, and on the fourth the proportion was the same. At the third and fourth reports of disagreement the papers were returned first for action to the House, which had asked the conferences. On the first and second failures to agree the papers were returned first to the House agreeing to the conferences.

6366. Mr. Speaker Keifer reappointing the old conferees at a second conference in the case of the bill (H. R. 3548) making appropriations for the Post-Office Department, the first conference having resulted in a disagreement.²

6367. In 1882,³ there was a prolonged conference over the legislative appropriation bill, there being several conferences. At each of these the House managers were reappointed by Mr. Speaker Keifer.

6368. On February 27, 1861,⁴ in the case of the bill (S. 10) to promote the progress of the useful arts a conference report was made dealing with all the differences but one. This report was agreed to, and the House voted to ask a conference on the remaining point of difference. For this second conference entirely new managers were appointed.

6369. The motion of the Member in charge of the bill as to the disposition of a Senate amendment being disagreed to, and a conference being asked, the conferees were so selected as to represent the attitude of the House.—On June 28, 1902,⁵ the House had agreed to a partial conference report on the naval appropriation bill, and there remained in disagreement a single amendment of the Senate.

Mr. George E. Foss, of Illinois, chairman of the Committee on Naval Affairs and chairman of the conferees at the first conference, moved to recede and concur in that amendment with an amendment.

This motion was disagreed to.

Then, on motion of Mr. William W. Kitchin, of North Carolina, the House voted to further insist and ask a further conference.

¹ Second session Forty-third Congress, Journal, pp. 406, 432, 584, 611, 612, 613, 614, 631, 635.

² First session Forty-seventh Congress, Journal, pp. 1043, 1064.

³ First session Forty-seventh Congress, Journal, pp. 1583, 1643, 1712, 1713, 1719, 1734, 1813.

⁴ Second session Thirty-sixth Congress, Journal, pp. 402, 403.

⁵ First session Fifty-seventh Congress, Journal, pp. 873, 874; Record, pp. 7607, 7608.

Thereupon conferees were appointed¹ as follows: Messrs. George E. Foss, of Illinois; Robert W. Tayler, of Ohio; and Adolph Meyer, of Louisiana. Both Mr. Tayler and Mr. Meyer had voted against the motion of Mr. Foss.

Mr. Alston G. Dayton, of West Virginia, who had been a member of the first conference, and who voted for the motion of Mr. Foss, was displaced in order that two of the three might represent the attitude of the House.

6370. A Member at whose suggestion the report of a committee, of which he was not a member, was modified, was appointed a manager when the question came to conference.—On January 15, 1901,² a joint resolution of the Senate (No. 142) was reported from the Committee on Appropriations, to whom it had been referred upon its receipt from the Senate. The resolution was entitled a “joint resolution to enable the Secretary of the Senate to pay the necessary expenses of the inaugural ceremonies of the President and Vice-President of the United States, March 4, 1901.”

After debate, on motion of Mr. John Dalzell, of Pennsylvania, the resolution was recommitted to the Committee on Appropriations with instructions to report amendments insuring a participation by the House in the arrangements.

The resolution was reported with such amendments on January 16,³ and they were agreed to by the House.

On January 22,⁴ the resolution was returned from the Senate with the message that the Senate disagreed to the amendments and asked a conference.

The House having insisted and agreed to the conference, the Speaker⁵ appointed as conferees Messrs. Joseph G. Cannon, of Illinois; John Dalzell, of Pennsylvania; and Thomas C. McRae, of Arkansas.

Of these Messrs. Cannon and McRae represented the Committee on Appropriations, while Mr. Dalzell represented the element in the House that had successfully antagonized the first action of the Appropriations Committee on the resolution.

6371. Senate discussion on the principles governing the appointment of managers of a conference.⁶—On March 22, 1906,⁷ in the Senate, the Vice-President laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. Albert J. Beveridge, of Indiana, moved that the Senate insist upon its amendments, agree to the conference asked for by the House, and that the Chair appoint the conferees on the part of the Senate.

Mr. Joseph B. Foraker, of Ohio, objected:

The proposition to which the House has disagreed is one which was not represented by the chairman of the Committee on Territories, who has just now addressed the Senate, and one with respect to which I

¹ John Dalzell, of Pennsylvania, Speaker pro tempore.

² Second session Fifty-sixth Congress, Journal, p. 118; Record, p. 1033.

³ Journal, p. 123; Record, pp. 1103–1106.

⁴ Journal, p. 144; Record, p. 1316.

⁵ David B. Henderson, of Iowa, Speaker.

⁶ See also section 6529 of this volume.

⁷ First session Fifty-ninth Congress, Record, pp. 4114, 4115.

fear he would not suggest conferees who would be agreeable to those of us who did represent that proposition. I rise, therefore, to object to the appointment of conferees in the usual way, and to ask that they may be selected by the Senate in such manner as may be proper for us to proceed in making the selection.

The Senate voted to insist on its amendments and agree to the conference; but the selection of managers was deferred.

On March 23,¹ Mr. Beveridge having called the bill up, Mr. Foraker said:

Mr. President, when this matter went over yesterday it was with the statement that I would confer with the Senator from Indiana with a view to reaching some agreement as to what should be the course to be taken with respect to the appointment of the conferees. I have had that conference with the Senator, with the result that I withdraw my motion and allow the conferees to be appointed in the usual way, the Senator from Indiana having given me certain assurances, which I understand he is quite willing to give to the Senate, that the action of the Senate will be faithfully represented by those who are appointed, although they voted against the main proposition which goes to conference. * * * The motion I made was simply that the conferees should be appointed in compliance with the rule of the Senate, as I understand it, instead of the way we have drifted into, of having them appointed by unanimous consent by the Chair. I understand the rule of the Senate which I sought to evoke in this instance would but give those of us who were thinking there ought to be such action taken the benefit of the general rule that obtains, laid down by all parliamentary writers, that those who are the friends of a proposition should go to the conference to represent it.

But I do not wish to discuss it at all. I only want to call attention to the fact that the motion was made in perfect good faith, without reference to the personality of any Senator or his attitude in respect to any measure except only in so far as it pertains to the public business.

I wish to say one other thing. What I suggested should be done in this case is not without precedent. I remember, as all Senators who were here then must very well remember, that we had quite a controversy over this proposition in connection with the adoption of the joint resolution upon which we intervened in Cuba. The Chair at that time recognized the right of those favoring the proposition to be represented as the conferees, and they were appointed.

Mr. Henry Cabot Lodge, of Massachusetts, said:

Mr. President, I may say a single word in regard to this matter. I had occasion to say something about it some time ago in the case of the immigration bill. It seems to me that it must be the absolute understanding always that conferees represent the views of the Senate and not their own views. It does seem to me that it is not possible we can carry on business upon any other basis; that the Senators in charge of the bill, even if they voted against the amendments of the Senate, would, of course, represent the views of the Senate, and that the bill should not be taken from the committee in charge of the measure.

Mr. Henry M. Teller, of Colorado, said:

Mr. President, the right to appoint the members of a conference committee belongs to the Senate. I am not going to find any fault with the withdrawal of the motion made by the Senator from Ohio; I agreed to its withdrawal last night. But I wish to say that it is no reflection upon a committee, nor is it any reflection upon the Chair, because we recognize that without a motion to that effect the Chair has not the right to appoint a committee. The right to appoint the members of a conference committee is with the body that creates the committee. That is not always done, because it is convenient generally and the custom has grown up to that effect—for the chairman of the committee to designate certain members of the committee having charge of the measure to act at the conference. The conferees of the two Houses are then supposed to represent the Senate or the House, as the case may be.

I understand also there is a feeling on the part of some members of the committee that to select anyone off of the committee or to select anyone even on the committee who had not been favorable to the first proposition perhaps would be a reflection on the committee. Whenever a conference committee is created it is created to bring the mind of the other body to that of this body, and to bring them together. It is not to represent the view of the minority, but to represent, if possible, the majority. Upon that theory the majority of the proposition that passes this body is entitled by custom and usage and on

¹ Record, p. 4155.

principle to name the committee. A majority only of this body can pass a bill. If the bill is different from what come from the House, the bill as it leaves this body is supposed to represent the sentiment of this body, and this body then is entitled to have a friendly committee.

I am not going to complain of anything that has been done. I am quite willing to submit to the chairman of the committee the right in this case to make the selection according to what has been somewhat the custom here. I heard Senators say around me yesterday that they thought a different course would be a reflection upon the committee, and therefore they could not favor it. I only want to enter a protest against hampering the Senate, whenever it chooses to exercise a right which belongs to it beyond any question, to select its conferees independent of the chairman of the committee and independent of the presiding officer.

So far have the English authorities gone on this subject in Parliament that they have declared that it was the duty, when a man was put on a conference committee or on any other committee to deal with a subject to which he was hostile, to refuse to become a member of the conference committee or any other committee. As was said by a distinguished English writer on parliamentary law, and as is quoted approvingly in Jefferson's Manual, "the child is not to be put to a nurse that cares not for it." Upon that principle the party that puts the bill through, whether it be an original bill or an amended bill, is entitled to name the committee. That has been done repeatedly in the Senate over and over again, and it is only practically recently—when I say recently I do not mean within the last five years, I mean in modern times—that the custom has grown up to allow the chairman of the committee, however hostile he may be to the bill as it passes the Senate, to designate who shall deal with the House in the effort by a conference to bring the House to the sentiment of the Senate. Everyone can see that logically the friends of the measure are the proper ones to represent the matter to the conferees on the part of the House and win them to the Senatorial mind.

Mr. Beveridge having indicated his assent to the proposition of Mr. Foraker, the Vice-President was by unanimous consent authorized to appoint the managers, and appointed Messrs. Albert J. Beveridge, of Indiana, William P. Dillingham, of Vermont, and Thomas M. Patterson, of Colorado. The first two were the first two men on the Committee on Territories, which reported the bill, and represented the sentiment of that committee as to statehood of Arizona and New Mexico, which sentiment had not prevailed in the Senate. Mr. Patterson was at the head of the minority of the Territories Committee, and represented the view which prevailed in the Senate.

6372. The absence of a manager of a conference causes a vacancy which the Speaker fills by appointment.—On February 9, 1903,¹ Mr. Adolph Meyer, of Louisiana, was appointed one of the managers on the part of the House on the disagreeing votes of the two Houses on the bill (S. 4825) "to provide for a union railroad station in the District of Columbia" etc.

On February 10 the Speaker² laid before the House a telegram from Mr. Meyer announcing his absence, and stated that on the preceding day indefinite leave of absence had been granted by the House. Thereupon the Speaker said that the absence of Mr. Meyer caused a vacancy, and appointed Mr. A. C. Latimer, of South Carolina, in his place.

6373. It has long been the practice for a manager on a conference to be excused only by authority of the House.—On March 15, 1852,³ on motion of Mr. George Briggs, of New York, and by unanimous consent,

Ordered, That Mr. Bissell be excused from service on the committee of conference on the disagreeing votes on the bill of the Senate 146, "to make land warrants assignable, and for other purposes."

¹ Second session Fifty-seventh Congress, Journal, pp. 224, 226; Record, pp. 1971, 2001.

² David B. Henderson, of Iowa, Speaker.

³ First session Thirty-second Congress, Journal, p. 476; Globe, p. 760.

6374. On February 27, 1883,¹ the Speaker announced the appointment of Messrs. William D. Kelley, of Pennsylvania, William McKinley, jr., of Ohio, Dudley C. Haskell, of Kansas, Samuel J. Randall, of Pennsylvania, and John G. Carlisle, of Kentucky, as conferees on the pending tariff bill (H. R. 5538).

On February 28² Mr. Randall asked that the House excuse him from service as conferee; and he was excused.

6375. On February 28, 1883,³ both Messrs. William R. Morrison, of Illinois, and J. Randolph Tucker, of Virginia, declined to serve as conferees on the tariff bill. The Speaker⁴ did not put any question on excusing them to the House. At the same time Mr. Samuel J. Randall, of Pennsylvania, asked to be excused, and the Speaker stated that he would be excused if there was no objection.

6376. On June 16, 1884,⁵ Mr. George W. Steele, of Indiana, on account of necessary absence from the city, declined to act as conferee. The Speaker⁶ does not seem to have asked the consent of the House for this declination.

6377. One House having made a change in a committee of conference, the other is informed by a message.—On May 14, 1900,⁷ a message was received from the Senate announcing that Mr. Hansbrough had been excused from further service, on his own request, as a conferee on the bill (H. R. 6250) extending the time for proof and payment on lands claimed under the desert-land law of the United States by the members of the Colorado Cooperative Colony in southwestern Colorado, and that the President pro tempore had appointed Mr. Pettigrew to fill the vacancy.

On May 17, 1900,⁸ a message was received from the Senate announcing that the Senate had excused from service Mr. Sewell, on his own request, as a conferee on the bill (H. R. 8582) making appropriations for the support of the Regular and Volunteer Army for the fiscal year ending June 30, 1901, and that the President pro tempore had appointed Mr. Proctor to fill the vacancy.

6378. On May 29, 1906,⁹ a message from the Senate announced that the Senate had excused Mr. Newlands from further service as a member of the conference committee on the bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and had appointed Mr. Patterson in his place.

¹ Second session Forty-seventh Congress, Record, p. 3356.

² Record, p. 3409.

³ Second session Forty-seventh Congress, Journal, p. 622; Record, p. 3409.

⁴ J. Warren Keifer, of Ohio, Speaker.

⁵ First session Forty-eighth Congress, Journal, p. 1462; Record, p. 5207.

⁶ John G. Carlisle, of Kentucky, Speaker.

⁷ First session Fifty-sixth Congress, Record, p. 5223; Journal, p. 573.

⁸ First session Fifty-sixth Congress, Record, p. 5668; Journal, p. 591.

⁹ First session Fifty-ninth Congress, Record, p. 7627.