

Chapter CCLXII.¹

GENERAL PRINCIPLES OF CONFERENCES.

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3209. Statement with reference to an unwritten rule of conference that the House proposing an amendment on which agreement can to be secured must recede or accept responsibility for failure of the bill.

On July 3, 1930,² in the Senate, Mr. James E. Watson, of Indiana, in the course of debate on the conference report on the bill (H. R. 13174) to amend the World War veterans' act, said:

When one House makes a decided and determined stand on a bill the other House has amended, and it looks as if there is going to be a sure deadlock, it is the business of the House that put the amendment into the bill to recede from that amendment or be responsible for the defeat of the legislation.

The conferees on the part of the Senate did make a determined stand on these amendments, but the House, backed by a letter from the President of the United States, written while the conference was in session, insisted that we recede. We knew with that stand of the President of the United States and with the stand of the House of Representatives, that unless we did recede, under the rules of conferences, this legislation would be lost and the veterans would not be pensioned. That is the rule of conferences, I will say to the Senator.

3210. Motions for conference are not in order until all Senate amendments have been disposed of.

The House having under consideration a number of Senate amendments, it was held that a motion to insist on disagreement to one amendment might not include agreement to conference asked by the Senate until disposition of all pending amendments had been determined.

On February 17, 1911,³ the House had agreed to the conference report on the Indian appropriation bill and was considering three Senate amendments still in disagreement.

Mr. Charles H. Burke, of South Dakota, moved that the House further insist on its disagreement to Senate amendment No. 48 providing for collection of claims

¹Supplementary to Chapter CXXXII.

²Second session Seventy-first Congress, Record, p. 12414.

³Third session Sixty-first Congress, Record, p. 2792.

against Indians of the Standing Rock Agency, and agree to the request of the Senate for a conference.

The Speaker¹ called attention to the fact that no proposition had yet been made for the disposition of the two remaining Senate amendments still in disagreement and explained:

There seem to be three amendments here that are not disposed of. The conference is not asked until the amendments are disposed of.

Thereupon, Mr. Burke restricted his motion to further insistence on disagreement to Senate amendment No. 48.

3211. The previous question having been ordered on the report of the Committee of the Whole recommending disagreement to Senate amendments, the preferential motion to concur was held not to be in order.

A report from the Committee of the Whole when presented, is pending without motion for its adoption.

On July 10, 1914,² the Speaker announced that the unfinished business was the report of the Committee of the Whole House on the state of the Union, to which had been referred the Indian appropriation bill with Senate amendments.

Mr. Byron P. Harrison, of Mississippi, offered a motion to concur in two amendments.

Mr. John J. Fitzgerald, of New York, made the point of order that the question came first on agreeing to the recommendation of the Committee of the Whole and therefore the motion to concur, though preferential, was not admissible.

After debate, the Speaker³ held:

The situation is this: The Chairman of the Committee of the Whole House on the state of the Union, acting for that committee, reported to the House recommending that all of the Senate amendments to this bill be disagreed to, except amendments numbered 6 and 13, which should be agreed to, and which were agreed to. The rest of them were disagreed to, except amendments numbered 139 and 140, on the request of the gentleman from Mississippi to have a separate vote on them. It happens in practice that nobody ever moves to adopt the report of the Committee of the Whole House on the state of the Union. There are two instances in which no motion is required. One is on a conference report and the other is on the report of the Committee of the Whole House on the state of the Union, but practically the motion is pending to agree to the report of the Committee of the Whole House on the state of the Union. Ordinarily three motions could be made—that is, if this bill is in that state—a motion to disagree, a motion to concur with an amendment, and a flat motion to concur. Now, in this matter it seems to the Chair it ought to be decided in a way to give the House the best opportunity to really express its opinion. It might want to disagree, it might want to flatly concur, it might want to concur with an amendment. The previous question having been ordered on this matter, the Chair thinks that the motion to concur is not in order and that the vote is on whether the House will adopt the report of the Chairman of the Committee of the Whole House on the state of the Union as to these two amendments.

3212. It is not unusual for conferees to agree in advance to bring amendments back to the House for further instruction in event of failure to secure specified disposition in conference.

¹ Joseph G. Cannon, of Illinois, Speaker.

² Second session Sixty-third Congress, Record, p. 11937.

³ Champ Clark, of Missouri, Speaker.

On December 10, 1918,¹ Mr. Claude Kitchin, of North Carolina, asked unanimous consent to take from the Speaker's table the bill (H. R. 12863), the tariff bill, disagree to Senate amendments, and agree to the conference asked by the Senate.

Mr. James R. Mann, of Illinois, under reservation of the right to object, inquired if the House would be given the opportunity to consider certain of the amendments in event of failure to agree to them in conference.

Mr. Kitchin gave assurance that if the conferees failed to agree to the child-labor amendment, the amendment providing for enforcement of the prohibition law in the District of Columbia and the amendment providing for a tax on political contributions, the managers on the part of the House would return them to the House in disagreement for its consideration and instruction.

3213. A motion for a conference is not in order until the stage of disagreement has been reached.

On December 18, 1912,² the House had passed the bill (S. 3175), the immigration bill, with amendments, when Mr. John L. Burnett, of Alabama, offered a motion that the House request a conference with the Senate on the bill and amendments thereto.

Mr. James R. Mann, of Illinois, submitted the question of order that no disagreement had yet been reached and that neither House could request a conference until there was a disagreement and insistence on that disagreement.

The Speaker³ sustained the point of order and said:

The proper function of a conference committee is to settle differences between the two Houses, and there are no differences between the two Houses as far as has been developed. For all the House knows or all the Chair knows, the Senate will accept this amendment, and therefore the point or order is sustained. A motion to insist would have been in order, and the Chair will not say that in an emergency as to time or any other thing of the sort we would not hold the pending motion out of order, but no emergency exists, and this bill should take the usual course.

3214. One House may pass a bill of the other with amendments, and immediately, without waiting for the other House to disagree, may ask a conference.

On July 9, 1909,⁴ a message was received in the House announcing that the Senate had passed, with amendments, the bill (H. R. 1438) the Aldrich-Payne tariff bill; had insisted on its amendments to the bill; and requested a conference with the House on the bill and amendments.

3215. On September 9, 1913,⁵ in the Senate the bill (H. R. 3321) to reduce tariff duties and to provide revenue for the Government, had been passed with amendments, when on motion of Mr. Furnifold M. Simmons, of North Carolina, a conference was requested on the amendments before the bill had been messaged to the House.

¹ Third session Sixty-fifth Congress, Record, p. 927.

² Third session Sixty-second Congress, Record, p. 866.

³ Champ Clark, of Missouri, Speaker.

⁴ Fourth session Sixty-first Congress, Record, p. 4363.

⁵ First session Sixty-third Congress, Record, p. 4618.

3216. Instance wherein the House passed a bill of the other with amendment, and immediately, without waiting for the other House to disagree, insisted on its amendment and asked for conference.

On May 16, 1928,¹ the House passed, with an amendment, the joint resolution (S. J. Res. 46) providing for the manufacture and distribution of fertilizer at Muscle Shoals.

Whereupon, Mr. John M. Morin, of Pennsylvania, moved that the House insist on its amendment to the joint resolution and ask for a conference.

The Speaker² expressed doubt as to whether such motion was in order before the Senate had taken action on the amendment.

Mr. Finis J. Garrett, of Tennessee, took issue and said:

The gentleman from Pennsylvania is quite within his rights. It is not a usual procedure, but a perfectly parliamentary procedure. It is seldom that the House has made such a request, but it has frequently been done in the Senate. If the Chair will indulge me, so far as I have been able to ascertain, the practice began in the Senate in the passage of the Dingley revenue bill in 1897. Following that it was the practice on revenue bills for many years. The present occupant of the chair I am sure will remember that what became known as the Payne-Aldrich bill, to the making of which he contributed so great a part, passed the Senate, and immediately on its passage the Senate moved to insist on its amendments and ask for a conference.

The Speaker took the position that insistence prior to disagreement by the Senate would evidence a lack of courtesy to the Senate, especially in view of the fact that the proceeding was without precedent on the part of the House.

Mr. Morin withdrew the motion, but subsequently, on the same day was recognized by the Speaker to renew it.

The Speaker said:

Before putting the motion the Chair would like to make this statement: When the gentleman from Pennsylvania offered the motion a little while ago the Chair expressed doubt as to whether the motion was in order. The gentleman from Tennessee submitted that the motion was in order under the precedents of the House. The Chair stated that he had no recollection during his term as a Member of this House of such a motion being offered. The Chair finds as a matter of fact that once during his service in the House this motion was made. It was as far back as 1907. The Chair can find no other precedent except one that occurred in 1891, and in neither case was any opinion given by the occupant of the chair in 1907. The Chair reads from Hinds' Precedents, volume 5, the following:

The Speaker read sections 6294 and 6300 from Hinds' Precedents and continued:

So the Chair was practically correct in saying that the matter had never come up where it was decided during his service in the House.

The Chair is of the opinion that such a proceeding is contrary to established rules of parliamentary procedure. It is true it has occurred a number of times in another body, the object being to alter the ordinary proceedings in conference, that is, to have one body act where it would not naturally act. The Chair also finds that in both cases, so far as the House was concerned, this procedure was on the last day of the session. The Chair can see some reason why such a motion could be submitted on the last day. The Chair is clearly of the opinion, however, that it is against the rules and the proper practice of parliamentary procedure. The object of a conference is to harmonize disagreements. In this case there is no disagreement. We have no assurance that the Senate is not in agreement.

¹First session Seventieth Congress, Record, p. 8894, 8922.

²Nicholas Longworth, of Ohio, Speaker.

However, in view of these two precedents, the Chair does not care to assume the responsibility of refusing to recognize the gentleman from Pennsylvania. The Chair will give further attention and consideration to this matter and will reserve judgment, the next time such a motion is made, as to whether he will decline to recognize a gentleman making this motion. The question is on agreeing to the motion of the gentleman from Pennsylvania.

The question being taken, it was decided in the affirmative without division, and the motion that the House insist and ask conference was agreed to.

3217. Discussion of the practice of the Senate in asking conferences on its amendments to House bills without waiting for the House to disagree.

On January 22, 1921,¹ the House considered the District of Columbia appropriation bill which the Senate had messaged over with sundry amendments on which it had requested conference without waiting for disagreement on the part of the House.

During debate on the bill, Mr. Finis J. Garrett, of Tennessee, made the following observation:

I want to suggest, if I may, for the consideration of those charged with the responsibility of arranging the order of business, that this particular measure which is before us originated in the House. It passed the Senate, and immediately upon its passage in the Senate it was moved that a conference be asked with the House. I have looked at the Record to see the form of that motion. It is my recollection that the usual form of the motion, whichever body it is made in, is to insist on its amendments or disagreement and ask for a conference. But I want to call attention to the practice that has become very frequent of late years for the Senate to take a House bill, put amendments on it, and immediately ask for a conference without having the bill come back to the House to take such action as the House may see fit on the amendments.

That was not formerly the practice. My recollection is that probably the first measure in which that practice was adopted was the Dingley tariff bill. I was not a Member of Congress at that time. After the Dingley tariff bill had passed the Senate with Senate amendments, immediately, without its coming back to the House, it was moved to insist on the Senate amendments and ask for a conference with the House. I do not think it occurred again until the Payne tariff bill passed the Senate. Then the same policy was adopted. Since that time in recent years it has become almost the custom. The effect of that is it necessitates the House acting first on the conference report. A conference report comes up for action first in the body which agrees to the conference and not in the body that has asked for it.

It has occurred to me that possibly in working under this new rule that it may be desirable to bring about a change in that practice so that the House bill can be returned with Senate amendments and let the House determine what it is going to do with the Senate amendments in advance of any conference being requested or agreed to.

3218. Instance wherein the Senate receded from its disagreement to a House amendment to its amendment, although it had insisted and asked a conference, to which the House had agreed.

On February 26, 1921,² the House having under consideration Senate amendments to the legislative, executive, and judicial appropriation bill, concurred in Senate amendment No. 113, providing a bonus of \$240 for civilian employees, with an amendment making certain exemptions.

¹Third session Sixty-sixth Congress, Record, p. 1890.

²Third session Sixty-sixth Congress, Record, p. 4007.

On March 1,¹ the Senate disagreed to the amendment of the House and insisted on its disagreement and asked further conference.

The House agreed to the conference asked by the Senate and appointed conferees, but on the same day,² before a conference was had, a message was received in the House announcing that the Senate has receded from its disagreement to the amendment of the House to Senate amendment No. 113 and had agreed to the same.

Thereupon, the bill was enrolled and signed by the Speaker.³

¹ Record, p. 4122.

² Record, p. 4210.

³ Record, p. 4314.