THE SPEAKER: It could be.

§ 10. To Recede or Recede and Concur

A "motion to recede" is a somewhat ambiguous term in the abstract: it may indicate that the person making the request in the House wishes to recede from a House amendment. After the stage of disagreement is reached, the request is normally directed at removing a particular amendment of the Senate from that condition, thus permitting a reversal of the privilege bestowed upon certain motions under Rule XLV of Jefferson's Manual (*House Rules and Manual* § 528 (1997)).

Where a bill is returned to the House with amendments in disagreement, and the House recedes from its own House amendments, the bill is passed unless the motion otherwise specifies,[6] or unless the Senate has concurred in the House amendment with a Senate amendment.[7] But if by motion the House recedes from disagreement to Senate amendments, the amendments are not thereby agreed to, since a motion to concur with an amendment is still in order.

A motion to recede from an amendment with an amendment is not privileged, but such a result can be achieved by unanimous consent or special order.[8]

Receding From House Amendment

§ 10.1 By unanimous consent, the House may recede from its own amendments to a Senate bill.

On Apr. 18, 1966,[9] the following occurred in the House:

> MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2729) to amend section 4(c) of the Small Business Act, and for other purposes, with House amendments thereto, and that the House recede from its amendments numbered 1 through 7.
>
> The Clerk read the title of the bill.
>
> THE SPEAKER:[10] Is there objection to the request of the gentleman from Texas?
>
> There was no objection.
>
> A motion to reconsider was laid on the table.[11]

6. See §§ 10.2, 10.3, infra.
7. See §§ 10.7–10.9, infra.
8. See §§ 10.4–10.6, infra.
9. 112 CONG. REC. 8207, 89th Cong. 2d Sess.
10. John W. McCormack (Mass.).

Effect of House Receding From Its Amendment to Senate Bill

§ 10.2 Where the House recedes from its amendment to a Senate bill, even where the Senate has informed the House that it disagrees with the House amendment, the Senate bill is passed.

Since the House was about to adjourn *sine die*, there was no time to go to conference on S. 1805, authorizing reinstatement of a certain oil and gas lease. The proceedings, which were not a matter of dispute, are carried here.(12)

MR. [NICK J.] RAHALL [II, of West Virginia]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1805) to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164, with House amendments thereto, and recede from the House amendments to the Senate bill.

The Clerk read the title of the Senate bill.

The text of the House amendments to the Senate bill is as follows:

House amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Oil and Gas Leasing Amendments Act of 1990".

SEC. 2. TREATMENT OF SECTION 14 LEASES. . . .

Amend the title so as to read: "An Act to amend sections 14 and 31 of the Mineral Leasing Act, and for other purposes.".

THE SPEAKER PRO TEMPORE:(13) Is there objection to the request of the gentleman from West Virginia? . . .

MR. RAHALL: Mr. Speaker, this legislation was first passed by the Senate on September 11. On October 10, the House amended and passed the bill. On Tuesday, the Senate disagreed to our amendments.

We are accepting the Senate version of this legislation. . . .

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

There was no objection.

A motion to reconsider was laid on the table.(14)

Effect of Receding

§ 10.3 When a House amendment to a Senate bill is reported back from conference in disagreement and the House insists on its amend-

11. See also 107 CONG. REC. 18595, 87th Cong. 1st Sess., Sept. 7, 1961.
12. 136 CONG. REC. 36825, 36826, 101st Cong. 2d Sess., Oct. 27, 1990.
13. Michael R. McNulty (N.Y.).
14. The enrollment of this measure was announced to the House on Jan. 3, 1991, at 137 CONG. REC. 111, 102d Cong. 1st Sess.

ment, the bill returns to the Senate with such message for further action, but should the House recede from its amendment the bill retains its original form.

On Mar. 16, 1942,[15] the House was considering the amendments reported back from conference still in disagreement to S. 2208, the second war powers bill of 1942. Mr. Hatton W. Sumners, of Texas, moved to insist on House amendment No. 32, which deleted title VIII of the bill. Mr. Charles F. McLaughlin, of Nebraska, was then recognized by the Speaker Pro Tempore, Richard M. Duncan, of Missouri:

> If the House votes not to insist upon its amendment, then there is nothing before the conferees, because the House will then have yielded to the position taken by the Senate, as I understand the situation. Am I correct?
>
> THE SPEAKER PRO TEMPORE: If the House recedes from its amendment, then there would be no reason to go to conference.
>
> MR. MCLAUGHLIN: That is what I intended to ask. So that the situation is, Mr. Speaker, if I understand it correctly, we have two alternatives—one to insist and one to recede.
>
> THE SPEAKER PRO TEMPORE: That is correct.
>
> MR. MCLAUGHLIN: If we recede, we vote to pass without further action by the conferees the bill in the form in which it was prior to the time the Judiciary Committee, by committee amendment, moved that this title be stricken out, and prior to the time the House adopted that amendment. If we vote to insist, then we send it back to conference for action by the conferees. Is that not the situation?
>
> THE SPEAKER PRO TEMPORE: If the House adopted the pending motion, then it goes back to the Senate for further consideration. It goes to the Senate first before it goes to conference.

Receding From an Amendment With an Amendment

§ 10.4 The Senate has, by unanimous consent, receded from one of its own amendments "with an amendment."

The proceedings below show the action of the Senate on Mar. 22, 1983,[16] when it receded from one of its amendments to a House bill with an amendment.

> MR. [MARK O.] HATFIELD [of Oregon]: Mr. President, I move that we adopt amendment No. 82.
>
> THE PRESIDING OFFICER:[17] The amendment has been adopted.
>
> The clerk will report the remaining amendment in disagreement.

15. 88 CONG. REC. 2508, 2512, 2513, 77th Cong. 2d Sess.

16. 129 CONG. REC. 6629, 6630, 98th Cong. 1st Sess.

17. Nancy L. Kassebaum (Kans.).

The legislative clerk read as follows:

The House insists upon disagreement to Senate amendment numbered 82.

MR. HATFIELD: Mr. President, I ask unanimous consent that it be in order for the Senate to recede from its amendment No. 82 with an amendment.

THE PRESIDING OFFICER: Without objection, it is so ordered.

UP AMENDMENT NO. 118

MR. HATFIELD: Mr. President, I send an amendment to the desk.

THE PRESIDING OFFICER: The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. Hatfield) proposes an unprinted amendment numbered 118.

MR. HATFIELD: Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

THE PRESIDING OFFICER: Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 101. (a)(1) Notwithstanding any other provision of law, 75 per centum of the funds appropriated or otherwise made available in this title for each account listed in subsection (a)(5) shall be made available for projects and activities in civil jurisdictions with high unemployment, or in labor surplus areas, or in political units or in pockets of poverty that are currently or should meet the criteria to be eligible under the Urban Development Action Grant program administered by the Department of Housing and Urban Development.

On Mar. 24, 1983,[18] when the House took up the message from the Senate with respect to the new Senate amendment 82, it was considered as privileged, the stage of disagreement being in effect, even with respect to this new amendment.

EMERGENCY APPROPRIATIONS, 1983

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 1718) making emergency expenditures to meet national needs for the fiscal year ending September 30, 1983, and for other purposes, with the remaining Senate amendment numbered 82 thereto, and concur therein.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Resolved, That the Senate recede from its amendment numbered 82 and concur with a further amendment as follows:

Page 32, of the House engrossed bill, strike out all after line 21 over to and including line 5 on page 35 and insert: . . .

THE SPEAKER:[19] The gentleman from Mississippi (Mr. Whitten) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 30 minutes.

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18. 129 CONG. REC. 7300, 7301, 98th Cong. 1st Sess.

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

The Chair recognizes the gentleman from Mississippi (Mr. Whitten).

Parliamentarian's Note: Although the Senate is not under its rules specifically governed by Jefferson's Manual, it has traditionally followed the prohibition Jefferson sets forth in Sec. XLV of his Manual: "But the House can not recede from or insist on its own amendment, with an amendment; for the same reason that it cannot send to the other House an amendment to its own act after it has passed the act. They may modify an amendment from the other House by engrafting an amendment on it, because they have never assented to it; but they cannot amend their own amendment, because they have, on the question, passed it in that form."[20]

§ 10.5 Form of a special order permitting the House to recede from its amendment to a Senate amendment in disagreement, and concur therein with a different amendment.

On Nov. 15, 1995,[1] the Senate had attempted to table its amendment numbered 115 to the bill H.R. 1868. Debate in the Senate indicated that the Senate action would clear the bill for presentation to the President, assuming that by tabling its amendment (in which the House had already concurred with an amendment) there would be nothing left in disagreement between the Houses.

On Dec. 13, 1995,[2] the House took the action here noted, since under House precedents, the Senate action in tabling its amendment (an action which the Senate equated with receding from its amendment) was not itself an action sufficient to pass the bill without further action by the House.[3]

The Senate action, a portion of the debate on that occasion, and the special order utilized in the House to recede from its amendment and concur with a new amendment are carried here. The special order provided for a waiver of points of order against the mo-

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

1. 141 CONG. REC. 32530, 32534, 104th Cong. 1st Sess.
2. *Id.* at p. 36290.
3. See § 10.9, infra.

tion, since House precedents indicate that it is not parliamentary to recede from a House amendment to a Senate text with an amendment.[4]

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

MR. [MITCH] MCCONNELL [of Kentucky]: Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1868, a bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

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

> *Resolved*, That the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 115 to the bill (H.R. 1868) entitled "An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.". . . .

. . . [T]he motion to lay on the table the amendment (No. 115) was agreed to. . . .

MR. MCCONNELL: Mr. President, let me describe where I believe we are on the foreign operations bill as of this motion to table.

According to the Senate Parliamentarian, based on precedence, beginning in 1898 and in subsequent votes as recently as 1984, either House has the option to recede on its amendment. Based on discussions with the Parliamentarian, it is my understanding that by tabling amendment No. 115, we have, in effect, receded our position on both the Kassebaum language [Senate] and the Chris Smith language [House] leaving no further amendments in disagreement. This means no further action is required by the House on the foreign operations appropriations bill, unless it chooses to, and it can be enrolled by the House and sent to the President, again, if the House should choose to take that route. . . .

DISPOSING OF SENATE AMENDMENT 115 TO H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

MR. [PORTER J.] GOSS [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 296 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 296

> *Resolved*, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with the Senate amendment numbered

4. See 5 Cannon's Precedents §§ 6216–6218; *House Rules and Manual* § 526 (1997).

115 thereto, and to consider in the House the motion printed in section 2 of this resolution. The Senate amendment and the motion shall be considered as read. All points of order against the motion are waived. The motion shall be debatable for one hour equally divided and controlled by the proponent and an opponent. The previous question shall be considered as ordered on that motion to final adoption without intervening motion or demand for division of the question.

SEC. 2. The motion to dispose of the amendment of the Senate numbered 115 is as follows:

Mr. Callahan (or his designee) moves that the House recede from its amendment to the amendment of the Senate numbered 115, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

"Authorization of Population Planning

"SEC. 518A. Section 526 of this Act shall not apply to funds made available in this Act for population planning activities or other population assistance pursuant to section 104(b) of the Foreign Assistance Act or any other provision of law, or to funds made available in title IV of this Act as a contribution to the United Nations Population Fund (UNFPA).".

THE SPEAKER PRO TEMPORE:[5] The gentleman from Florida [Mr. Goss] is recognized for 1 hour. . . .

§ 10.6 The House has also receded from a House amendment to a Senate amendment to a House bill with an amendment, but only by unanimous consent.

The request made by Mr. Eligio (Kika) de la Garza, of Texas, on July 14, 1983,[6] shows an example of this type of action, which is rarely utilized.

AGRICULTURAL ACT OF 1949 AMENDMENT

MR. DE LA GARZA: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3392) to amend the Agricultural Act of 1949, with a House amendment to the Senate amendment thereto, and to recede from the House amendment with an amendment.

The Clerk read the title of the bill.

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

In lieu of the language contained in the Senate amendment, insert the following:

Page 1, after line 11, insert the following:

SEC. 2. Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by—

(1) in the second sentence of subsection (c), striking out "5 per centum" and inserting in lieu thereof "10 per centum"; and

(2) in the fourth sentence of subsection (e), striking out "95 per centum" and inserting in lieu thereof "90 per centum". . . .

5. Jack Kingston (Ga.).

6. 129 CONG. REC. 19158, 98th Cong. 1st Sess.

THE SPEAKER:[7] Is there objection to the request of the gentleman from Texas?

There is no objection.

Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

Effect of Receding From an Amendment, the Other House Having Concurred With a Further Amendment

§ 10.7 Where one House has receded from its amendment to a bill after the other House has concurred therein with an amendment, the bill is not passed until the House that has concurred with an amendment has receded from its own amendment and agreed to the action of the other House.

In the instance described here,[8] the Senate had actually not receded from, but tabled, its amendment in which the House had previously concurred in with an amendment. Mr. Mark O. Hatfield, of Oregon, originally moved to recede, but after debate, the question was put on his motion to table the Senate amendment to the House amendment.

THE PRESIDING OFFICER:[9] The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "No funds are appropriated herein for the Central Intelligence Agency in fiscal year 1984 for purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.".

MR. HATFIELD: Mr. President, this is the amendment dealing with the subject of Nicaragua, aid to Nicaragua. I now move that the Senate recede from its amendment numbered 14.

THE PRESIDING OFFICER: Without objection, the motion is agreed to.

MR. [WILLIAM] PROXMIRE [of Wisconsin]: Mr. President, I suggest the absence of a quorum.

MR. HATFIELD: Mr. President, if the Senator will withhold, I was about ready to explain the motion. I think there are Members who wish to speak on this issue. I should like to have the Chair not rule on this point, on the adoption of this motion, until I have had an opportunity to explain it. . . .

7. Thomas P. O'Neill, Jr. (Mass.).
8. 130 CONG. REC. 18576, 18591, 98th Cong. 2d Sess., June 25, 1984.
9. Robert W. Kasten, Jr. (Wis.).

(Mrs. [Nancy L.] Kassebaum [of Kansas] assumed the chair.)

MR. HATFIELD: Madam President, I thank the Senator from North Carolina. I know that he feels strongly about this issue and expressed himself today in very eloquent terms. Even though we disagree on the matter, I think the issue has had a good debate and good discussion and the record has been made.

Therefore, at this time, I move to table Senate amendment numbered 14.

MR. [EDWARD M.] KENNEDY [of Massachusetts]: Madam President, this is an important vote.

It does represent a lessening of the administration's commitment to the war.

And I say, "Amen."

Madam President, I ask for the yeas and nays.

THE PRESIDING OFFICER: Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Oregon [Mr. Hatfield] to table Senate amendment No. 14. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

MR. [JOHN C.] STENNIS [of Mississippi]: I announce that the Senator from South Dakota [Mr. Abdnor] and the Senator from Colorado [Mr. Armstrong] are necessarily absent. . . .

So the motion to lay on the table Senate amendment No. 14 was agreed to.

MR. [HOWARD H.] BAKER [Jr., of Tennessee]: Madam President, I move to reconsider the vote by which the motion was agreed to.

MR. [ALAN J.] DIXON [of Illinois]: I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MR. BAKER: Madam President, am I correct now that the vote just taken, which disposes of the last remaining amendment in disagreement, is the final action required by the Senate on this measure?

THE PRESIDING OFFICER: The majority leader is correct.

MR. BAKER: I thank the Chair.

On the following day,[10] the House took the necessary conforming action. Mr. Jamie L. Whitten, of Mississippi, offered a unanimous-consent request, but since the stage of disagreement had been reached when the measure was sent to conference, a motion to recede from the House amendment would have been privileged.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 492) entitled "Joint resolution making an urgent supplemental appropriation for the

10. 130 CONG. REC. 18733, 18734, 98th Cong. 2d Sess., June 26, 1984.

fiscal year ending September 30, 1984, for the Department of Agriculture." . . .

The message also announced that the Senate tabled its amendment numbered 14 to the above-entitled joint resolution. . . .

EXPLANATION OF HOUSE JOINT RESOLUTION 492 . . .

MR. WHITTEN: Mr. Speaker, I wish to make a statement regarding a unanimous-consent request that I am about to make regarding the urgent supplemental (H.J. Res. 492). As my colleagues probably know by now, yesterday the Senate cleared the remaining obstacle on the conference report on the urgent supplemental. By a record vote of 88 to 1 the other body agreed with the House position that no additional funding should be made available to the CIA for the Nicaragua operations. This House voted 241 to 177 on May 24 to prohibit the CIA to use any funds in this bill to continue their covert actions in Nicaragua. Finally after almost a month, the Senate has come around to the House position on this matter. My unanimous-consent request, which I will make shortly is somewhat unusual in that since the Senate has tabled its amendment (No. 14) which provided the $21 million, for the bill to go to the President we need to recede from our language amendment which was offered by the gentleman from Massachusetts [Mr. Boland]. Since the funding is no longer in this measure, the language prohibition is no longer required and it can now be deleted so that this bill may go to the President.

I sincerely hope that no one will object to this request. This resolution which began in the Appropriations Committee on February 29 is long overdue and necessary. . . .

URGENT SUPPLEMENTAL APPROPRIATION, DEPARTMENT OF AGRICULTURE, 1984

MR. WHITTEN: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture, with the remaining amendment, and that the House recede from its amendment to the amendment of the Senate numbered 14 and agree to the action of the Senate.

This is necessary in order for the bill to go on to the President, and as I say again, everyone that I have talked to agrees that it is necessary.

The Clerk read the title of the joint resolution.

THE SPEAKER:[11] Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

Parliamentarian's Note: In the Senate, tabling an amendment does not table the underlying bill (as would be the case in the House).

Relevant precedents relating to one House receding from its amendment after the other has concurred with an amendment

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

are noted in Jefferson's Manual, *House Rules and Manual* § 524 (1997).

§ 10.8 Where the Senate has receded from its amendment to a bill after the House has concurred therein with an amendment, the bill is not passed until the House has receded from its own amendment and agreed to the action of the other body.

On Nov. 9, 1993,[12] Sidney R. Yates, of Illinois, Chairman of the Interior Subcommittee of the Committee on Appropriations, made the unanimous-consent request carried below. Since the stage of disagreement had been reached on the amendments remaining in disagreement to the appropriation bill, the matter could have been effected by a motion if the request were not agreed to.

MR. YATES: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the conference report on the bill (H.R. 2520) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes, with the remaining amendment in disagreement and that the House recede from its amendment to the amendment of the Senate numbered 123 and agree to the action of the Senate.

The Clerk read the title of the bill.

The text of the House amendment to Senate amendment No. 123 is as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 317. GRAZING. . . .

Title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.) is amended by adding the following new sections:

"SEC. 406. GRAZING FEES.

"(a) ESTABLISHMENT.—The Secretary of the Interior and the Secretary of Agriculture shall annually establish grazing fees.

"(b) PHASE-IN.—The grazing fee for the grazing years 1994, 1995, and 1996 shall be as follows . . . .

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

MR. [RALPH] REGULA [of Ohio]: Mr. Speaker, reserving the right to object, I reserve the right to object in order to advise the House as to what has happened on this.

On September 29 this House, by a vote of 314 to 109, instructed the House conferees to reject the Senate amendment to this bill which put a moratorium on the Secretary of the Interior. I am pleased to inform the House Members that the House has prevailed. The moratorium has been taken out of the bill and the Secretary of the Interior will now be free to, by executive action, deal with the grazing-fee issue and also

12. 139 CONG. REC. 28061–64, 103d Cong. 1st Sess.

with whatever regulations he may choose to promulgate.

This reflects exactly the House position as we, as conferees, were instructed by that vote on September 29.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

§ 10.9 Where the Senate recedes from amendments which have been amended by the House it is necessary, to reach agreement on the bill, for the House to recede from its amendments to the Senate amendments.

On Sept. 11, 1944,[13] Speaker Sam Rayburn, of Texas, recognized Mr. Stephen Pace, of Georgia:

Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4278) to provide for the control and eradication of certain animal and plant pests and diseases, to facilitate cooperation with the States in fire control, to provide for the more efficient protection and management of the national forests, to facilitate the carrying out of agricultural conservation and related agricultural programs, to facilitate the operation of the Farm Credit Administration and the Rural Electrification Administration, to aid in the orderly marketing of agricultural commodities, and for other purposes, with Senate amendments; that the House recede from its amendments to Senate amendments Nos. 1 and 3 and agree to the action of the Senate in receding from their amendments Nos. 1 and 3.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, reserving the right to object, will the gentleman explain in very clear language the necessity for this?

MR. PACE: The bill H.R. 4278 was an authorization bill which passed the House last May authorizing certain appropriations that Congress has made for a number of years but which had never been authorized by law. After being amended I believe the bill passed the House practically unanimously.

The Senate Committee on Agriculture reported the bill line for line as it was passed by the House; but they did add three amendments, one having to do with the school-lunch program, a second having to do with the Farm Security Administration, and a third having to do with the tobacco-acreage allotments.

The House never agreed to the amendment relating to tobacco allotments but did agree with an amendment to the school-lunch and Farm Security provisions. On account of the fact that these two provisions subsequently were written into the agricultural appropriation bill and enacted into law the Senate has agreed to recede from all three amendments. Inasmuch as the other two provisions are

13. 90 CONG. REC. 7634, 78th Cong. 2d Sess.

now in the agricultural appropriation bill they have receded from the tobacco amendment.

I am advised by the Parliamentarian, however, that inasmuch as we concurred in two of the amendments with amendments it is now necessary that the House concur in the action of the Senate in receding from their original amendments.

MR. MICHENER: Yes, I understand that. The language of the request is unusual from a parliamentary standpoint; it is very difficult to understand. It expresses what ought to be done, but in a very unusual way. I do not wish to apologize for the Parliamentarian in drafting the language of the request, for I think it is the only possible approach he could make to a situation so unusual.

MR. PACE: I am advised it is under these circumstances.

Division of Motion To Recede and Concur

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

On June 15, 1943,[14] the House was considering the Senate amendment in disagreement to H.R. 1648, Treasury and Post Office appropriations for 1944. Speaker Sam Rayburn, of Texas, recognized Mr. Louis Ludlow, of Indiana:

Mr. Speaker, I move to recede and concur in the Senate amendment, and I yield myself 15 minutes.

MR. [JOHN] TABER [of New York]: Mr. Speaker, I ask for a division of the question.

MR. LUDLOW: Mr. Speaker, I object to a division of the question and insist on my preferential motion to recede and concur.

THE SPEAKER: The Chair thinks the gentleman from New York is entitled to have the question divided if he so desires.

MR. LUDLOW: A parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state it.

MR. LUDLOW: I have always understood that a motion to recede and concur by the Member in charge of the bill is a preferential motion.

THE SPEAKER: It is a preferential motion, but it may be divided.

MR. LUDLOW: If I insist that it is a preferential motion, what is the ruling of the Chair?

THE SPEAKER: The ruling of the Chair is that it is a preferential motion, but it is divisible. If any Member desires a division of the question, he has a right under the rules of the House to demand it.[15]

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14. 89 CONG. REC. 5899, 78th Cong. 1st Sess.

15. See also 109 CONG. REC. 8506, 88th Cong. 1st Sess., May 14, 1963 (H.R. 5517); and 106 CONG. REC. 14074,

§ 10.11 Any Member may as a matter of right (under Rule XVI clause 6) demand a division of the question on a motion to recede and concur in a Senate amendment, and the House does not vote on whether to permit a division of the question.

On June 28, 1972,[16] the House was considering Senate amendments in disagreement to H.R. 13955, legislative branch appropriations for fiscal 1973. Mr. Robert R. Casey, of Texas, offered a motion that the House insist on its disagreement to Senate amendment No. 36. Speaker Carl Albert, of Oklahoma, then recognized Mr. Samuel S. Stratton, of New York:

Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Stratton moves that the House recede from its disagreement to Senate amendment numbered 36 and concur therein.

MR. CASEY of Texas: Mr. Speaker, I request a division of the question.

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

THE SPEAKER: The gentleman will state it.

MR. STRATTON: Is the request for a division of the question presumably to recede on one part and concur on the other part? Is this subject to a vote or something?

THE SPEAKER: All of the motion is subject to a vote. The question is on the matter of receding from disagreement.

MR. STRATTON: A further parliamentary inquiry, Mr. Speaker. If a Member is in favor of accepting the Senate amendment, then he would oppose the motion to divide on the vote. Is that correct?

THE SPEAKER: This is not a question of voting on the division but a question of voting on the motion to recede.

MR. STRATTON: A further parliamentary inquiry. My understanding is that if the motion to divide succeeds and passes, then it is possible parliamentarily to offer an amendment to the Senate amendment rather than to accept the Senate amendment. Is that not correct?

THE SPEAKER: If the motion to recede from disagreement is adopted, then a motion to concur in the Senate amendment with an amendment is in order.

MR. STRATTON: Then another further parliamentary inquiry, Mr. Speaker. If we want to accept the Senate amendment and conclude the conference, the way to do that is to vote down the motion to divide this particular question. Is that not true?

THE SPEAKER: There is no question of division involved.

MR. STRATTON: Mr. Speaker, I am confused. My original question was

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86th Cong. 2d Sess., June 23, 1960 (H.R. 10569).

16. 118 CONG. REC. 22959, 22974, 92d Cong. 2d Sess.

whether the proposal to divide the question into two parts was subject to a vote.

THE SPEAKER: Division of a question is a right which any Member of the House enjoys.

§ 10.12 Where a motion to recede and concur with an amendment to an amendment of the Senate reported in disagreement from conference has been divided, and the House has refused to recede, the conferee managing the bill is entitled to recognition to offer a motion to insist on disagreement.

The practice regarding the Speaker's bestowal of recognition to offer a new motion following the rejection of a motion to recede from disagreement is illustrated by the proceedings of Sept. 24, 1975.[17]

THE SPEAKER:[18] . . . The question is on the motion to recede.

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

The vote was taken by electronic device, and there were—yeas 197, nays 203, not voting 33. . . .

So the motion to recede was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. SLACK

MR. [JOHN M.] SLACK [Jr., of West Virginia]:[19] Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House insist on its disagreement to Senate amendment No. 8.

THE SPEAKER: Does the gentleman from West Virginia desire time on the motion?

MR. SLACK: Mr. Speaker, I desire no time.

MR. [M. G. (GENE)] SNYDER [of Kentucky]: Mr. Speaker, will the gentleman yield just for 30 seconds?

MR. SLACK: I yield to the gentleman from Kentucky.

MR. SNYDER: Mr. Speaker, I just wanted to say I had the same motion.

The motion was agreed to.

Debating Both Parts of Divided Motion To Recede and Concur

§ 10.13 When the question is divided on a motion to recede and concur, and the House debates the question of whether to recede under

17. 121 CONG. REC. 30081, 30082, 94th Cong. 1st Sess.

18. Carl Albert (Okla.).

19. Mr. Slack was the manager of the conference report on H.R. 8121 (State, Justice, Commerce, the Judiciary appropriations for fiscal year 1976) by virtue of his chairmanship of the Subcommittee on State, Justice, Commerce, and Judiciary.

the hour rule and does not order the previous question on either member of the divided question, then the second member (to concur, or the preferential motion to concur with amendment, if offered) is separately debatable for one hour.

Where a motion to dispose of an amendment in disagreement is pending, a Member offering a preferential motion does not ordinarily control time thereon, as all debate is allocated on the original motion. But where an original motion is divided, it in effect becomes two motions, each subject to debate under the hour rule, subject to the divided allocations prescribed in Rule XXVIII clause 2(b)(2).[20] Often, the question on receding is put without debate so the House can get quickly to the next step: a preferential motion or the other half of the divided question.

The proceedings of Nov. 14, 1989,[1] included debate on both the motion to recede and the preferential motion to concur with an amendment.

THE SPEAKER PRO TEMPORE:[2] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 17: Page 11, line 25, after "zation" insert ": *Provided further*, That notwithstanding the previous proviso, not less than $15,000,000 of the funds appropriated under this heading shall be made available only for the United Nations Population Fund: *Provided further*, That the United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further*, That none of the funds made available under this heading for the United Nations Population Fund shall be made available for programs for the People's Republic of China".

MOTION OFFERED BY MR. OBEY

MR. [DAVID R.] OBEY [of Wisconsin]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Obey moves that the House recede from its disagreement to the amendment of the Senate numbered 17, and concur therein. . . .

MR. [VIN] WEBER [of Minnesota]: Mr. Speaker, I demand that the question be divided.

THE SPEAKER PRO TEMPORE: The question will be divided.

The gentleman from Wisconsin [Mr. Obey] will be recognized for 30 minutes, and the gentleman from Okla-

20. *House Rules and Manual* § 912(c) (1997).

1. See 135 CONG. REC. 28754, 28766, 101st Cong. 1st Sess.

2. Sander M. Levin (Mich.).

homa [Mr. Edwards] will be recognized for 30 minutes.

MR. [MICKEY] EDWARDS of Oklahoma: Mr. Speaker, I ask unanimous consent that the 30 minutes allotted to me may be controlled by the gentleman from New Jersey [Mr. Smith].

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

There was no objection.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey [Mr. Smith] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. Obey]. . . .

MR. [WILLIAM] LEHMAN of Florida: Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

THE SPEAKER PRO TEMPORE:[3] The question is, will the House recede from its disagreement to the amendment of the Senate numbered 17?

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

PREFERENTIAL MOTION OFFERED BY MR. SMITH OF NEW JERSEY

MR. [CHRISTOPHER H.] SMITH of New Jersey: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Smith of New Jersey moves to concur with the Senate amendment (number 17) with an amendment, as follows: at the end of Senate amendment 17, insert:
>
> *Provided further*, That notwithstanding the previous provisos, no funds under this heading shall be made available to the United Nations Population Fund unless the President of the United States certifies that the United Nations Population Fund does not provide support for, or participate in the management of, a program of coercive abortion or involuntary sterilization in the People's Republic of China.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey [Mr. Smith] will be recognized for 30 minutes, and the gentleman from New York [Mr. McHugh] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Smith].

Debate on Motion To Recede and Concur

§ 10.14 Debate on a motion that the House recede from its disagreement to a Senate amendment and concur in the same is under the hour rule, and if the question is divided the hour rule applies to each motion separately.

On May 9, 1940,[4] during consideration of the conference report and amendments in disagreement to H.R. 8202, the agricultural appropriation bill for 1941, the following discussion occurred:

3. Frank McCloskey (Ind.).

4. 86 CONG. REC. 5889, 76th Cong. 3d Sess.

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Speaker, as I understand, there is 1 hour debate allowed on the motion to recede and concur. Request had been made for a division. My inquiry is this: Will there be 1 hour of debate on each motion?

THE SPEAKER:[5] The gentleman from Missouri [Mr. Cannon] controls the time. If one is demanded on the motion to recede, that hour is granted. Then an hour will be granted on the motion to concur.

MR. WHITTINGTON: That satisfies my inquiry.

Consequences of Dividing Motion To Recede and Concur

§ 10.15 Where a division of the question was demanded on a preferential motion to recede from disagreement and concur in a Senate amendment (offered while a motion to insist was pending), the Speaker indicated: (1) that if the motion to recede were agreed to, a motion to concur with a germane amendment would take precedence over the pending motion to concur; but (2) that if the motion to recede were disagreed to, the question would recur on the initial motion to insist on disagreement to the Senate amendment.

On Aug. 10, 1976,[6] when the House had under consideration the final amendment remaining in disagreement following adoption of the conference report on an appropriation bill,[7] the manager[8] of the bill offered a motion that the House insist on its disagreement. A preferential motion to recede and concur was then offered, followed by a demand that that motion be divided. The proceedings and inquiries are carried below:

THE SPEAKER:[9] The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 68: Page 39, line 5, strike out: "Sec. 209. None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions."

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

5. William B. Bankhead (Ala.).

6. 122 CONG. REC. 26781, 26783, 26792, 26793, 94th Cong. 2d Sess.

7. H.R. 14232 (Labor and Health, Education, and Welfare appropriations for fiscal 1977).

8. Daniel J. Flood (Pa.).

9. Carl Albert (Okla.).

Mr. Flood moves that the House insist on its disagreement to the amendment of the Senate numbered 68.

PREFERENTIAL MOTION OFFERED BY MR. PRITCHARD

MR. [JOEL] PRITCHARD [of Washington]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Pritchard moves that the House recede from its disagreement to the amendment of the Senate numbered 68 and concur therein.

MR. [DAVID R.] OBEY [of Wisconsin]: Mr. Speaker, if this is the correct time to make this request, I ask that that question be divided.

THE SPEAKER: The Chair will inform the gentleman that the question will be divided on the preferential motion. . . .

PARLIAMENTARY INQUIRY

MR. [JEROME A.] AMBRO [of New York]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. AMBRO: Mr. Speaker, as I understand the situation, the gentleman from Pennsylvania is making a motion to insist on the House language incorporated in the Hyde amendment. The gentleman from Washington (Mr. Pritchard) now asks us to recede and concur with the Senate language.

THE SPEAKER: The gentleman is right.

MR. AMBRO: The gentleman then said that this was divisible, which means that we can take a vote on the motion to recede.

THE SPEAKER: To recede from disagreement to the Senate amendment.

MR. AMBRO: Yes. If the motion to recede passes, can we then go on with a vote to concur with the Senate language? Is that the next step?

THE SPEAKER: Yes. But if the House recedes, any germane motion to concur with an amendment would be in order before the House votes on the pending motion to concur.

MR. AMBRO: To concur with an amendment will be in order. If the motion to recede fails, is another preferential motion to recede and amend in order?

THE SPEAKER: No.

MR. AMBRO: Do we then move to a vote on the Flood language?

MR. FLOOD: Pro forma.

THE SPEAKER: The gentleman is correct.

MR. AMBRO: That is correct?

THE SPEAKER: Yes.

MR. AMBRO: I thank the Speaker. . . .

MR. FLOOD: Mr. Speaker, I move the previous question on the motion to insist on its disagreement and on the preferential motion.

THE SPEAKER: Without objection, the previous question is ordered.

There was no objection.

PARLIAMENTARY INQUIRY

MS. [BELLA S.] ABZUG [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentlewoman will state it.

MS. ABZUG: Mr. Speaker, if as the chairman has indicated he moves the previous question, if one intends to concur with the Senate amendment one would vote "yea" and if one opposes the Senate amendment, which is to elimi-

nate the Hyde amendment, then one would vote "nay." Is that correct?

THE SPEAKER: The question will be on whether the House shall recede from its disagreement. If the House does not recede, then the motion of the gentleman from Pennsylvania will be voted upon, and then the House could insist on its position and then the matter will go back to the Senate.

PARLIAMENTARY INQUIRY

MR. [JOE] SKUBITZ [of Kansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SKUBITZ: Mr. Speaker, if the House votes to recede, would a motion have precedence?

THE SPEAKER: A motion will be in order.

MR. SKUBITZ: I thank the Chair.

THE SPEAKER: The question is on the motion offered by the gentleman from Washington (Mr. Pritchard) that the House recede from its disagreement to the amendment of the Senate numbered 68. . . .

So the motion to recede was rejected.

The result of the vote was announced as above recorded.

THE SPEAKER: The question is on the motion offered by the gentleman from Pennsylvania (Mr. Flood).

The motion was agreed to.

A motion to reconsider the vote by which action was taken on the several motions was laid on the table.

Stage of Disagreement, Once Reached, Continues as Additional Amendments Are Considered; Precedence of Motions

§ 10.16 A motion in the House to dispose of a further amendment of the Senate to a House amendment to a Senate amendment, the stage of disagreement having been reached, is privileged and is more preferential than a motion to commit under Rule XVII clause 1.

Where the House, pursuant to a rule, amended a Senate amendment to a House bill, then insisted on its amendment and requested a conference, the stage of disagreement was reached; and when the Senate ignored a request for a conference and sent the House a further amendment to the House amendment to the Senate amendment, the motion to concur in the House was deemed privileged.

A motion to refer, or to commit, a Senate amendment to a House amendment to a Senate amendment, the stage of disagreement having been reached, is in order under Rule XVI clause 4 if the previous question is rejected on the motion to concur.

Where the final stage of amendment is reached between the Houses, the motion which tends to bring the matter to closure most quickly is the most preferential.

On Sept. 16, 1976,[10] when the House had before it the final Senate amendment to the House amendment to the Senate amendment to a House bill, the options available to the House were limited. When the manager of the bill[11] moved to concur in the final Senate amendment, a series of inquiries and alternatives were broached, including a specific inquiry regarding the applicability of a motion to refer under Rule XVII[12] in the pending situation:

> MR. RODINO: Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with a Senate amendment to the House amendment to the Senate amendments thereto, and concur in the Senate amendment to the House amendment to the Senate amendments.

The Clerk read the title of the bill.

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

> In lieu of the matter proposed to be inserted by the House engrossed amendment to the Senate engrossed amendments, insert;
>
> That this Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1976". . . .

MR. RODINO (during the reading): Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with.

THE SPEAKER:[13] Is there objection to the request of the gentleman from New Jersey?

PARLIAMENTARY INQUIRIES

MR. [ROBERT] MCCLORY [of Illinois]: Mr. Speaker, I have several parliamentary inquiries.

THE SPEAKER: The gentleman will state them.

MR. MCCLORY: Mr. Speaker, is the motion of the gentleman from New Jersey privileged because the stage of disagreement has been reached?

THE SPEAKER: The gentleman is correct.

MR. MCCLORY: Mr. Speaker, my next parliamentary inquiry is, was the stage of disagreement reached when the House insisted on its amendment to the first Senate amendment and requested a conference thereon, even though the Senate had not previously or has not subsequently voted its disagreement?

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10. 122 CONG. REC. 30868, 30872, 30873, 30887, 30888, 94th Cong. 2d Sess.

11. Peter W. Rodino, Jr. (N.J.), Chairman of the Committee on the Judiciary.

12. *House Rules and Manual* § 804 (1997).

13. Carl Albert (Okla.).

THE SPEAKER: That is correct.

MR. MCCLORY: Mr. Speaker, my third parliamentary inquiry is this: Is the House still in disagreement even though it has not acted upon the Senate amendment now before the House?

THE SPEAKER: The stage of disagreement is still in effect.

MR. MCCLORY: I thank the Speaker.

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

There was no objection.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Rodino moves that the House concur in the Senate amendment to the House amendment to the Senate amendments. . . .

MR. RODINO: Mr. Speaker, I allot myself such time as I may consume. . . .

I move the previous question on the motion.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. MCCLORY: Mr. Speaker, in view of the fact that rule XVII states that "It shall be an order—after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee," and in view of the fact that motions to commit are permitted when the stage of disagreement has been reached in the context of the consideration of conference reports, and in view of the fact that prior precedents indicate that a motion to commit is in order after the previous question has been ordered on a motion to concur in a Senate amendment (V, 5575), is it absolutely necessary to first vote down the previous question before I may be recognized to offer a motion to commit?

THE SPEAKER: The answer to the specific question is "yes," but the precedent cited by the gentleman is not applicable in the present situation, since in this case the stage of disagreement has been reached and therefore the pending motion is most preferential as tending to resolve the differences between the House most quickly.(14)

MR. MCCLORY: I thank the Chair. . . .

THE SPEAKER: The question is on ordering the previous question.(15)

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14. The precedent cited by Mr. McClory (5 Hinds' Precedents § 5755) involved action on a Senate amendment which was not in disagreement. Rule XVII clause 1 was held on that occasion to permit a motion to commit after the previous question was ordered.

15. If the previous question on Mr. Rodino's motion had been voted down, a motion to refer under Rule XVI clause 4 (*House Rules and Manual* § 782 (1997)) would have been in order, but not the most preferential. See *House Rules and Manual* § 808 (1997), which states "Although a motion to commit under this clause, with instructions to report forthwith with an amendment, has been allowed after the previous question has been ordered on a motion to dispose of Senate amendments before the stage of disagreement (5 Hinds'

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

RECORDED VOTE

MR. MCCLORY: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 177, not voting 38. . . .

§ 10.17 The stage of disagreement having been reached and the previous question having been demanded on the motion to recede (the motion to recede and concur in the Senate amendment having been divided), the Chair informed a Member that a motion to refer the matter back to the committee having jurisdiction would not be in order.

Precedents § 5575; 8 Cannon's Precedents §§ 2744, 2745), a motion to commit under this rule does not apply to a motion disposing of Senate amendments after the stage of disagreement where utilized to displace a pending preferential motion." But a motion which would further amend would not have been in order since it would have been in the third degree.

On May 14, 1963,[16] a motion to recede and concur in a Senate amendment to H.R. 5517, supplemental appropriations for fiscal 1963, had been divided and the previous question had been demanded on the motion to recede.

MR. [AUGUST E.] JOHANSEN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[17] The gentleman will state it.

MR. JOHANSEN: Mr. Speaker, if the privileged motion prevails, what will be the parliamentary situation with respect to the possibility of offering a motion to refer the matter back to the proper legislative committee?

THE SPEAKER: Under present circumstances, that motion, in the opinion of the Chair, would not be in order.

Effect of Receding After Division of Motion

§ 10.18 A motion to recede from disagreement to a Senate amendment and concur therein is divisible and, if the House recedes, the motion to concur in the Senate amendment is then pending.

On June 30, 1972,[18] the House was considering the conference

16. 109 CONG. REC. 8508, 88th Cong. 1st Sess.
17. John W. McCormack (Mass.).

report and amendments in disagreement to H.R. 15390, providing for a temporary extension of the public debt limit. Speaker Carl Albert, of Oklahoma, recognized Mr. John J. Rhodes, of Arizona, with a parliamentary inquiry:

> Mr. Speaker, as I understand the parliamentary situation that will prevail, there are two amendments which will be offered and then a motion will be offered, presumably by the gentleman from Arkansas, to recede and concur.
>
> At that time, Mr. Speaker, is that motion divisible?
>
> THE SPEAKER: It is.
>
> MR. RHODES: Mr. Speaker, a further parliamentary inquiry—if the motion to recede is carried, then a motion to concur is then in order; is that correct?
>
> THE SPEAKER: That is part of the pending motion to recede and concur.

§ 10.19 After a motion to recede and concur in a Senate amendment is divided and the previous question had been moved on the pending question to recede, no motion to concur in the Senate amendment with an amendment is in order until the House votes to recede.

On May 14, 1963,[19] the House was considering Senate amendment No. 76 to H.R. 5517, supplemental appropriations for fiscal 1963. A motion to recede and concur offered by Mr. Robert R. Barry, of New York, was divided on demand of Mr. Albert Thomas, of Texas, who then moved the previous question on the motion to recede. At this point Mr. H. R. Gross, of Iowa, sought to offer a "substitute"[20] motion:

> Mr. Speaker, I would like to offer a substitute for the Barry motion.
>
> THE SPEAKER:[1] The gentleman from Texas has moved the previous question.

Effect of the Previous Question

§ 10.20 The motion to recede and concur having been divided, the previous question applies only to the motion to recede and, if both the previous question and the motion to recede are agreed to, then

18. 118 CONG. REC. 23716, 23717, 92d Cong. 2d Sess.

19. 109 CONG. REC. 8508, 88th Cong. 1st Sess.

20. The term "substitute" motion is imprecise here. If Mr. Gross had intended to offer a motion to concur with an amendment, such motion would have been "preferential" if the motion to recede had carried in the House.

1. John W. McCormack (Mass.).

the question of concurring is before the House.

On May 14, 1963,[2] the House was considering Senate amendments in disagreement to the supplemental appropriations bill, H.R. 5517. Mr. Robert R. Barry, of New York, moved that the House recede from its disagreement to Senate amendment No. 76 and concur therein. That motion was divided on demand of Mr. Albert Thomas, of Texas, who, after brief debate moved the previous question on the motion to recede. Mr. Melvin R. Laird, of Wisconsin, then posed a parliamentary inquiry:

> Mr. Speaker, as I understand, the gentleman from Texas moved the previous question merely on the question of receding. We will still have the question before us of concurring, and amendments may be offered?
>
> THE SPEAKER:[3] The gentleman is correct.
>
> MR. [FRANK J.] BECKER [of New York]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. BECKER: Mr. Speaker, what has happened to the preferential motion made by the gentleman from New York?
>
> THE SPEAKER: The motion of the gentleman from New York is the pending question. If the previous question is ordered, the first vote will be on whether or not the House will recede from its disagreement to the Senate amendment.
>
> The question is on ordering the previous question.
>
> The previous question was ordered.
>
> THE SPEAKER: The question is, Will the House recede from its disagreement to the Senate amendment No. 76?
>
> The motion was agreed to.

Effect of Rejection of Motion To Recede

§ 10.21 The House having refused to recede from disagreement to a Senate amendment, a motion to further insist is in order and a motion to concur is not admitted.

On July 7, 1943,[4] the House was considering Senate amendment No. 33 reported back in disagreement on H.R. 2968, the second deficiency appropriation bill. Mr. Clarence Cannon, of Missouri, moved that the House further insist on its disagreement to the amendment. Mr. Herman P. Eberharter, of Pennsylvania, offered a preferential motion to

2. 109 CONG. REC. 8508, 8509, 88th Cong. 1st Sess.
3. John W. McCormack (Mass.).
4. 89 CONG. REC. 7382–84, 78th Cong. 1st Sess.

recede and concur which was divided on demand of Mr. John Taber, of New York.

The question was taken; and there were—yeas 170, nays 176, answering "present" none, not voting 84. . . .

So the motion to recede was not agreed to. . . .

THE SPEAKER:[5] The question is on the motion of the gentleman from Missouri.

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

THE SPEAKER: The gentleman will state it.

MR. EBERHARTER: As I understand the situation, the motion made by me contained two parts, the motion to recede and concur; and the gentleman from New York [Mr. Taber] asked for a division of that question and the House just declared itself not to recede. The question, as I understand it, now before the House is whether it desires to recede and concur.

THE SPEAKER: The House cannot concur until it has receded, which it has just refused to do.

MR. EBERHARTER: I beg the Speaker's pardon. I thought the vote was that the House should recede.

THE SPEAKER: The question is on the motion of the gentleman from Missouri.

The motion was agreed to.

§ 10.22 If the House refuses to recede from its disagreement to a Senate amendment a motion to concur with an amendment is precluded.

On May 9, 1940,[6] the House was considering amendments in disagreement to H.R. 8202, agriculture appropriations for fiscal 1941. After a motion to recede and concur was divided, the following question arose:

MR. [WILLIAM P.] LAMBERTSON [of Kansas]: If the House recedes, the question then recurs on the amendment to strike out the 75-percent provision. Will that come on concurring, or what will be the effect of receding?

THE SPEAKER PRO TEMPORE:[7] Of course, the Chair is not in position to anticipate further motions that may be made, but, as the Chair understands it, after the motion to recede is agreed to, the gentleman from Missouri gave notice that he expected to offer a motion to concur with an amendment.

MR. LAMBERTSON: If the motion to recede carries, what will be the situation?

THE SPEAKER PRO TEMPORE: The gentleman from Missouri will doubtless offer his motion, as he had indicated he will do.

MR. LAMBERTSON: If the House does not recede, then his motion is precluded?

THE SPEAKER PRO TEMPORE: That is the effect of it.

5. Sam Rayburn (Tex.).

6. 86 CONG. REC. 5892, 76th Cong. 3d Sess.

7. Jere Cooper (Tenn.).

§ 10.23 Where the House refuses to recede from its disagreement to a Senate amendment a motion is usually made that the House insist on its disagreement to such amendment.

On July 15, 1937,[8] Speaker William B. Bankhead, of Alabama, recognized Mr. James G. Scrugham, of Nevada, to offer a motion to dispose of Senate amendment No. 89 to H.R. 6958, Interior Department appropriations for fiscal 1938:

> Mr. Speaker, I move that the House recede and concur.
>
> THE SPEAKER: The question is on the motion of the gentleman from Nevada that the House recede and concur.
>
> MR. [ABE] MURDOCK of Utah: Mr. Speaker, I demand a division of that question.
>
> THE SPEAKER: The gentleman is entitled to a division of the question. The question is whether the House shall recede from its disagreement to the Senate amendment. . . .
>
> The question was taken; and there were—yeas 122, nays 191, not voting 117. . . .
>
> MR. SCRUGHAM: Mr. Speaker, I move that the House insist on its disagreement to the amendment of the Senate numbered 89.
>
> The motion was agreed to.

§ 10.24 The rejection of the motion to recede has on rare occasions been interpreted as tantamount to insisting on disagreement to the Senate amendment.

On Aug. 21, 1957,[9] the House was considering the Senate amendments reported back from conference in disagreement to H.R. 9131, supplemental appropriations for fiscal 1958. Speaker Sam Rayburn, of Texas, recognized Mr. Clarence Cannon, of Missouri:

> Mr. Speaker, I move that the House recede and concur in the Senate amendment with an amendment.
>
> The Clerk read as follows:
>
> > Mr. Cannon moves that the House recede from its disagreement to the amendment of the Senate numbered 54, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$425,000".
>
> MR. [KARL M.] LECOMPTE [of Iowa]: Mr. Speaker, I offer a preferential motion.
>
> THE SPEAKER: The Clerk will report the motion.
>
> The Clerk read as follows:

8. 81 CONG. REC. 7197, 7198, 75th Cong. 1st Sess.

9. 103 CONG. REC. 15518, 15519, 85th Cong. 1st Sess.

Mr. LeCompte moves to recede and concur with Senate amendment numbered 54.

MR. [JOHN] TABER [of New York]: Mr. Speaker, I ask for a division of the question.

THE SPEAKER: The question is, Will the House recede from its disagreement? . . .

The question was taken; and there were—yeas 142, nays 215, not voting 75. . . .

THE SPEAKER: The House insists on its disagreement to the Senate amendment.

Parliamentarian's Note: The Speaker's interpretation in this instance was contrary to the weight of the precedents. See §§ 10.20, 10.21, supra, and §§ 12.5, 12.9, 12.10, infra, for examples of the prevailing interpretation generally given in this situation.

Effect of Adoption of Motion To Recede and Concur on Motion To Insist

§ 10.25 When the House agrees to a preferential motion to recede and concur, the motion to insist upon disagreement falls and is not voted upon.

On the legislative day of Sept. 14, 1959,[10] the House was considering Senate amendment No. 50 reported in disagreement to H.R. 8385, providing appropriations for mutual security and related agencies.

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Passman moves that the House insist upon its disagreement to the amendment of the Senate numbered 50.

MR. [JOHN J.] ROONEY [of New York]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Rooney moves that the House recede from its disagreement to the amendment of the Senate numbered 50 and concur therein. . . .

The previous question was ordered.

THE SPEAKER:[11] The question is on the preferential motion offered by the gentleman from New York [Mr. Rooney]. . . .

The question was taken; and there were—yeas 221, nays 81, not voting 133. . . .

So the motion was agreed to. . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The Clerk will report the next amendment in disagreement.

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10. 105 CONG. REC. 19740–42, 86th Cong. 1st Sess., Sept. 15, 1959 (Calendar Day).

11. Sam Rayburn (Tex.).

Rejection of Motion To Recede and Concur Not Equivalent to Insisting on Disagreement

§ 10.26 Rejection of a motion to recede and concur with amendments in a Senate amendment reported from conference in disagreement is not equivalent to a motion to insist on disagreement, and a motion to insist and request a conference is the appropriate motion to send a measure to a new conference.

On May 29, 1980,[12] during the consideration of motions to recede from disagreement and concur with amendments in the Senate amendment reported from the conference in disagreement, a colloquy occurred about the equivalency of motions. A portion of the proceedings is carried here.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 307, FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1981

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I call up the conference report on the concurrent resolution (H. Con. Res. 307) setting forth the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983 and revising the congressional budget for the U.S. Government for the fiscal year 1980, and ask for its immediate consideration. . . .

MR. [LEON E.] PANETTA (of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Panetta moves that the House recede from its disagreement to the Senate amendment to House Concurrent Resolution 307 and to concur therein with two amendments, as follows:

In the engrossed Senate amendment to House Concurrent Resolution 307, strike out section 1 and sections 14–20 and insert in lieu thereof the following:

SECTION 1. That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1980— . . .

THE SPEAKER:[13] The gentleman from California (Mr. Panetta) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Latta) will be recognized for 30 minutes. . . .

The question is on the motion offered by the gentleman from California (Mr. Panetta).

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

MR. [DELBERT L.] LATTA [of Ohio]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

12. 126 CONG. REC. 12678, 12710, 12712, 12716, 12717, 96th Cong. 2d Sess.

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

The vote was taken by electronic device, and there were—yeas 173, nays 199, not voting 61 . . . .

So the motion was rejected.

MOTION OFFERED BY MR. GIAIMO

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

The Clerk read as follows:

> Mr. Giaimo moves that the House insist upon its disagreement to the Senate amendment and requests a further conference with the Senate thereon.

THE SPEAKER: The question is on the motion offered by the gentleman from Connecticut (Mr. Giaimo).

The question was taken, and the Speaker announced that the ayes appeared to have it.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, on that I demand the yeas and nays.

PARLIAMENTARY INQUIRY

MR. [PETER A.] PEYSER [of New York]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. PEYSER: Mr. Speaker, would the Speaker please explain what it is that we are now voting on in this particular matter?

THE SPEAKER: The question is on the motion of the gentleman from Connecticut (Mr. Giaimo) that the House insist upon its disagreement to the Senate amendment and request a further conference with the Senate on the budget for 1980 and 1981.

The question has been put.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Speaker, we just voted on the figures for 1981 in the motion by the gentleman from California (Mr. Panetta). A motion to insist is, in fact, redundant and it is a revote of the previous vote; is that not correct? It is the same proposition.

THE SPEAKER: The Chair will reply that it is a necessary motion to get back to a new conference. That is the gentleman's motion, and it is not an equivalent motion to the motion previously made by the gentleman from California. The Chair has already put the question to a voice vote. The gentleman from Maryland had risen for a rollcall. Does the gentleman want the yeas and nays?

MR. BAUMAN: Yes, I certainly do.

The yeas and nays were ordered.

Defeat of Motion To Recede and Concur Permits Further Motions

§ 10.27 If a motion to recede and concur in a Senate amendment is defeated, a further motion relating to the amendment in disagreement is in order.

On Oct. 17, 1967,[14] the House was considering Senate amendment No. 13 to H.R. 11476, appropriations for the Department of Transportation for fiscal 1968 which had been reported back from conference in disagreement. Mr. Edward P. Boland, of Massachusetts, moved that the House recede and concur therein. Mr. Sidney R. Yates, of Illinois, was recognized:

Mr. Speaker, a parliamentary inquiry, if the gentleman will yield.

MR. BOLAND: I yield to the gentleman.

THE SPEAKER:[15] The gentleman will state it.

MR. YATES: This is a motion to recede and concur in the Senate amendment. What would be the effect of voting down such a motion? Will it have the effect of sending the conferees back to conference for the purpose of ironing out this particular item again?

THE SPEAKER: The amendment would still be before the House subject to another form of a motion.

MR. YATES: What would be the nature of that motion, Mr. Speaker?

THE SPEAKER: The motion could be that the House insist on its disagreement.

MR. YATES: I thank the Speaker.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, will the gentleman yield?

MR. BOLAND: I yield to the gentleman.

MR. HALL: If the gentleman from Massachusetts' motion that the House recede from its disagreement to the amendment of the Senate No. 13 and concur therein was voted down, then another motion would be in order, would it not, I would ask as a parliamentary inquiry, to instruct the conferees to maintain the position of the House or that the House insist upon its disagreement with the other body?

THE SPEAKER: The Chair will state in response to the parliamentary inquiry propounded to the Chair by the distinguished gentleman from Missouri that if the House should insist upon its disagreement, then the matter could go back to conference.[16]

§ 10.28 When a preferential motion to recede and concur is decided in the negative, the question recurs on a pending motion to insist on disagreement to the Senate amendment.

On Dec. 17, 1963,[17] the House was considering amendments in disagreement to H.R. 8667, river basin and flood control authoriza-

14. 113 CONG. REC. 29044, 29048, 29049, 90th Cong. 1st Sess.
15. John W. McCormack (Mass.).
16. See also 81 CONG. REC. 7007, 75th Cong. 1st Sess., July 9, 1937.
17. 109 CONG. REC. 24815, 24816, 24822, 88th Cong. 1st Sess.

tion. After the Clerk read Senate amendment No. 26, Speaker Pro Tempore Carl Albert, of Oklahoma, recognized Mr. Clifford Davis, of Tennessee:

Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Davis of Tennessee moves that the House insist upon its disagreement to Senate Amendment No. 26.

MR. [ARNOLD] OLSEN of Montana: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Olsen of Montana moves that the House recede from its disagreement to the amendment of the Senate No. 26 and concur therein.

THE SPEAKER PRO TEMPORE: The gentleman from Tennessee [Mr. Davis] is recognized for 1 hour.

MR. DAVIS of Tennessee: Mr. Speaker, I yield 5 minutes to the gentleman from Arizona [Mr. Udall].

MR. [MORRIS K.] UDALL: Mr. Speaker, I commend the gentleman from Tennessee [Mr. Davis] and his committee for the constructive work that they have done on this bill. However, I rise in support of the preferential motion which has been offered by the gentleman from Montana [Mr. Olsen]. . . .

The question was taken; and on a division (demanded by Mr. Olsen of Montana) there were—ayes 66, noes 132.

So the motion was rejected.

THE SPEAKER:[18] The question is on the motion offered by the gentleman from Tennessee [Mr. Davis] to insist on its disagreement to the Senate amendment.[19]

§ 10.29 The defeat of a motion to recede and concur is not equivalent to insisting upon disagreement.

On July 9, 1937,[20] the House was considering a Senate amendment in disagreement to H.R. 7493, War Department appropriations for nonmilitary activities for fiscal 1938.

THE SPEAKER:[1] The question is on the motion of the gentleman from Pennsylvania to recede and concur in the Senate amendment.

The question was taken; and on a division[2] (demanded by Mr. Snyder of Pennsylvania) there were ayes 3 and noes 95.

So the motion was rejected.

THE SPEAKER: The Chair respectfully suggests to the gentleman from Pennsylvania [Mr. Snyder] that in view of

18. John W. McCormack (Mass.).

19. See also 108 CONG. REC. 19945, 87th Cong. 2d Sess., Sept. 19, 1962.

20. 81 CONG. REC. 7007, 75th Cong. 1st Sess.

1. William B. Bankhead (Ala.).

2. The word "division" as it is used here refers to a method of voting during which Members stand and are counted as either "aye" or "no" on the question at issue. It should not be confused with a division into two separate motions of the motion to recede and concur.

the last action, the gentleman should move that the House insist on its disagreement to the Senate amendment. In other words, some disposition should be made of that amendment, and not leave it up in the air.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. [MALCOLM C.] TARVER: If the gentleman from Pennsylvania [Mr. Snyder] does not desire to make a motion to further insist upon the disagreement of the House to the Senate amendment, will the Chair recognize some other member of the committee to make such a motion?

THE SPEAKER: The Chair will recognize some other member of the committee to make such a motion if the chairman of the committee does not desire to make the motion.

MR. [J. BUELL] SNYDER of Pennsylvania: I make that motion, Mr. Speaker.[3]

Withdrawal of Motion To Recede and Concur; Amendments in Disagreement, Motions in Order Following Rejection of First

§ 10.30 If a preferential motion to recede and concur in a Senate amendment reported from conference in disagreement is withdrawn or defeated, a motion to recede and concur with an amendment is in order and preferential to a motion to insist on disagreement.

When a Senate amendment in disagreement was before the House, following the adoption of the conference report on the legislative branch appropriations bill for fiscal year 1977, the manager of the bill moved that the House insist on disagreement. A preferential motion to recede and concur was offered, then withdrawn to permit the offering of a motion to recede and concur with an amendment. Proceedings were as follows:[4]

THE SPEAKER:[5] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 35, line 1 insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate

3. See also 109 CONG. REC. 24823, 88th Cong. 1st Sess., Dec. 17, 1963; and 108 CONG. REC. 19945, 87th Cong. 2d Sess., Sept. 19, 1962.

4. 122 CONG. REC. 31899, 31900, 31902, 31905, 31906, 94th Cong. 2d Sess., Sept. 22, 1976.

5. Carl Albert (Okla.).

and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000, to remain available until expended: *Provided*, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and directed to enter into such contracts including cost-plus-a-fixed-fee contracts, incur such obligations, and make such expenditures for personal and other expenses as may be necessary to carry out this paragraph. . . .

MOTION OFFERED BY MR. SHIPLEY

MR. [GEORGE E.] SHIPLEY [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House insist on its disagreement to the amendment of the Senate numbered 56.

PREFERENTIAL MOTION OFFERED BY MR. STRATTON

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, I offer a preferential motion to recede and concur in the Senate amendment No. 56 to the legislative appropriation conference report.

The Clerk read as follows:

Mr. Stratton moves that the House recede from its disagreement to the amendment of the Senate number 56 and concur therein.

MR. STRATTON: Mr. Speaker, will the distinguished gentleman from Illinois, the chairman, yield me 5 minutes.

MR. SHIPLEY: I yield the gentleman from New York 5 minutes. . . .

PARLIAMENTARY INQUIRY

MR. STRATTON: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: Will the gentleman from Illinois (Mr. Shipley) yield for a parliamentary inquiry?

MR. SHIPLEY: Yes, I yield to the gentleman for the purpose of making a parliamentary inquiry.

MR. STRATTON: Mr. Speaker, the gentleman from Illinois (Mr. Yates) wishes to offer a substitute motion to recede and concur with an amendment striking the cost plus fixed fee contract.

Is it in order for that motion to be offered if I withdraw my motion?

THE SPEAKER: The Chair will state that the gentleman may offer his motion if the gentleman from New York (Mr. Stratton) withdraws his preferential motion. In that event, the gentleman could offer another preferential motion, or if this preferential motion would be defeated, another preferential motion can be offered.

MR. STRATTON: I have a further parliamentary inquiry, Mr. Speaker.

Would a motion to recede and concur with an amendment be a preferential motion?

THE SPEAKER: It would be preferential over a motion to insist on disagreement.

MR. STRATTON: Mr. Speaker, I ask unanimous consent that I may be permitted to withdraw my preferential motion.

MR. [R. LAWRENCE] COUGHLIN [of Pennsylvania]: Mr. Speaker, I object.

THE SPEAKER: The gentleman from New York (Mr. Stratton) does not need unanimous consent for that purpose in the House.

Does the gentleman intend to withdraw his motion? The gentleman does not need unanimous consent to withdraw the motion that he has made.

MR. STRATTON: Mr. Speaker, if I do not need unanimous consent, then I withdraw my motion.

THE SPEAKER: The gentleman from New York (Mr. Stratton) withdraws his motion.

PREFERENTIAL MOTION OFFERED BY MR. YATES

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a preferential motion.

THE SPEAKER: The Clerk will report the preferential motion.

The Clerk read as follows:

> Mr. Yates moves on amendment 56 to recede and concur with the Senate on amendment No. 56 with an amendment as follows: on page 35, line 11, strike out the words "including cost-plus-fixed-fee contracts".
>
> On lines 14 and 15, strike out the words "cost-plus-a-fixed-fee".
>
> On line 23, strike out language after "appurtenant thereto" and strike out lines 24 and on page 36 strike out lines 1 and 2.

MR. SHIPLEY: Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. Yates). . . .

Mr. Speaker, I urge a "no" vote, and I move the previous question on the motion.

The previous question was ordered.

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Illinois (Mr. Yates).

The question was taken; and the Speaker announced that the noes appeared to have it.

MR. STRATTON: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count.

One hundred and eighty-seven Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 95, nays 304, not voting 31. . . .

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE:[6] The question is on the motion offered by the gentleman from Illinois (Mr. Shipley).

The motion was agreed to.

Where Preferential Motion Is Withdrawn, Another May Take Its Place

§ 10.31 A preferential motion to recede and concur in a Senate amendment reported from conference in disagreement having been withdrawn[7] before action was taken thereon, another pref-

6. John J. McFall (Calif.).
7. It does not require unanimous consent to withdraw a motion offered in the House before a decision has been taken thereon or an amendment offered thereto.

erential motion, to recede and concur with an amendment, was then offered.

In the 94th Congress,[8] following the adoption of H.R. 14238, the conference report on the legislative branch appropriations bill for fiscal year 1967, a controversial Senate amendment relating to the restoration of the west front of the Capitol Building was before the House, the stage of disagreement having been reached. The proceedings were as indicated below:

THE SPEAKER:[9] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 35, line 1 insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000, to remain available until expended. . . .

MOTION OFFERED BY MR. SHIPLEY

MR. [GEORGE E.] SHIPLEY [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House insist on its disagreement to the amendment of the Senate numbered 56.

PREFERENTIAL MOTION OFFERED BY MR. STRATTON

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, I offer a preferential motion to recede and concur in the Senate amendment No. 56 to the legislative appropriation conference report.

The Clerk read as follows:

Mr. Stratton moves that the House recede from its disagreement to the amendment of the Senate number 56 and concur therein.

MR. STRATTON: Mr. Speaker, will the distinguished gentleman from Illinois, the chairman, yield me 5 minutes.

MR. SHIPLEY: I yield the gentleman from New York 5 minutes. . . .

MR. STRATTON: Mr. Speaker, the gentleman from Illinois (Mr. Yates) wishes to offer a substitute motion to recede and concur with an amendment striking the cost plus fixed fee contract.

Is it in order for that motion to be offered if I withdraw my motion?

THE SPEAKER: The Chair will state that the gentleman may offer his motion if the gentleman from New York (Mr. Stratton) withdraws his preferential motion. In that event, the gentleman could offer another preferential motion, or if this preferential motion would be defeated, another preferential motion can be offered.

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8. 122 CONG. REC. 31899, 31900, 31902, 31905, 31906, 94th Cong. 2d Sess., Sept. 22, 1976.

9. Carl Albert (Okla.).

MR. STRATTON: I have a . . . parliamentary inquiry, Mr. Speaker.

Would a motion to recede and concur with an amendment be a preferential motion?

THE SPEAKER: It would be preferential over a motion to insist on disagreement.

MR. STRATTON: Mr. Speaker, I ask unanimous consent that I may be permitted to withdraw my preferential motion.

MR. [R. LAWRENCE] COUGHLIN [of Pennsylvania]: Mr. Speaker, I object.

THE SPEAKER: The gentleman from New York (Mr. Stratton) does not need unanimous consent for that purpose in the House.

Does the gentleman intend to withdraw his motion? The gentleman does not need unanimous consent to withdraw the motion that he has made.

MR. STRATTON: Mr. Speaker, if I do not need unanimous consent, then I withdraw my motion.

THE SPEAKER: The gentleman from New York (Mr. Stratton) withdraws his motion.

PREFERENTIAL MOTION OFFERED BY MR. YATES

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a preferential motion.

THE SPEAKER: The Clerk will report the preferential motion.

The Clerk read as follows:

> Mr. Yates moves on amendment 56 to recede and concur with the Senate on amendment No. 56 with an amendment as follows: on page 35, line 11, strike out the words "including cost-plus-fixed-fee contracts".
>
> On lines 14 and 15, strike out the words "cost-plus-a-fixed-fee".
>
> On line 23, strike out language after "appurtenant thereto" and strike out lines 24 and on page 36 strike out lines 1 and 2.

MR. SHIPLEY: Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. Yates). . . .

Mr. Speaker, I urge a "no" vote, and I move the previous question on the motion.

The previous question was ordered.

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Illinois (Mr. Yates). . . .

So the preferential motion was rejected. . . .

THE SPEAKER PRO TEMPORE:[10] The question is on the motion offered by the gentleman from Illinois (Mr. Shipley).

The motion was agreed to.

§ 11. To Concur With an Amendment; To Recede and Concur With an Amendment

A motion to concur in a Senate amendment with an amendment, or to recede from disagreement to a particular Senate amendment and amend it further, if adopted, adds another level to the degree of amendments between the Houses.[11]

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10. John J. McFall (Calif.).

11. See §§ 523–525, *House Rules and Manual* (1997).