is agreed to the resolution does not become final until this amendment is disposed of. That is correct, is it not?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

Procedure Leading to Correction of Error in Senate Amendment

§ 5.63 A concurrent resolution may authorize the Secretary of the Senate to reengross the amendment of the Senate to a House bill and make a correction in such reengrossment.

On June 27, 1951,[1] the following occurred on the floor of the House:

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (S. Con. Res. 35) ordering the reengrossment of the Senate amendment to H.R. 3880, the independent offices appropriation bill for 1952.

The Clerk read the concurrent resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate be, and he is hereby, authorized and directed to reengross the amendments of the Senate to the bill (H.R. 3880) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, corporations, agencies, and offices for the fiscal year ending June 30, 1952, and for other purposes; and to reengross Senate amendment numbered 79 so as to read as follows:

On page 35, line 23, strike out "$875,163,335" and insert "$873,105,770."

THE SPEAKER:[2] Is there objection to the request of the gentleman from Texas?

MR. [JOHN] PHILLIPS [of California]: Mr. Speaker, reserving the right to object, will the gentleman from Texas [Mr. Thomas] please explain the reason for the request on the part of the other body?

MR. THOMAS: Mr. Speaker, this resolution authorizes reengrossment of amendment No. 79 of the independent offices appropriation bill. It all adds up to this: Apparently the other body has made a mistake in printing or engrossing this amendment. Amendment No. 79 deals with salaries and expenses for the Veterans' Administration. What happened was that they show a reduction in that appropriation of about $1,200,000 more than the figure actually agreed upon by the Senate.

§ 6. —Amending Senate Amendments; Degree of Amendment

When amending a Senate amendment the House need not confine itself within the limits set

1. 97 CONG. REC. 7254, 82d Cong. 1st Sess.

2. Sam Rayburn (Tex.).

by its bill and the Senate amendment,[3] but the House amendment must be germane to the Senate amendment and not merely to the provisions of the House bill.[4]

A House bill with a Senate amendment is considered as the original text of a Senate proposal, according to Jefferson's Manual.[5] Therefore, an amendment of the House to a Senate amendment to a House bill is an amendment in the first degree which may be amended further by the Senate. However, a House amendment to this further Senate amendment would be in the third degree and therefore not in order.[6]

The principle set forth in Jefferson's Manual[7] touching on the permissible degree of amendments between the Houses is as follows:

"A bill originating in one House is passed by the other with an amendment.

"The originating House agrees to their amendment with an amendment. The other may agree to their amendment with an amendment, that being only in the second and not the third degree; for, as to the amending House, the first amendment with which they passed the bill is a part of its text. It is the only text they have agreed to. The amendment to that text by the originating House therefore is only in the first degree, and the amendment to that again by the amending House is only in the second degree, to wit, an amendment to an amendment and so admissible."

The proscription against extending the amendment process beyond the second degree may be waived in the House by a special rule, a motion under the suspension procedure, or unanimous consent.[8]

Immediate Consideration of Senate Amendment to House Substitute for Senate Measure

§ 6.1 Senate amendments to a House amendment in the nature of a substitute for a Senate bill which do not

3. 8 Cannon's Precedents § 3189, cited at § 6.12, infra.
4. See §§ 6.13–6.16, infra.
5. *House Rules and Manual,* Jefferson's Manual § 529 (1997). See § 6.3, infra, especially the *Parliamentarian's Note,* for a discussion of the degree of amendments between the Houses and within a particular House.
6. See §§ 6.4, 6.5, infra.
7. *House Rules and Manual* § 529 (1997).
8. See §§ 6.5–6.11, infra.

require consideration in a Committee of the Whole may be called up and be at once disposed of as the House may determine pursuant to Rule XXIV clause 2.[9]

On Aug. 30, 1960,[10] Mr. Oren Harris, of Arkansas, was recognized by Speaker Sam Rayburn, of Texas:

> Mr. Speaker, I call up from the Speaker's desk the bill (S. 1898) to amend the Communications Act of 1934 with respect to the procedure in obtaining a license and for rehearings under such act, with Senate amendments thereto to the House amendments, and ask for its immediate consideration.

After the Clerk read the Senate amendments, Mr. Harris offered the following motion:

> Mr. Harris moves that the House concur in the Senate amendments to the House amendments. . . .
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HALLECK: I would like to know what the request of the gentleman was, whether it was for the immediate consideration of the Senate amendments.
>
> THE SPEAKER: The gentleman called up from the Speaker's table a Senate bill with Senate amendments to the House amendments. . . .
>
> MR. HALLECK: I might say to the gentleman, as I understand under the parliamentary situation, it is now a matter before the House to be acted upon one way or the other and that no objection could be made. I have learned since the gentleman called it up that the members on my side on the committee were consulted with reference to this procedure, and as I understand have no objection to it now.

Suspension of the Rules

§ 6.2 The House adopted a motion to suspend the rules and agree to a resolution which provided for taking a House bill with a Senate amendment from the Speaker's table and agreeing to the Senate amendment with a designated amendment.

On Oct. 14, 1972,[11] Mr. Harold T. Johnson, of California, was recognized to offer the following motion:

> Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1166) providing for concurring the Senate amendment to H.R. 16071, to amend the Public Works and Economic

9. *House Rules and Manual* § 882 (1997).

10. 106 CONG. REC. 18357, 18358, 86th Cong. 2d Sess.

11. 118 CONG. REC. 36477–83, 92d Cong. 2d Sess.

Development Act of 1965, with an amendment.[12]

After the motion was read and debated, Speaker Carl Albert, of Oklahoma, put the question thereon:

> The question is on the motion offered by the gentleman from California (Mr. Johnson) that the House suspend the rules and pass House Resolution 1166. . . .
>
> The question was taken; and there were—yeas 155, nays 64, not voting 212. . . .
>
> So the resolution was agreed to.

Degree of Amendment

§ 6.3 Where a bill of one House is passed in the other House with an amendment,[13] the originating House may concur therein with an amendment, whereupon the second House may concur with still another amendment; but here the process stops, for a further amendment between the Houses would be in the third degree.

On June 17, 1959,[14] Mr. Oren Harris, of Arkansas, called up the conference report in total disagreement on S. 1, to amend the Federal Airport Act. After the Clerk read the conference report, Speaker Sam Rayburn, of Texas, directed the Clerk to read the amendment in disagreement.

> The Clerk read as follows:
>
> *Resolved,* That the Senate recede from its disagreement to the amendment of the House of Representatives to the above-entitled bill and agree to the same with an amendment. . . .

After the reading of the Senate amendment to the House amendment in the nature of a substitute to S. 1, the Speaker again recognized Mr. Harris.

> MR. HARRIS: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. Harris moves to concur in the Senate amendment with an amendment. . . .

Parliamentarian's Note: After Mr. Harris offered his motion to

12. H. Res. 1166 provided for concurring in the Senate amendment with a lengthy amendment in the nature of a substitute. The proposed amendment was included in the text of H. Res. 1166.

13. Jefferson's Manual states that when calculating the degree of amendments between the Houses, an amendment of one House resulting from its initial consideration of a bill of the other House is not considered an amendment, but is construed to be the original text of the amending House. *House Rules and Manual* § 529 (1997).

14. 105 CONG. REC. 11108, 86th Cong. 1st Sess.

concur with an amendment in the Senate amendment to the House amendment to the Senate bill, an issue arose concerning the possibility of introducing a substitute for Mr. Harris' motion. The Speaker indicated erroneously that such a substitute would be in the third degree, and hence not in order. The Speaker did indicate correctly, however, that the substitute would be in order if Mr. Harris' motion were defeated. Amendments between the Houses may not go beyond the second degree, nor may they do so internally within either House. However, an amendment pending in one House to the original text of the other House or to an amendment in the first degree of that other House, may itself be amended to the second degree. *Contra,* 5 Cannon's Precedents § 6176 (Senate precedent).

§ 6.4 Where a Senate amendment to a House bill had been reported from conference in disagreement and the Senate had amended a further House amendment thereto, motions in the House to agree or disagree to the Senate amendment to the House amendment are privileged in the House (the stage of disagreement having been reached on the initial Senate amendment); but in response to a parliamentary inquiry, the Chair implied that a motion to concur with a further amendment would be in the third degree and not in order.

On Oct. 18, 1973,[15] Mr. Carl D. Perkins, of Kentucky, offered the following motion:

> Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 9639) to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs, with a Senate amendment to the House amendment to the Senate amendment No. 5 thereto, and concur in the Senate amendment No. 5. . . .
>
> MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[16] The gentleman will state it.
>
> MR. QUIE: Mr. Speaker, since the House has already adopted the conference report and since the other body added an amendment afterward when they adopted the conference report, is there anything we can do other than defeat the motion before us? Is there any way we can have a separate amendment to strike out?

15. 119 CONG. REC. 34699, 93d Cong. 1st Sess.
16. Carl Albert (Okla.).

THE SPEAKER: The House can either accept or reject the Senate amendment.

Third Degree by Special Order

§ 6.5 A special order can make in order the consideration of amendments in the third degree as a way of resolving differences on amendments in disagreement between the House and Senate.

The special order in this instance made it in order in the House to consider motions to concur in Senate amendments to House amendments to a Senate amendment in disagreement between the Houses, with further amendments. In this situation,[17] the amendments in the third degree were spelled out in the report of the Committee on Rules, and the resolution provided for one hour of debate on each motion and ordered the previous question, without intervening motion, to prevent other amendments.

MR. [BART] GORDON [of Tennessee]: Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 260 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 260

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to take from the Speaker's table the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes, with the Senate amendments to the House amendments to the Senate amendments numbered 29 and 164 thereto, and to consider: (1) a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment numbered 29 with the amendment printed in section 2 of this resolution; and (2) a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment numbered 164 with the amendment printed in section 3 of this resolution. Each Senate amendment shall be considered as read. Each motion shall be debatable for one hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on each motion to final adoption without intervening motion.

SEC. 2. The House amendment to the Senate amendment to the House amendment to the Senate amendment numbered 29 is as follows: In the matter proposed to be added by the Senate amendment, insert after the word "operations" the following: ", except for marketing year 1993".

After debate, the resolution was agreed to. The two motions permitted by the rule were debated and agreed to.

17. See 139 CONG. REC. 23061, 103d Cong. 1st Sess., Sept. 29, 1993.

Third Degree Amendments Between the Houses

§ 6.6 Example of a special order providing that on its adoption, the House shall be considered to have receded from its disagreement to a third degree Senate amendment to a House amendment to a Senate amendment, and concurred in the final Senate amendment with a new House amendment.

In the 99th Congress,[18] the Committee on Rules reported several "hereby" resolutions, designed to accomplish a legislative objective by their adoption rather than making in order motions to accomplish the same result.

The special order on this occasion[19] permitted the House to dispose of an amendment between the Houses by a further amendment in the third degree.

Proceedings were as indicated below:

MR. [BUTLER] DERRICK [of South Carolina]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 390, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 390

Resolved, That upon the adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress), with the Senate amendment to the House amendment to the Senate amendment thereto, to have receded from its disagreement to the Senate amendment, and to have concurred in the Senate amendment with an amendment printed in the *Congressional Record* of March 4, 1986, by Representative Gray of Pennsylvania.

THE SPEAKER:[20] The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

MR. DERRICK: Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from Tennessee [Mr. Quillen], and pending that, I yield myself such time as I may consume.

After debate, the resolution was agreed to.

Since the special resolution was drafted as a "self-executing" motion, its adoption concluded the disposition of the amendment.

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18. See 131 CONG. REC. 4347, 4361, 99th Cong. 1st Sess., Mar. 5, 1985 (H. Res. 92); 132 CONG. REC. 3783, 99th Cong. 2d Sess., Mar. 6, 1986 (H. Res. 390); 132 CONG. REC. 29608, 99th Cong. 2d Sess., Oct. 8, 1986.

19. 132 CONG. REC. 3783, 99th Cong. 2d Sess., Mar. 6, 1986.

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

Disposing of Amendments in Third Degree and Beyond

§ 6.7 A motion in the House to concur in a Senate amendment (even in the fourth degree) is privileged if offered by any Member, the stage of disagreement having been reached, but is subject to a motion to table.

On Mar. 18, 1986,[1] the House considered a series of motions dealing with the final amendment in disagreement on H.R. 3128, the deficit reduction amendments of 1985.

The admonition in section 526 of Jefferson's Manual is not an absolute prohibition against amendments between the Houses progressing beyond the second degree. The rationale for the limit on amendments is that it provides a procedural signal that it is time to compromise. Once that threshold has been passed, where the House has waived the rule to amend in the third degree and the Senate has done likewise, no point of order lies in the House against a privileged motion to agree to the Senate amendment.

When the Speaker recognized Mrs. Lynn Martin, of Illinois, to offer the initial motion to concur in the fourth degree Senate amendment, the proceedings were as follows:

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process," with an amendment. . . .

DEFICIT REDUCTION AMENDMENTS OF 1985

MRS. MARTIN of Illinois: Mr. Speaker, I offer a privileged motion.

THE SPEAKER PRO TEMPORE:[2] The Clerk will report the motion.

The Clerk read as follows:

> Mrs. Martin of Illinois moves to take from the Speaker's table the bill, H.R. 3128, with the Senate amendment to the House amendment to the Senate amendment to the House amendment to the Senate amendment thereto, and to concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment to the House

1. 132 CONG. REC. 5195, 5205, 5206, 5210, 5216, 5217, 99th Cong. 2d Sess.

2. William V. Alexander (Ark.).

amendment to the Senate amendment, as follows:

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

In section 4016, insert "or seasonal suspension" after "adjustment in frequency"; and insert "adjustment or" after "service unless such".

In subparagraph (F)(ii) of paragraph (10) of section 204(b) of the Magnuson Fishery Conservation and Management Act, as proposed to be amended by section 6021, strike out "from such nations". . . .

THE SPEAKER PRO TEMPORE: The gentlewoman from Illinois [Mrs. Martin] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. Gray] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. Martin]. . . .

MR. [WILLIAM H.] GRAY [III] of Pennsylvania: Mr. Speaker, I would inquire of the gentlewoman from Illinois how many speakers the gentlewoman has remaining.

THE SPEAKER PRO TEMPORE: Under the rules, the gentlewoman from Illinois [Mrs. Martin] is entitled to close the debate.

MRS. MARTIN of Illinois: I will be closing, Mr. Speaker. That will be the last speaker, Mr. Speaker. . . .

Please vote to concur and not to table.

I yield back the balance of my time.

MOTION TO TABLE OFFERED BY MR. GRAY OF PENNSYLVANIA

MR. GRAY of Pennsylvania: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Gray of Pennsylvania moves to table the motion to concur.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gray] to table the motion to concur offered by the gentlewoman from Illinois [Mrs. Martin].

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

MRS. MARTIN of Illinois: 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 PRO TEMPORE: Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 217, nays 192, not voting 25. . . .

Instance Where House Agreed to Amendment in Third Degree Between the Houses

§ 6.8 Instance where, by unanimous consent, the House agreed to an amendment in the third degree to a Senate amendment.

In the 95th Congress, on Sept. 30, 1977,[3] the House by unanimous consent, took from the Speaker's table a House bill, with a Senate amendment to the House

3. 123 CONG. REC. 31704, 31705, 95th Cong. 1st Sess.

amendment to the Senate amendment and concurred therein with a further amendment. The request by the bill manager is shown below.

AUTHORIZING APPROPRIATIONS FOR TERRITORIES OF THE UNITED STATES

MR. PHILLIP BURTON [of California]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment No. 10 thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

THE SPEAKER:[4] The Clerk will report the Senate amendment to the House amendment to the Senate amendment No. 10. . . .

The Clerk will report the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10.

The Clerk read the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: . . .

MR. DON H. CLAUSEN [of California]: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER: Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

Amendment in Third Degree Between Houses

§ 6.9 The stage of disagreement having been reached on a House amendment to a Senate amendment to a House proposition, the House, by motion, receded from its last amendment and, having receded, then concurred in the Senate amendment with a different amendment.

The proceedings of Oct. 12, 1977,[5] relating to Senate amendment 82, reported in disagreement from the conference on H.R. 7555, the Labor and Health, Education, and Welfare appropriation bill for fiscal 1978, show one method which has been used on rare occasions when the House was faced with a problem of an amendment in the third degree. The Parliamentarian's note which follows the Record proceedings provides some historical insight into this rarely used practice.

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

5. 123 CONG. REC. 33445, 33447, 33448, 33454, 95th Cong. 1st Sess.

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Speaker, I call up the conference report on Senate amendment No. 82 to H.R. 7555 making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of August 2, 1977.)

After the conference report was agreed to, the remaining Senate amendment in disagreement was reported:

THE SPEAKER:[6] The Clerk will report the House amendment to the Senate amendment.

The Clerk read as follows:

House amendment to Senate amendment No. 82: Insert the following:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

Motion offered by Mr. Flood: Mr. Flood moves that the House recede from its amendment to the amendment of the Senate numbered 82.

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) and the gentleman from Illinois (Mr. Michel) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. Flood).

MR. FLOOD: . . . The House conferees suggested new language to accommodate the view of the Senate, especially the many Senators who were concerned over rape and incest, but again this proposal was rejected.

At this point it became very apparent that nothing could be accomplished by further conference and the conferees decided to report that they could not agree.

Mr. Speaker, if the motion I just offered is agreed to, I shall then offer the following language:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

We hope the Senate will accept this language today and clear this bill for the President. I would urge the Members to vote for the pending motion and to vote for the motion which I shall offer if the pending motion is agreed to. . . .

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

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

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

The question was taken; and on a division (demanded by Mr. Bauman) there were—yeas 80, nays 62.

MR. [ROBERT E.] BAUMAN [of Maryland]: 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: Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 209, nays 206, not voting 19 . . .

So the motion [to recede] was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

> Mr. Flood moves that the House concur in the amendment of the Senate numbered 82 with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:
>
> SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) and the gentleman from Illinois (Mr. Michel) are recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. Flood). . . .

MR. FLOOD: Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[7] The question is on the motion offered by the gentleman from Pennsylvania (Mr. Flood).

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

MS. [ELIZABETH] HOLTZMAN [of New York]: 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 PRO TEMPORE: Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 142, answered "present" 1, not voting 28.

Parliamentarian's Note: Section 526 of Jefferson's Manual, states as a principle of parliamentary law that the House may not recede from or insist on its own amendment with a further amendment.

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7. John Brademas (Ind.).

The precedents cited there (5 Hinds' Precedents §§ 6216–6218) all involved situations where the Speaker ruled that the House could not, in a single motion, recede from its amendment with an amendment. The more recent practice in the House has been to permit the two-step approach suggested in 8 Cannon's Precedents § 3199, on the theory that a motion to recede from a House amendment and concur in the Senate amendment was divisible, and that if the question were divided and the House receded from its amendment, the Senate amendment was not thereby agreed to but that a further motion to concur with an amendment could be offered.

Senate Action When Faced With Amending in Third Degree

§ 6.10 Instance where the Senate, faced with a situation where any further amendment between the Houses on an amendment in disagreement would be in the third degree, adopted a unanimous consent agreement to permit it to recede from its last amendment and, if that motion were agreed to, to concur with a new amendment.

On Nov. 29, 1977,[8] a unanimous-consent request relating to an amendment in the third degree was made in the Senate, as indicated below:

> MR. ROBERT C. BYRD [of West Virginia]: Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7555.
>
> 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 82 to the bill (H.R. 7555) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes."
>
> MR. ROBERT C. BYRD: Mr. President, anent the unanimous-consent agreement that was entered into a moment ago with respect to the message from the House of Representatives on H.R. 7555, I ask unanimous consent that at 3:55 p.m. today the distinguished Senator from South Carolina be allowed to make a motion to recede with respect to the Senate amendment to the House amendment, which motion shall be decided without debate, and if that motion is agreed to Mr. Brooke will then

8. 123 CONG. REC. 37981, 37982, 95th Cong. 1st Sess.

be allowed to move to concur in the House amendment with an amendment.

THE PRESIDING OFFICER: Is there objection?

Without objection, it is so ordered.

In 1977, the bill H.R. 7555, making appropriations for the Departments of Labor and Health, Education, and Welfare never did become law. The dispute between the House and Senate over Senate amendment 82, dealing with the restriction of funds for abortions, could not be resolved and remained in disagreement at *sine die* adjournment.

Amendment Between Houses in Third Degree

§ 6.11 On occasion, by unanimous consent, the House progresses to a third degree amendment—in this instance by amending a Senate amendment to a House amendment to a Senate amendment to a House bill.

The proceedings excerpted from the Record of Dec. 19, 1979,[9] and carried here are self-explanatory but illustrate the type of request that is sometimes entertained to expedite consideration of a measure and avoid the time delays involved in the various steps required to proceed through a conference.

MR. [FERNAND J.] ST GERMAIN [of Rhode Island]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4998) to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis, with a Senate amendment to House amendments to Senate amendments, and concur in the Senate amendment to House amendments to Senate amendments with an amendment.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE:[10] The Clerk will report the Senate amendment to House amendments to Senate amendments and the proposed House amendment.

The Clerk read as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the Senate amendment to the text of the bill, insert: . . .

[The Senate amendment was reported.]

The House amendment to the Senate amendment in the second degree was as follows:

SEC. 106. The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of

9. 125 CONG. REC. 36903, 36906, 96th Cong. 1st Sess.

10. Joseph G. Minish (N.J.).

Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. . . .

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

There was no objection.

A motion to reconsider was laid on the table.

Scope of Amendment

§ 6.12 In amending a Senate amendment to an appropriation bill, reported from conference in disagreement, the House is not confined within the limits of amount set by the original bill and the Senate amendment.

On May 15, 1940,[11] the House was considering the amendments in disagreement to H.R. 8202, the agriculture appropriation bill. Mr. Clarence Cannon, of Missouri, offered a motion to recede and concur with an amendment.

The Clerk read as follows:

Mr. Cannon of Missouri moves that the House recede from its disagreement to the amendment of the Senate No. 110 and agree to the same with an amendment as follows: In lieu of the sum of $40,000,000 named in said amendment insert "$100,000,000."

MR. [JOHN] TABER [of New York]: Mr. Speaker, I make the point of order that this amount exceeds the amount carried in the Senate amendment and is not in order at this time.

MR. CANNON of Missouri: Mr. Speaker, the only requirement is that it be germane, and this is certainly germane to the Senate amendment to which it is offered. The gentleman's point of order is not well taken.

THE SPEAKER:[12] The point of order raised by the gentleman from New York [Mr. Taber] has heretofore been very thoroughly passed upon. The Chair cites section 3189, of Cannon's Precedents, volume 8:

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

The Chair therefore overrules the point of order.

Amendment to Senate Amendment Must Be Germane

§ 6.13 A motion to recede from disagreement to a Senate amendment and to concur therein with a further amendment must be germane to the Senate amendment; and the proper rule to cite in expressing a point of order that the test has not been met is Rule XVI clause 7, and

11. 86 CONG. REC. 6184, 6185, 76th Cong. 3d Sess.

12. William B. Bankhead (Ala.).

not the more complicated mechanism of Rule XXVIII clause 5.

On June 30, 1987,[13] during consideration of the supplemental appropriation bill for fiscal year 1987, Mr. Bill Frenzel, of Minnesota, raised a point of order against the motion offered by Chairman Jamie L. Whitten, of Mississippi, to recede and concur with an amendment in one of the Senate amendments reported from conference in disagreement.

The proceedings were as shown:

THE SPEAKER PRO TEMPORE:[14] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 3, after line 7, insert:

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, none of the funds appropriated for fiscal year 1987 shall be used for the purpose of granting any patent for vertebrate or invertebrate animals, modified, altered, or in any way changed through engineering technology, including genetic engineering.

MOTION OFFERED BY MR. WHITTEN

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

THE SPEAKER PRO TEMPORE: The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Not to exceed $14,100,000 appropriated and available for obligation and expenditure under section 108(a)(1) of Public Law 99–190, as amended, shall remain available for obligation through September 30, 1988: *Provided*, That the Economic Development Administration shall close out the audits concerning grants to New York, New York pursuant to title I of the Local Public Works Capital Development and Investment Act of 1976, not later than August 1, 1987.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

None of the funds appropriated by this or any prior Act to the Patent and Trademark Office shall be used to purchase the mass storage requirement (PTO–10) portion of the U.S. Patent and Trademark Office Automation Project.

POINT OF ORDER

MR. FRENZEL: Mr. Speaker, I make a point of order against Senate amendment No. 5.

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13. 133 CONG. REC. 18294, 18295, 100th Cong. 1st Sess.

14. Daniel R. Glickman (Kans.).

THE SPEAKER PRO TEMPORE: The gentleman will state his point of order.

MR. FRENZEL: Mr. Speaker, I make a point of order against [the proposed House amendment to] amendment No. 5 reported in disagreement of the supplemental appropriation conference report on page 13 of the report, and on page 3 lines 19 through 23 of the printed bill now before us which relates to procurement by the U.S. Patent and Trademark Office automation project pursuant to rule XXVIII, clause 5(a)(1). This rule relates to nongermane matter in amendments in disagreement.

As I interpret it, the rule states that any matter introduced as a new issue in a conference committee which would have been otherwise ruled out of order if it came before the House, would likewise be made eligible for a point of order as reported in amendments in disagreement from the conference committee should there be a motion from the House to recede from its disagreement with the Senate. . . .

THE SPEAKER PRO TEMPORE: The gentleman from Minnesota [Mr. Frenzel] is raising a point of order against the motion, is that correct as being not germane to the Senate amendment under rule XVI, clause 7?

MR. FRENZEL: Yes, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Does anybody else desire to be heard on the point of order?

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Iowa [Mr. Smith] concedes the point of order and the point of order is sustained against the motion.

Proper Time To Raise a Point of Order That Senate Amendment Is Not Germane

§ 6.14 Pending a unanimous-consent request to concur with an amendment in a Senate amendment, no point of order lies against the Senate amendment on the ground it is not germane.

In response to a parliamentary inquiry, the Speaker Pro Tempore[15] explained the alternatives available to a Member where a unanimous-consent request was pending to take H.R. 5398, the Emergency Homeowners' Relief Act, to which the Senate had appended an amendment that was not germane, from the table and concur with a further amendment.[16]

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5398) to authorize temporary assistance to help defray mortgage payments on homes owned by persons who are temporarily unemployed or underemployed as the result of adverse economic conditions, with a Senate amendment thereto, as printed in the *Congressional Record* dated June 25,

15. John J. McFall (Calif.).
16. 121 CONG. REC. 20977, 20979, 20980, 94th Cong. 1st Sess., June 26, 1975.

1975, at pages 20794–97, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

> Strike out all after the enacting clause and insert the following:
>
> SHORT TITLE
>
> SECTION 1. That this Act may be cited as the "Emergency Housing Act of 1975". . . .

THE SPEAKER PRO TEMPORE: The Clerk will report the House amendment to the Senate amendment.

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

> Section 203, strike the whole section and renumber accordingly.
>
> Section 205, strike the whole section and renumber accordingly.
>
> Section 303, insert a new section 303.
>
> SEC. 303. Section 202(b) of the Flood Disaster Protection Act of 1973 is amended by inserting before the period at the end thereof a comma and the following: "except that the prohibition contained in this sentence shall not apply to any loan made prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling".

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Wisconsin (Mr. Reuss)? . . .

PARLIAMENTARY INQUIRY

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. BAUMAN: Mr. Speaker, I would like to ask the Chair whether or not there is any way an individual Member can attack the nongermaneness of that particular amendment, or is it included in the unanimous-consent request, which would mean that one would have to object to the request in order to request a division on the nongermane provisions.

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman, in answer to his parliamentary inquiry, that it is all under one unanimous-consent request; it is all one package.

MR. BAUMAN: But the gentleman could withdraw from his request concerning that amendment, could he not?

THE SPEAKER PRO TEMPORE: If there was an objection, the gentleman then could ask unanimous consent for something else. That is correct.

Amendments to Senate Amendments to Appropriation Bills; Germaneness Requirements

§ 6.15 Senate amendments proposing legislation on an appropriation bill may be amended by germane amendments.

On June 15, 1943,[17] the House was considering the amendments in disagreement to H.R. 1648, Treasury and Post Office appropriations for 1944. A motion offered by Mr. Louis Ludlow, of

17. 89 CONG. REC. 5899, 5900, 78th Cong. 1st Sess.

Indiana, to recede and concur was divided on demand of Mr. John Taber, of New York, and the House voted to recede. Mr. Frank B. Keefe, of Wisconsin, then offered a preferential motion to concur with an amendment which included a provision prohibiting the use of funds for certain purposes after Jan. 1, 1944. Mr. Emmet O'Neal, of Kentucky, then raised a point of order:

> Mr. Speaker, I make the point of order that the amendment is not germane to the paragraph under discussion. It goes beyond the matters considered in the paragraph.
>
> MR. LUDLOW: I supplement that with the suggestion, Mr. Speaker, also that it is legislation on an appropriation bill.
>
> THE SPEAKER:[18] But the Senate amendment is legislation on an appropriation bill, or the matter would not be here. The only difference that the Chair can see is that there is a further proviso—a difference in the date.
>
> MR. O'NEAL: Which is beyond the scope of the paragraph and, therefore, is not germane. . . .
>
> THE SPEAKER: The Chair has great respect for the opinion of the gentleman from Kentucky upon this and all other matters, but he cannot agree with the point that the gentleman makes. The only difference that the Chair can see between the motion of the gentleman from Wisconsin, and what was in the House bill and is now in the bill as it comes from the Senate is fixing the dates January 1, 1944, and June 30, 1944. The Chair, therefore, overrules the point of order.

§ 6.16 Where a Senate amendment on a general appropriation bill proposes an expenditure not authorized by law, it is in order in the House to perfect such Senate amendment by germane amendments.

On Feb. 8, 1937,[19] the House was considering amendments in disagreement to H.R. 3587, a deficiency appropriation bill. A motion was offered by Mr. Clifton A. Woodrum, of Virginia, to recede and concur in the Senate amendment with an amendment. Mr. Henry Ellenbogen, of Pennsylvania, offered a preferential motion to recede and concur, and Mr. Woodrum demanded a division of that question. The motion to recede was agreed to, whereupon Mr. Woodrum moved to concur in the Senate amendment with an amendment. After the Clerk read Mr. Woodrum's motion, Mr. Ellenbogen rose with a point of order:

18. Sam Rayburn (Tex.).

19. 81 CONG. REC. 975, 976, 75th Cong. 1st Sess.

Mr. Speaker, I make the point of order that the motion of the gentleman from Virginia violates the rules of the House in that it is legislation on an appropriation bill.

THE SPEAKER PRO TEMPORE:[20] The Chair will state that the Senate amendment is legislation and the amendment to that amendment offered by the gentleman from Virginia is not out of order because it contains legislation. The Chair therefore overrules the point of order.

MR. [THOMAS] O'MALLEY [of Wisconsin]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. O'MALLEY: Mr. Speaker, I make the point of order that the amendment of the gentleman from Virginia is not germane, since it limits the Senate amendment by date.

THE SPEAKER PRO TEMPORE: The Chair will state that it deals with the same subject matter, and the mere limitation of the Senate amendment by date does not destroy its germaneness, and the Chair therefore overrules the point of order.

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20. John J. O'Connor (N.Y.).

B. DISPOSING OF AMENDMENTS BETWEEN THE HOUSES; MOTIONS

§ 7. In General; Precedence

When an amendment of one House is first considered in the other, that body has the opportunity to perfect the amendment by adopting a motion to concur (agree) with an amendment. At this stage, this motion has priority over a motion simply to concur.[1] However, when one House informs the other of its disagreement to an amendment of that House, the stage of disagreement is reached,[2] the precedence of these motions is reversed, and a motion which tends to bring the two Houses into agreement most promptly (to concur) is preferential.[3]

When the stage of disagreement is reached on a particular amendment, that motion which tends most quickly to bring the Houses into agreement is preferential. Thus, where Senate amendments are taken up in the House for the first time (before the stage of disagreement has been reached on those amendments), the motion to concur with an amendment takes precedence over the motion to concur; but where the stage of disagreement between the two Houses has been reached, the precedence of the motions is reversed and the motion to recede and concur then takes precedence of a motion to recede and concur with an amendment, since such a motion most promptly tends to bring the two Houses together. However, the motion to recede and concur (with or without an amendment) is divisible on demand by any Member,[4] and upon such demand the House first votes on the question of receding. If the House votes to recede from its disagreement, a motion to concur with an amendment again takes precedence over a motion to concur.[5]

1. § 7.1, infra.
2. 6 Cannon's Precedents §§ 756, 757.
3. §§ 7.1, 7.8, infra.
4. Rule XVI clause 6, *House Rules and Manual*, § 791 (1997). See §§ 10.10, 10.11, 11.6, 11.7, infra.

   The propositions which are distinct and hence divisible are first to recede and second to concur (with or without amendment). The motion to concur with an amendment contains one proposition only, and is not divisible. § 11.9, infra.
5. § 7.18, infra.