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]

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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.

Under the earlier practice, the Member[6] who offered a motion to dispose of an amendment in disagreement was recognized to control an hour of debate thereon, and he or she could allocate the time at his or her discretion.[7] The modern practice is to divide the time, as explained in § 8, infra. If this motion is displaced by a preferential motion the proponent of the original motion still controls debate on the preferential motion[8] and on the original motion should the preferential motion fail.[9]

One House may recede from its amendment to a bill of the other, and that bill is considered as passed.[10] However, when the House recedes from an amendment with which it had agreed to a Senate amendment, it does not thereby agree to the Senate amendment.[11]

In the past, one House could recede from its own amendment to a bill of the other after that other House had concurred in the amendment with an amendment,[12] but more recently it has been held that the bill is not passed until further action by the House which had concurred in the amendment with an amendment.[13]

When the House recedes from its disagreement to a Senate amendment, such amendment is not thereby agreed to, as a motion to concur with an amendment is still in order.[14] The House may not recede from its own amendment with an amendment.[15]

Although it has been held that a negative vote on a motion to recede from disagreement to a Senate amendment is tantamount to

6. Usually the chairman of the committee which considered the legislation, or a Member designated by the chairman, is recognized to offer motions to dispose of amendments in disagreement. See §§ 8.22, 8.23, infra.
7. § 8.5, infra.
8. §§ 8.2, 8.9, 8.15, 8.18, infra.
9. See text accompanying § 8.18, infra.
10. §§ 10.2, 10.3, infra. See also Jefferson's Manual, *House Rules and Manual* § 524 (1997).
11. 8 Cannon's Precedents § 3199.
12. 5 Hinds' Precedents § 6226.
13. § 10.9, infra; and 8 Cannon's Precedents § 3177.
14. See § 7.18, infra; and Jefferson's Manual, *House Rules and Manual* § 525 (1997).
15. Jefferson's Manual, *House Rules and Manual* § 526 (1997); and § 7.24, infra. But see § 10.5, infra, for special case. See also 5 Hinds' Precedents §§ 6216–6218.

insisting on disagreement to that amendment[16] the weight of authority holds that the defeat of a motion to recede or recede and concur is not the equivalent of insisting on disagreement, since the House may also vote to adhere to its disagreement.[17]

When both Houses insist and neither of them asks for a conference or recedes, the bill fails.[18] When both Houses adhere the bill fails.[19] A House may recede from adherence[20] or reconsider its adherence.[1]

Stage of Disagreement as Affecting Precedence

§ 7.1 Where the House has receded from its disagreement to a Senate amendment and has then concurred therein with an amendment, it was held in the Senate that a motion to concur in the House amendment with a further amendment took precedence over a pending motion to concur.

On Dec. 30, 1970,[2] the Senate was considering House action on Senate amendments to H.R. 17867, foreign assistance appropriations for fiscal 1971.

MR. [GALE W.] MCGEE [of Wyoming]: Mr. President, amendment No. 19 is the one that relates to foreign military credit sales. The House has concurred in a motion by the Chairman of the House managers to recede from its disagreement to the amendment of the Senate, and to concur with an amendment to fix the sum, as the Senate did on foreign military credit sales, at $200 million.[3] . . .

I would, therefore, move that the Senate concur in the amendment of the House to the amendment of the Senate amendment No. 19. . . .

MR. [MICHAEL J.] MANSFIELD [of Montana]: . . . Mr. President, I move that the Senate concur in the House amendment to the Senate amendment numbered 19, with an amendment as follows:

Provided, however, That none of these funds may be obligated or ex-

16. § 10.24, infra.
17. §§ 10.29, 12.5, 12.8, infra.
18. 5 Hinds' Precedents § 6228.
19. *Id.* at §§ 6163, 6313, 6324, 6325.
20. *Id.* at §§ 6252, 6401.
1. *Id.* at § 6253.

2. 116 CONG. REC. 44116, 44117, 44123, 44124, 91st Cong. 2d Sess.
3. This was a new amendment to Senate amendment No. 19, and was being considered for the first time in the Senate. Thus, the stage of disagreement on this particular amendment to Senate amendment No. 19 had not yet been reached.

pended until an authorization shall have been enacted into law.

THE PRESIDING OFFICER:[4] The question is on the amendment. Would the Senator send the motion to the desk?

The motion will be stated.

The assistant legislative clerk read as follows:

That the Senate concur in the House amendment to the Senate amendment numbered 19, with an amendment as follows:

Provided, however, That none of these funds may be obligated or expended until an authorization shall have been enacted into law.

MR. MANSFIELD: Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

MR. MCGEE: Mr. President, a parliamentary inquiry.

THE PRESIDING OFFICER: The Senator will state it.

MR. MCGEE: Mr. President, are we dealing with an amendment to the pending motion?

THE PRESIDING OFFICER: The motion of the Senator from Montana is that the Senate concur in the House amendment to the Senate amendment with an amendment.

MR. MCGEE: Mr. President, what I am questioning in a parliamentary sense is the redundancy. Was not my motion the pending motion?

THE PRESIDING OFFICER: The Senator from Montana has offered a motion to concur with an amendment. That takes precedence over a straight motion to concur.

MR. MCGEE: That still does not address itself to my question. My motion takes precedence as the primary motion. My motion is to concur in the amendment of the House to the amendment of the Senate numbered 19.

THE PRESIDING OFFICER: Should the amendment of the Senator from Montana fail, then we will return to the motion of the Senator from Wyoming. . . .

THE PRESIDING OFFICER:[5] The question is on agreeing to the motion of the Senator from Montana (Mr. Mansfield) that the Senate concur in the House amendment to the Senate amendment No. 19, with an amendment.

On this question the yeas and nays have been ordered, and the clerk will call the roll. . . .

The result was announced—yeas 60, nays 12. . . .

So Mr. Mansfield's motion was agreed to.

Precedence of Senate Motions

§ 7.2 In the Senate, a motion to concur with an amendment in a House amendment to a Senate bill takes precedence over the privileged motion to disagree to the amendment and agree to the conference requested by the House.

4. Carl T. Curtis (Nebr.).

5. Theodore F. Stevens (Alaska).

The proceedings in the Senate on Feb. 1, 1977,[6] demonstrate the precedence of motions which are in order under the rules of the Senate before the Senate has reached the stage of disagreement and show that the motion to amend the House amendment is more privileged than the motion to disagree; but the motion to concur is itself subject to the motion to table.

The Chair laid before the Senate the following message from the House:

FEBRUARY 1, 1977.

Resolved, That the House insist upon its amendment to the bill (S. 474) entitled "An Act to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high-priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Staggers, Mr. Dingell, Mr. Eckhardt, Mr. Sharp, Mr. Moffett, Mr. Broyhill, and Mr. Brown of Ohio be the managers of the conference on the part of the House. . . .

MR. ROBERT C. BYRD [of West Virginia]: Mr. President, I move that the Senate disagree with the amendment by the House, agree with the request for a conference, and that the Chair appoint the conferees on the part of the Senate. . . .

THE PRESIDING OFFICER:[7] The question is on the motion of the Senator from West Virginia to disagree with the amendment of the House and request a conference with the House. . . .

MR. [EDWARD W.] BROOKE [of Massachusetts]: Mr. President, is an amendment now in order?

THE PRESIDING OFFICER: A motion to concur in the House amendment with an amendment takes precedence over the pending motion. The answer is yes.

MR. BROOKE: All right. Then, Mr. President, I send to the desk an amendment and ask for its immediate consideration.

THE PRESIDING OFFICER: The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. Brooke) proposes an unprinted amendment numbered 20 to the House amendment to the Senate bill. . . .

MR. [ADLAI E.] STEVENSON [III, of Illinois]: . . . So, Mr. President, unless there is anything further to be said, I move to table the amendment.[8]

MR. BROOKE: Mr. 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.

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6. 123 CONG. REC. 2948, 2950, 2951, 95th Cong. 1st Sess.

7. Dale Bumpers (Ark.).

8. It was the motion to concur with an amendment that was tabled, not just the amendment.

THE PRESIDING OFFICER: The question is on agreeing to the motion to table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll. . . .

So the motion to lay on the table was agreed to.

MR. ROBERT C. BYRD: Mr. President, I move to reconsider the vote by which the motion was agreed to.

MR. STEVENSON: I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE PRESIDING OFFICER: The question recurs on the motion of the Senator from West Virginia.

The motion was agreed to and the Chair appointed Mr. Stevenson, Mr. Hollings, Mr. Johnston, Mr. Pearson, and Mr. Stevens conferees on the part of the Senate.

Parliamentarian's Note: The stage of disagreement in either House is not reached until the House in possession of the papers has disagreed with the amendment of the other House (or has insisted on its own amendment to a bill of the other) and has notified the other body of that action. Before the stage of disagreement is reached, the only motion in the House is the one provided in Rule XX clause 1, which permits a motion to disagree to an amendment of the other House and ask or agree to a conference. This motion is in order if the Speaker in his discretion agrees to recognize for that purpose and if the committee of jurisdiction authorizes the motion to be made.

Privilege of Motions Resolving Disagreement

§ 7.3 *Parliamentarian's Note:* Once the stage of disagreement has been reached, motions in the House to resolve the matter in disagreement are privileged and do not require unanimous consent for their consideration.

The proceedings of Nov. 9, 1967,[9] demonstrate this principle.

Speaker John W. McCormack, of Massachusetts, recognized Mr. Michael J. Kirwan, of Ohio.

MR. KIRWAN: Mr. Speaker, I call up the bill (H.R. 11641), making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, Interstate Commission on the Potomac River Basin, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1968, and for other purposes; with Senate amend-

9. 113 CONG. REC. 31878, 31880, 90th Cong. 1st Sess.

ment No. 2 thereon, and ask for its immediate consideration.

The Clerk read the title of the bill.

The Clerk read the Senate amendment [to the House amendment to Senate amendment number 2], as follows:

> Strike out "$967,599,000" and insert "$968,474,000".

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

The Clerk read as follows:

> Mr. Kirwan moves that the House disagree to the amendment of the Senate to the House amendment to Senate amendment No. 2.

MR. [WILLIAM D.] HATHAWAY [of Maine]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hathaway moves that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

THE SPEAKER: The gentleman from Ohio [Mr. Kirwan] is recognized for 1 hour.

MR. KIRWAN: Mr. Speaker, I yield 1 minute to the distinguished gentleman from Massachusetts [Mr. Boland]. . . .

Mr. Speaker, I move the previous question on the preferential motion offered by the gentleman from Maine [Mr. Hathaway].

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[10] The question is on the preferential motion offered by the gentleman from Maine [Mr. Hathaway] that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

Precedence of Motions To Dispose of Senate Amendments After the Stage of Disagreement Is Reached

§ 7.4 Where the stage of disagreement on a House bill with Senate amendments has been reached and the Senate has then messaged to the House a new amendment to a House amendment to an earlier Senate amendment, a motion to concur in the new amendment is privileged and takes precedence over a motion to disagree and request a further conference.

Once the stage of disagreement is reached on a House bill and the Senate amendments thereto, motions to dispose of further degrees of amendments on the bill, when before the House, remain privileged, and when a motion is made to dispose of such an amendment, the proponent of the motion is recognized for an hour. Rule XXVIII clause 2(b),[11] specifying the division of time between the two parties on "an amendment

10. Charles M. Price (Ill.).

11. *House Rules and Manual* § 912b (1997).

reported from conference in disagreement" is no longer applicable. An illustration of this practice is shown by the following proceedings:[12]

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes, together with the Senate amendment to the House amendment to the Senate amendment No. 75 thereto, disagree to the Senate amendment to the House amendment to Senate amendment No. 75, and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to Senate amendment No. 75 as follows:

Strike out "$205,600,000" and insert: "$205,600,000, none of which, nor any other funds appropriated in this Act may be used for any activities involving Angola other than intelligence gathering, and which funds are".

PREFERENTIAL MOTION OFFERED BY MR. GIAIMO

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, on behalf of the gentleman from New York (Mr. Addabbo) and myself, I offer a preferential motion.

The Clerk read as follows:

Mr. Giaimo moves that the House concur with the Senate amendment to the House amendment to Senate amendment numbered 75.

THE SPEAKER:[13] The gentleman from Texas (Mr. Mahon) is recognized for 1 hour. . . .

MR. MAHON: Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

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

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

MR. GIAIMO: 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 323, nays 99, not voting 10. . . .

So the preferential motion was agreed to.

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

12. 122 CONG. REC. 1035, 1036, 1056, 1057, 94th Cong. 2d Sess., Jan. 27, 1976.

13. Carl Albert (Okla.).

§ 7.5 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.

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 and more preferential than a motion to commit under Rule XVI clause 4.[14]

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,[15] 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[16] 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[17] 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

14. For further discussion, see footnotes in § 10.16, infra.

15. 122 CONG. REC. 30868, 30872, 30873, 30887, 30888, 94th Cong. 2d Sess.

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

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

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:[18] 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?

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?

18. Carl Albert (Okla.).

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.

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

THE SPEAKER: The question is on ordering the previous question.[19]

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. . . .

§ 7.6 When a conference report is ruled out of order the prerequisite stage of disagreement continues, the bill and amendments are again before the House, and motions relating to amendments and conference remain privileged.

On May 22, 1936,[20] Speaker Joseph W. Byrns, of Tennessee, sustained a point of order raised by Mr. James P. Buchanan, of Texas, against the conference report on H.R. 9496, a bill to protect the United States against loss suffered in postal delivery of checks for veterans' benefits.

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

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: Mr. Speaker, if the conference report is out of order, how can we consider it?

THE SPEAKER: The amendments are before the House and must be disposed of.

MR. SNELL: I suppose that the whole report went out.

THE SPEAKER: The report goes out, but that leaves the amendments before the House, and some action must be taken on them. It is for the House to say what action it will take. . . .

MR. [CARL E.] MAPES [of Michigan] (interrupting the reading of the Senate amendment): Mr. Speaker, a point of order.

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19. 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 a motion which would further amend would not have been in order since it would have been in the third degree.

20. 80 CONG. REC. 7790–92, 74th Cong. 2d Sess.

THE SPEAKER: The gentleman will state it.

MR. MAPES: Mr. Speaker, supplementing what the gentleman from New York [Mr. Snell] has said, an attempt was made to get this bill before the House by calling up the conference report and the conference report was held out of order. No further action to get the bill before the House has been taken. There has been no request to bring it up in any other way except through the conference report, and the Speaker, very properly I think, has ruled that the conference report is out of order.

THE SPEAKER: The conference report was called up by the gentleman from New York [Mr. Mead]. The conference report has been held to be out of order, which leaves the Senate amendments before the House for consideration. The House must take some action on them.

MR. MAPES: How do the amendments get before the House for consideration?

THE SPEAKER: They are called up by the gentleman from New York [Mr. Mead].

MR. MAPES: No attempt has been made by the gentleman from New York [Mr. Mead], as I understand, to call them up.

THE SPEAKER: The Chair, in answer to the gentleman from Michigan, reads from section 3257 of Cannon's Precedents:

> When a conference report is ruled out of order the bill and amendments are again before the House as when first presented, and motions relating to amendments and conference are again in order.

The Chair thinks that completely answers the gentleman from Michigan.

MR. MAPES: That seems to cover the matter.

MR. [FREDERICK R.] LEHLBACH [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. LEHLBACH: Are amendments put on a House bill by the Senate privileged?

THE SPEAKER: After the stage of disagreement has been reached they are. For this reason it is necessary that the House take some action upon the amendments at this time.

Recognition Following Rejection of Conference Report

§ 7.7 Upon rejection of a conference report on a House bill with Senate amendments, the manager is entitled to priority in recognition to offer a motion to dispose of the amendments; and he may move to disagree with all the amendments and request a further conference, although this motion is not of the highest priority.

On Oct. 20, 1990,[1] the House ordered the previous question on, and then rejected, the conference report on H.R. 5311, the District

1. 136 CONG. REC. 31493, 101st Cong. 2d Sess.

of Columbia Appropriations Act, 1991. Control of the floor did not shift in this situation, as shown by the proceedings carried here.

Mr. Frenzel and Mr. Fazio changed their vote from "no" to "aye."

So the conference report was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table. . . .

APPOINTMENT OF CONFEREES ON H.R. 5311, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1991

MR. [JULIAN C.] DIXON [of California]: Mr. Speaker, I move to insist on the disagreement to all Senate amendments to the bill, H.R. 5311, and request a further conference with the Senate thereon.

THE SPEAKER PRO TEMPORE:[2] The question is on the motion offered by the gentleman from California [Mr. Dixon].

The motion was agreed to.

THE SPEAKER PRO TEMPORE: Without objection, the Chair appoints the following conferees: Messrs. Dixon, Natcher, Stokes . . . and Conte.

There was no objection.

Parliamentarian's Note: Chairman Dixon could have been preempted by a more preferential motion. The stage of disagreement having been reached when the House initially disagreed to the Senate amendments and agreed to the conference, the following motions are privileged and have the precedence indicated: (1) to recede and concur; (2) to recede and concur with amendment; (3) to insist on disagreement and request a further conference; (4) to insist on disagreement; and (5) to adhere.

Precedence of Motions Bringing Houses Into Agreement

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

On Dec. 10, 1963,[3] the House was considering the amendments in disagreement to H.R. 8747, appropriations for certain independent offices for fiscal 1964. Speaker John W. McCormack, of Massachusetts, directed the Clerk to read the next amendment in disagreement.

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

The Clerk read as follows:

Senate amendment No. 92: Page 46, line 19, insert: "*Provided further*, That $1,722,000 shall be used for the sites and planning expenses involved in the construction of a Veterans'

2. William H. Gray III (Pa.).

3. 109 CONG. REC. 23950, 23952, 23953, 88th Cong. 1st Sess.

Administration hospital at Bay Pines, Florida.".

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Thomas moves that the House insist upon its disagreement to the amendment of the Senate numbered 92.

MR. [HAROLD C.] OSTERTAG [of New York]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Ostertag moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein. . . .

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

The question was taken; and there were—yeas 171, nays 204, not voting 59. . . .

So the preferential motion was rejected. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from Texas [Mr. Thomas].

The motion was agreed to.[4]

Parliamentarian's Note: In the 103d Congress, a new paragraph was added to Rule XXVIII, clause 2, giving one motion to insist on disagreement to a Senate amendment preferential standing where the original motion offered by the floor manager proposes a change in existing law.[5] The new rule applies only to amendments in disagreement on a general appropriation bill.[6]

Consequences of Dividing Motion To Recede and Concur

§ 7.9 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,[7] when the House had under consideration

4. See also 111 CONG. REC. 8861, 8866, 8867, 89th Cong. 1st Sess., Apr. 29, 1965.

5. Rule XXVIII clause 2(b)(2), *House Rules and Manual* § 912c (1997), adopted as part of H. Res. 5, Jan. 5, 1993.

6. See § 12.3, infra.

7. 122 CONG. REC. 26781, 26783, 26792, 26793, 94th Cong. 2d Sess.

the final amendment remaining in disagreement following adoption of the conference report on an appropriation bill,[8] the manager[9] 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:[10] 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:

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

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

9. Daniel J. Flood (Pa.).

10. Carl Albert (Okla.).

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 eliminate 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.

Precedence of Motion To Disagree and Request Further Conference

§ 7.10 The stage of disagreement having been reached on a Senate amendment (to which the House has refused

to agree), the compound motion to disagree to the Senate amendment and request a further conference takes precedence over the simple motion to disagree to the Senate amendment, since tending to bring the two Houses together.

The final Senate amendment to the Deficit Reduction Act of 1985 remained in contention between the two Houses. In the House, a motion to table an effort to recede and concur had just been agreed to.

The chairman of the Committee on the Budget,[11] then offered a motion to disagree with the final Senate amendment. The proceedings which followed are carried here.[12]

So the motion to table [the motion to recede and concur] 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. GRAY OF PENNSYLVANIA

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

PARLIAMENTARY INQUIRY

MR. [TRENT] LOTT [of Mississippi]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[13] The gentleman will state it.

MR. LOTT: Mr. Speaker, I understand the gentleman from Pennsylvania has offered a motion to disagree. My parliamentary inquiry is, would a motion to disagree to the last amendment of the Senate and request a conference thereon be a preferential motion to the motion to disagree, that is, more preferential?

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman in the affirmative, that is correct.

MR. LOTT: Then Mr. Speaker, I have a privileged resolution which I send to the desk.

THE SPEAKER PRO TEMPORE: If the gentleman will hold, the Clerk will first report the motion of the gentleman from Pennsylvania.

The Clerk read as follows:

Motion offered by Mr. Gray of Pennsylvania: Mr. Gray of Pennsylvania 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 disagree to the Senate amendment.

THE SPEAKER PRO TEMPORE: The Chair would advise the Members that this is a very important matter. It is a very detailed parliamentary situation, and I am sure the Members would like

11. William H. Gray III (Pa.).

12. 132 CONG. REC. 5218–20, 99th Cong. 2d Sess., Mar. 18, 1986.

13. William V. Alexander (Ark.).

to know what they are going to be voting on.

PARLIAMENTARY INQUIRY

MR. GRAY of Pennsylvania: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GRAY of Pennsylvania: Mr. Speaker, which motion was read, was it my motion or that of the gentleman from Mississippi?

THE SPEAKER PRO TEMPORE: The Clerk has just read the motion of the gentleman from Pennsylvania.

The Clerk will now report the preferential motion of the gentleman from Mississippi.

PREFERENTIAL MOTION OFFERED BY MR. LOTT

MR. LOTT: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Preferential motion offered by Mr. Lott: Mr. Lott moves to disagree to the last amendment of the Senate and request a conference thereon.

MR. GRAY of Pennsylvania: Mr. Speaker, I move to table the motion.

THE SPEAKER PRO TEMPORE: The Chair would ask which motion, the motion of the gentleman from Mississippi [Mr. Lott]?

MR. GRAY of Pennsylvania: Yes, Mr. Speaker.

Mr. Speaker, I move to table the motion of the gentleman from Mississippi [Mr. Lott].

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gray] to table the motion offered by the gentleman from Mississippi [Mr. Lott].

PARLIAMENTARY INQUIRY

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

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. LOTT: As the Chair has stated, this is a complicated parliamentary process we have here.

Mr. Speaker, I would like to make sure that Members understand what they are about to vote on and that I understand what we are about to vote on.

THE SPEAKER PRO TEMPORE: The gentleman from Pennsylvania [Mr. Gray] made a motion to disagree to the Senate amendment. The gentleman from Mississippi [Mr. Lott] made a motion to instruct—excuse the Chair—to disagree to the Senate amendment and to go to conference. The gentleman from Pennsylvania now has moved to lay that on the table. . . .

MR. LOTT: So that we do not send this off into some dark hole, but so that we could have a conference to try to further work out the difficulties.

So my parliamentary inquiry is this: Is the vote at this time then on the motion to table the motion for a conference on this most important reconciliation bill?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. LOTT: So if you vote for the motion to table you are saying you do not even want to go to conference, is that correct?

THE SPEAKER PRO TEMPORE: The regular order is that the gentleman from Pennsylvania has made a motion

to lay on the table the motion of the gentleman from Mississippi, and the question occurs on the motion of the gentleman from Pennsylvania.

PARLIAMENTARY INQUIRY

MRS. [LYNN] MARTIN of Illinois: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentlewoman from Illinois will state it.

MRS. MARTIN of Illinois: Mr. Speaker, I am sure it was the noise of the body, but I did not hear the answer to the question that was posed by the Republican whip.

The question I believe was: When we vote on the motion to table going to conference a "yes" vote to table would mean you did not wish to go to conference on this important item, is that correct?

THE SPEAKER PRO TEMPORE: At this stage that would be an accurate statement.

MRS. MARTIN of Illinois: I thank the Speaker.

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

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 186, not voting 25. . . .

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE SPEAKER PRO TEMPORE: The pending business is the motion offered by the gentleman from Pennsylvania [Mr. Gray] to disagree to the Senate amendment.

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

The Chair recognizes the gentleman from Pennsylvania [Mr. Gray]. . . .

The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gray].

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

MR. GRAY of Pennsylvania: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 331, nays 76, not voting 27. . . .

Motion To Concur and Motion To Disagree

§ 7.11 A motion that the House concur in a Senate amendment to a House amendment to an amendment of the Senate (in disagreement between the two Houses) takes precedence over a motion to disagree to the Senate's amendment.

On Nov. 9, 1967,[14] the House was considering a [new] Senate amendment to a House amendment to a Senate amendment to H.R. 11641, civil functions appropriations for 1968. Speaker John W. McCormack, of Massachusetts, recognized Mr. Michael J. Kirwan, of Ohio.

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

The Clerk read as follows:

Mr. Kirwan moves that the House disagree to the amendment of the Senate to the House amendment to Senate amendment No. 2.

MR. [WILLIAM D.] HATHAWAY [of Maine]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Hathaway moves that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

THE SPEAKER: The gentleman from Ohio [Mr. Kirwan] is recognized for 1 hour.

After controlling debate on this motion, Mr. Kirwan moved the previous question.

MR. KIRWAN: . . . Mr. Speaker, I move the previous question on the preferential motion offered by the gentleman from Maine [Mr. Hathaway].

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[15] The question is on the preferential motion offered by the gentleman from Maine [Mr. Hathaway] that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

MR. KIRWAN: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 118, nays 263, not voting 51. . . .

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE: The question now is on the motion of the gentleman from Ohio [Mr. Kirwan] that the House disagree to the amendment of the Senate to the House amendment to Senate amendment No. 2.

The motion was agreed to.

A motion to reconsider was laid on the table.

§ 7.12 A motion that the House concur in a Senate amendment takes precedence of a motion to disagree, but may not deprive the Member in charge of the floor.

On Nov. 9, 1967,[16] Speaker John W. McCormack, of Massachusetts, recognized Mr. Michael J. Kirwan, of Ohio, to offer a motion to disagree to an amendment

14. 113 CONG. REC. 31878, 31880, 31881, 90th Cong. 1st Sess.

15. Charles M. Price (Ill.).

16. 113 CONG. REC. 31878, 90th Cong. 1st Sess.

of the Senate to H.R. 11641, the civil functions appropriations bill of 1968.

The Clerk read as follows:

Mr. Kirwan moves that the House disagree to the amendment of the Senate to the House amendment to Senate amendment No. 2.

MR. [WILLIAM D.] HATHAWAY [of Maine]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Hathaway moves that the House concur in the amendment of the Senate to the House amendment to Senate amendment No. 2.

THE SPEAKER: The gentleman from Ohio [Mr. Kirwan] is recognized for 1 hour.

Motion To Concur and Motion To Insist on Disagreement

§ 7.13 The stage of disagreement having been reached, the motion to recede and concur takes precedence over the motion to insist on disagreement.(17)

On Oct. 24, 1967,(18) the House was considering the amendments in disagreement to H.R. 9960, independent offices appropriations for fiscal 1968. The following occurred:

THE SPEAKER:(19) The Clerk will report the Senate amendments in disagreement.

The Clerk read as follows:

Senate amendment No. 58: On page 36, line 23, strike out "$75,000,000" and insert "$125,000,000".

Senate amendment No. 59: On page 37, line 2, strike out "$237,000,000" and insert "$537,000,000".

MR. [JOSEPH L.] EVINS of Tennessee: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House insist on its disagreement to the amendments of the Senate numbered 58 and 59.

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Giaimo moves that the House recede from its disagreement to the amendments of the Senate numbered 58 and 59 and concur therein.

THE SPEAKER: The Chair recognizes the gentleman from Tennessee [Mr. Evins].

After controlling one hour of debate, Mr. Evins moved the previ-

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17. See 119 CONG. REC. 21171–73, 21179, 21180, 93d Cong. 1st Sess., June 25, 1973 (H.R. 7447); 118 CONG. REC. 22959, 22974, 22975, 92d Cong. 2d Sess., June 28, 1972 (H.R. 13955); and 113 CONG. REC. 25201, 25211, 90th Cong. 1st Sess., Sept. 12, 1967 (H.R. 10738).

18. 113 CONG. REC. 29837, 29838, 29842, 90th Cong. 1st Sess.

19. John W. McCormack (Mass.).

ous question on the motion offered by Mr. Giaimo.

MR. EVINS of Tennessee: . . . Mr. Speaker, I move the previous question and urge that you vote against the preferential motion. . . .

The previous question was ordered.

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Connecticut [Mr. Giaimo] that the House recede from its disagreement to Senate amendments No. 58 and No. 59, and concur therein.

MR. EVINS of Tennessee: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 156, nays 241, not voting 35. . . .

So the preferential motion was rejected. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from Tennessee [Mr. Evins] that the House insist upon its disagreement to the amendments of the Senate No. 58 and No. 59.

The motion was agreed to.

Precedence of Motions and Control of Debate When Stage of Disagreement Is Reached

§ 7.14 When the stage of disagreement is reached on a Senate amendment to a House amendment to a Senate amendment to a House bill, the motion to concur in the last Senate amendment takes precedence over a motion to disagree and request a conference, but the Member offering the preferential motion does not thereby gain control of the debate time which continues to be controlled by the manager of the bill and is divided between the majority and the minority.

The proceedings of Oct. 13, 1977,[20] when the House was considering a final amendment in disagreement to the bill H.R. 7555, the Labor and Health, Education, and Welfare appropriation bill, show that, even after the preferential motion to concur was pending, the debate time continued to be controlled by the manager who eventually moved the previous question on the privileged and the underlying motions.

APPOINTMENT OF CONFEREES ON H.R. 7555, LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1978

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health,

20. 123 CONG. REC. 33688, 33689, 33693, 95th Cong. 1st Sess.

Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, with a Senate amendment to the House amendment to Senate amendment numbered 82, disagree to the amendment of the Senate, and request a conference with the Senate on the disagreeing votes of the two Houses.

The Clerk read the title of the bill.

THE SPEAKER:[1] The Clerk will report the motion.

The Clerk read as follows:

MOTION OFFERED BY MR. FLOOD

Mr. Flood moves to take from the Speaker's table the bill 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, with a Senate amendment to the House amendment to Senate amendment numbered 82, disagree to the amendment of the Senate, and request a conference with the Senate on the disagreeing votes of the two Houses.

PREFERENTIAL MOTION OFFERED BY MR. STEERS

MR. [NEWTON J.] STEERS [Jr., of Maryland]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Steers of Maryland moves that the House concur in the Senate Amendment to the House Amendment to the Senate Amendment No. 82.

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) is in control of the time, and the gentleman is recognized for 30 minutes.

PARLIAMENTARY INQUIRY

MR. [JOHN J.] RHODES [of Arizona]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RHODES: Mr. Speaker, since the gentleman from Maryland (Mr. Steers) made the motion which is being considered by the House, does the gentleman from Maryland not have control of the time?

THE SPEAKER: In response to the parliamentary inquiry, the preferential motion made by the gentleman from Maryland (Mr. Steers) does not take the time from the gentleman from Pennsylvania, the chairman of the committee, who previously had the time under his original motion. The motion was in order. The vote will come first on the preferential motion.

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

MR. FLOOD: Mr. Speaker, I move the previous question on the motion to disagree and on the preferential motion to concur.

The previous question was ordered.

The preferential motion was then rejected.

Relationship of Motions To Disagree, Recede and Concur, and Recede and Concur With Amendment

§ 7.15 A motion that the House insist on its disagreement

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

to a Senate amendment remains pending during the consideration of preferential motions to recede and concur and to recede and concur with an amendment, and if the House refuses to recede (the preferential motion to recede and concur having been divided) the question recurs on the motion to insist on disagreement.

On July 7, 1943,[2] the House was considering amendments in disagreement to H.R. 2968, the second deficiency appropriations bill. Speaker Sam Rayburn, of Texas, recognized Mr. Clarence Cannon, of Missouri.

MR. CANNON of Missouri: Mr. Speaker, I move that the House further insist on its disagreement to the amendment of the Senate No. 33.

Mr. Eberharter and Mr. Taber rose.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, I offer a preferential motion.

MR. [JOHN] TABER [of New York]: Mr. Speaker, a member of the committee.

THE SPEAKER: For what purpose does the gentleman from New York rise?

MR. TABER: To offer a preferential motion, Mr. Speaker.

THE SPEAKER: The Chair will have both motions read and see which is more preferential.

The Clerk will report the motion of the gentleman from Pennsylvania [Mr. Eberharter].

The Clerk read as follows:

Mr. Eberharter moves to recede and concur in Senate amendment No. 33 to H.R. 2968.

THE SPEAKER: The Clerk will report the suggestion of the gentleman from New York [Mr. Taber].

The Clerk read as follows:

Mr. Taber moves to recede and concur with an amendment as follows: "In lieu of the matter inserted by the Senate insert the following:

" 'No part of any appropriation contained in this act shall be available to pay the salary of any person at the rate of $5,500 per annum or more, appointed after June 30, 1943, unless such person shall have been appointed by the President by and with the advice and consent of the Senate: *Provided*, That those appointed between June 30, 1943, and November 1, 1943, may hold office till the latter date unless sooner than that the Senate shall have refused to give its advice and consent as to any such appointee.' "

THE SPEAKER: The Chair is compelled to hold that the motion to recede and concur, at this stage, takes precedence over a motion to recede and concur with an amendment.

MR. TABER: Mr. Speaker, I ask for a division of the question.

THE SPEAKER: The gentleman from New York [Mr. Taber] demands a division of the question.

The question is: Will the House recede from its disagreement to the amendment of the Senate? . . .

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2. 89 CONG. REC. 7382–84, 78th Cong. 1st Sess.

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 result of the vote was announced as above recorded.

THE SPEAKER: 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 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.

Motion To Adhere and Motion To Recede and Concur

§ 7.16 Where both the motion to adhere and the motion to recede and concur are pending, and a division of the latter motion is demanded, the vote comes first on the motion to recede.

On June 23, 1960,[3] the House was considering the amendments in disagreement to H.R. 10569, appropriations for the Treasury and Post Office departments. Speaker Pro Tempore Wilbur D. Mills, of Arkansas, recognized Mr. J. Vaughan Gary, of Virginia.

MR. GARY: Mr. Speaker, I send a motion to the desk.

The Clerk read as follows:

> Mr. Gary moves that the House adhere to its disagreement to the amendment of the Senate numbered 6.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hoffman of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein.

MR. GARY: Mr. Speaker, I ask for a division of the motion.

THE SPEAKER PRO TEMPORE: The gentleman may have a division of the motion. Does the gentleman wish to debate the motion?

MR. GARY: Yes.

After one hour of debate, controlled by Mr. Gary, the following occurred:

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3. 106 CONG. REC. 14074, 14081, 86th Cong. 2d Sess.

The previous question [on the motion to recede] was ordered.

MR. [JOHN] TABER [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[4] The gentleman will state it.

MR. TABER: Is not the parliamentary situation this: The gentleman from Michigan [Mr. Hoffman] has offered a motion to recede and concur. The gentleman from Virginia asked for a division of the question. The parliamentary situation is this: We first vote on the question of receding, and if that carries we can vote on the other part of the motion?

THE SPEAKER PRO TEMPORE: On the question of concurrence?

MR. TABER: Yes.

THE SPEAKER PRO TEMPORE: That is correct.

MR. TABER: If the motion to recede is not agreed to, then that is the end of it?

THE SPEAKER PRO TEMPORE: No. The vote then would be on the motion to adhere.

MR. TABER: To adhere, that is right.

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. GARY: Mr. Speaker, the question at the present time is on the motion offered by the gentleman from Michigan [Mr. Hoffman].

THE SPEAKER PRO TEMPORE: The question is, will the House recede from its disagreement with the Senate amendment. . . .

So the motion to recede was agreed to. . . .

4. Francis E. Walter (Pa.).

THE SPEAKER:[5] The question pending is, Shall the House concur in the Senate amendment?

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

Motion To Recede and Concur and Motion To Recede and Concur With an Amendment

§ 7.17 After the stage of disagreement is reached on an amendment between the Houses, a motion to recede from disagreement to a Senate amendment and concur takes precedence over a motion to recede and concur with an amendment.

On July 7, 1943,[6] the House was considering amendments in disagreement to H.R. 2968, the second deficiency appropriations bill. Mr. Clarence Cannon, of Missouri, moved that the House insist on its disagreement to the Senate amendment numbered 33.

Mr. Eberharter and Mr. Taber rose.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, I offer a preferential motion.

MR. [JOHN] TABER [of New York]: Mr. Speaker, a member of the committee.

5. Sam Rayburn (Tex.).

6. 89 CONG. REC. 7382–84, 78th Cong. 1st Sess.

THE SPEAKER:[7] For what purpose does the gentleman from New York rise?

MR. TABER: To offer a preferential motion, Mr. Speaker.

THE SPEAKER: The Chair will have both motions read and see which is more preferential.

The Clerk will report the motion of the gentleman from Pennsylvania [Mr. Eberharter].

The Clerk read as follows:

> Mr. Eberharter moves to recede and concur in Senate amendment No. 33 to H.R. 2968.

THE SPEAKER: The Clerk will report the suggestion of the gentleman from New York [Mr. Taber].

The Clerk read as follows:

> Mr. Taber moves to recede and concur with an amendment as follows: "In lieu of the matter inserted by the Senate insert the following:
>
> " 'No part of any appropriation contained in this act shall be available to pay the salary of any person at the rate of $5,500 per annum or more, appointed after June 30, 1943, unless such person shall have been appointed by the President by and with the advice and consent of the Senate: *Provided*, That those appointed between June 30, 1943, and November 1, 1943, may hold office till the latter date unless sooner than that the Senate shall have refused to give its advice and consent at to any such appointee.' "

THE SPEAKER: The Chair is compelled to hold that the motion to recede and concur, at this stage, takes precedence over a motion to recede and concur with an amendment.

7. Sam Rayburn (Tex.).

Divisibility of Motion To Recede and Concur

§ 7.18 After the stage of disagreement has been reached, a motion to recede and concur in a Senate amendment takes precedence over a motion to recede and concur with an amendment, but a motion to recede and concur being divisible, and the House having receded from its disagreement to a Senate amendment, a motion to concur with an amendment takes precedence over a motion to concur.

On July 18, 1947,[8] the House was considering the amendment in disagreement to H.R. 3601, agriculture appropriations for fiscal 1948. Mr. Clarence Cannon, of Missouri, offered the following motion:

> Mr. Cannon moves that the House recede and concur in Senate amendment No. 42. . . .
>
> The previous question was ordered.
>
> THE SPEAKER:[9] The question is on the motion of the gentleman from Missouri to recede and concur in the Senate amendment.

8. 93 CONG. REC. 9311, 9319, 9320, 80th Cong. 1st Sess.

9. Joseph W. Martin, Jr. (Mass.).

MR. [FRANCIS H.] CASE of South Dakota: Mr. Speaker, I ask for a division of the question.

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

MR. CASE of South Dakota: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. CASE of South Dakota: Mr. Speaker, if the motion to recede should carry, then it will be in order, will it not, for me to offer a motion to concur with an amendment?

THE SPEAKER: It would be in order.

The question was taken; and there were—yeas 204, nays 187, not voting 39. . . .

So the motion was agreed to. . . .

MR. CASE of South Dakota: Mr. Speaker, I offer a preferential motion to concur with an amendment.[10]

§ 7.19 A motion to recede from disagreement to a Senate amendment and concur therein being divided and the House having receded, a motion to concur with an amendment takes precedence of a motion to concur; and if the motion to concur with an amendment is rejected the question recurs on the underlying motion to concur in such Senate amendment.

On July 18, 1947,[11] the House was considering amendments in disagreement to H.R. 3601, agriculture appropriations for fiscal 1948. Mr. Clarence Cannon, of Missouri, moved that the House recede and concur in Senate amendment No. 42.

THE SPEAKER:[12] The question is on the motion of the gentleman from Missouri to recede and concur in the Senate amendment.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Speaker, I ask for a division of the question.

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

MR. CASE of South Dakota: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. CASE of South Dakota: Mr. Speaker, if the motion to recede should carry, then it will be in order, will it not, for me to offer a motion to concur with an amendment?

THE SPEAKER: It would be in order.

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10. See also 118 CONG. REC. 23718, 23725, 92d Cong. 2d Sess., June 30, 1972; 89 CONG. REC. 5899, 5900, 78th Cong. 1st Sess., June 15, 1943; 86 CONG. REC. 5892, 76th Cong. 3d Sess., May 9, 1940; and 81 CONG. REC. 971, 75th Cong. 1st Sess., Feb. 8, 1937.

11. 93 CONG. REC. 9319, 9320, 80th Cong. 1st Sess.

12. Joseph W. Martin, Jr. (Mass.).

The question was taken; and there were—yeas 204, nays 187, not voting 39. . . .

So the motion was agreed to. . . .

MR. CASE of South Dakota: Mr. Speaker, I offer a preferential motion to concur with an amendment. . . .

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

THE SPEAKER: The gentleman will state it.

MR. CANNON: If the motion of the gentleman is voted down, would the vote then recur on the motion to concur in the Senate amendment?

THE SPEAKER: It would.

Amending Motion To Dispose of Senate Amendment in Disagreement

§ 7.20 The Member calling up a conference report with amendments in disagreement controls the floor on motions to dispose of each amendment in disagreement; and although the hour of debate on each such motion is divided and controlled by the manager and a representative from the minority party, an amendment to a pending motion may be offered only in time yielded by the manager for that purpose or if the previous question is voted down.

On Aug. 2, 1977,[13] during consideration of the Labor and Health, Education, and Welfare appropriation bill for fiscal 1978, when an amendment in disagreement was pending, the Minority Leader, Mr. Robert H. Michel, of Illinois, was controlling the 30 minutes time in opposition. He yielded, without restriction, to Mrs. Millicent Fenwick, of New Jersey, who attempted to offer an amendment. The proceedings were as carried here.

MR. MICHEL: Mr. Speaker, before yielding a minute to my friend, the gentlewoman from New Jersey (Mrs. Fenwick), may I make this observation that if the gentleman from Washington (Mr. Pritchard), considers that he is being foreclosed from voting on the position of the Senate, let it be clear and understandable that the next vote is really one of either accepting the position of the House or the position of the Senate. If the position of the House prevails, as with the amendment of the chairman of the committee, the gentleman from Pennsylvania (Mr. Flood), that, in my opinion, is a clear expression of this House that we turned down the position of the Senate in favor of the position of the House.

I now yield 1 minute to the gentlewoman from New Jersey (Mrs. Fenwick).

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13. 123 CONG. REC. 26209, 95th Cong. 1st Sess.

MRS. FENWICK: Mr. Speaker, I thank my friend, the gentleman from Illinois (Mr. Michel), for yielding to me.

Mr. Speaker, I have an amendment at the desk.

THE SPEAKER PRO TEMPORE:[14] Does the gentleman from Pennsylvania, Mr. Flood, yield for an amendment?

MR. [DANIEL J.] FLOOD [of Pennsylvania]: I do not yield for the purpose of offering amendments, only for the purpose of debate.

MRS. FENWICK: The gentleman from Pennsylvania (Mr. Flood), did not yield to me, the gentleman from Illinois (Mr. Michel), yielded to me.

MR. MICHEL: Mr. Speaker, I did not yield to the gentlewoman from New Jersey (Mrs. Fenwick) for the purpose of offering an amendment.

PARLIAMENTARY INQUIRY

MRS. FENWICK: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[15] The gentlewoman from New Jersey will state her parliamentary inquiry.

MRS. FENWICK: Mr. Speaker, it is my understanding of the parliamentary procedure that unless we are yielded to for the purpose of debate only, and for which I was not yielded, that then one can offer an amendment.

THE SPEAKER PRO TEMPORE: The Chair will rule that the gentlewoman from New Jersey was recognized for the purpose of debate only.

MRS. FENWICK: That is not what the gentleman from Illinois (Mr. Michel) said when he yielded to me.

THE SPEAKER PRO TEMPORE: The Chair will state that the gentleman had to yield for the purpose of debate only, he did not have any authority under clause 2(b)(2) rule XXVIII to yield other than for the purpose of debate.

Effect on Pending Motions of Refusal To Recede

§ 7.21 After the stage of disagreement is reached and there are pending two motions—one to recede and concur in a Senate amendment with an amendment and the other a preferential motion to recede and concur—if the House refuses to recede when the motion to recede and concur is divided, both the above motions fall and a demand for a division of the motion to recede and concur with an amendment is not in order.

On Dec. 16, 1943,[16] the House was considering amendments in disagreement to H.R. 3598, the first supplemental national defense appropriation bill. The following occurred:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House

14. John Brademas (Ind.).
15. Sam Gibbons (Fla.).
16. 89 CONG. REC. 10777–79, 78th Cong. 1st Sess.

recede from its disagreement to Senate amendment No. 49 and concur in the same with an amendment which I have sent to the desk.

THE SPEAKER:[17] The Clerk will report the motion.

The Clerk read as follows:

> Mr. Cannon of Missouri moves that the House recede from its disagreement to Senate amendment No. 49 and agree to the same with an amendment as follows:
>
> "In lieu of the sum of '$2,800,000' named in such amendment, insert '$700,000'; and in lieu of the sum of '$800,000' named in such amendment, insert '$200,000.' ". . . .

MR. [COMPTON I.] WHITE [of Idaho]: Mr. Speaker, I make a preferential motion, which I send to the desk.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

> Mr. White moves that the House recede from its disagreement to Senate amendment No. 49 and concur in the same. . . .

MR. CANNON of Missouri: Mr. Speaker, I ask for a division of the question, and I ask that we vote immediately on the question of receding.

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

The question was taken; and on a division (demanded by Mr. Cannon of Missouri) there were ayes 40 and noes 48.

So the motion to recede was rejected.

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Speaker, I ask for a division of the motion of the gentleman from Missouri.

THE SPEAKER: The House has refused to recede.

MR. CANNON of Missouri: Mr. Speaker, I move to further insist.

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

THE SPEAKER: The gentleman will state it.

MR. CASE: The first question for division was a division on the amendment offered by the gentleman from Idaho [Mr. White]. The House has refused to recede on the division of that motion. Then it seems to me that the question recurs on the motion offered by the gentleman from Missouri [Mr. Cannon] to recede and concur with an amendment. On that motion I ask for a division.

THE SPEAKER: The gentleman asks for a division of the question. The House has already refused to recede. Therefore, it would be rather anomalous if we had a division of the motion of the gentleman from Missouri, and voted again on the question of receding.

MR. CANNON of Missouri: Mr. Speaker, I insist on my motion that the House insist on its disagreement to the Senate amendment.

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

THE SPEAKER: The gentleman will state it.

MR. CASE: Since the motion which was offered by the gentleman from Idaho [Mr. White] was a preferential motion as against the motion offered by the gentleman from Missouri [Mr. Cannon], I question whether or not the gentleman can then move to insist. The vote, it seems to me, must recur on the

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17. Sam Rayburn (Tex.).

motion previously pending, which was the motion of the gentleman from Missouri to recede and concur with an amendment. A division of the question is entirely different when two different propositions are before the House. The House has refused to recede on the dividing of the question offered by the gentleman from Idaho, but has not refused to recede on dividing the question offered by the gentleman from Missouri in his original motion.

THE SPEAKER: The gentleman from Missouri [Mr. Cannon] has moved to insist on disagreement to the Senate amendment. The Chair believes there is nothing to do at this time but to put the gentleman's motion.

The question is on the motion offered by the gentleman from Missouri, that the House insist on its disagreement.

MR. CANNON of Missouri: Mr. Speaker, may I say with regard to that, there appears to have been a misunderstanding on the part of certain Members. I think we should take this back to conference.

THE SPEAKER: The question is on the motion of the gentleman from Missouri, to insist on the disagreement of the House to the Senate amendment. . . .

MR. [CLINTON P.] ANDERSON of New Mexico: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ANDERSON of New Mexico: Did the gentleman from Missouri withdraw his motion to recede and concur with an amendment?

THE SPEAKER: He did not; it was not necessary. Because of the fact that a motion to recede had been voted down, a second motion to recede was not in order.

MR. [JOHN] TABER [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. TABER: The motion to recede and concur with an amendment having been displaced by a motion to recede and concur, and this motion having been divided so that we voted on the motion to recede alone, the only motion that could possibly be made would be the one the gentleman from Missouri did make, that the House further insist; is that correct?

THE SPEAKER: The Chair has so stated.

Where Senate Amendment Is Laid on the Table, Effect on Bill

§ 7.22 Where a conference report is rejected, and the manager moves to insist on its disagreement, a motion to lay the Senate amendment on the table is preferential and if adopted, carries the amendment and the bill to the table.

When the second conference report on the Federal Trade Commission Amendments of 1978 (H.R. 3816) was called up on Sept. 28, 1978,[18] the previous question

18. The first conference report, submitted in the House on Feb. 22, 1978,

was ordered but on the question of the adoption of the report, the noes prevailed, 214 to 175.

The manager's motion that the House insist on its disagreement was then preempted by a motion to lay the Senate amendment on the table. Proceedings were as indicated below.[19]

THE SPEAKER PRO TEMPORE: The question is on the conference report.

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

After a record vote, the motion to reconsider was laid on the table.

MOTION OFFERED BY MR. ECKHARDT

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

The Clerk read as follows:

Mr. Eckhardt moves that the House insist on its disagreement to the Senate amendment.

PREFERENTIAL MOTION OFFERED BY MR. BROYHILL

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Broyhill moves to lay on the table the amendment of the Senate to the bill, H.R. 3816.

THE SPEAKER:[20] The question is on the preferential motion to lay on the table offered by the gentleman from North Carolina (Mr. Broyhill).

The preferential motion to table was agreed to.

A motion to reconsider was laid on the table.

So the Senate amendment and the bill H.R. 3816 were laid on the table.

Motion To Table and Motion To Recommit (Refer)

§ 7.23 A motion that a Senate amendment be laid on the table is of higher privilege than a motion to recommit (refer) the amendment to a committee.

On June 17, 1936,[1] the House was considering Senate amendments in disagreement to H.R. 11663, a bill to regulate lobbying. Speaker William B. Bankhead, of Alabama, recognized Mr. Earl C. Michener, of Michigan.

MR. MICHENER: Mr. Speaker, I move that the Senate amendment be laid on the table.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I offer a preferential motion, that the conference report

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was rejected by the House on Feb. 28, 1978; when the second report was agreed to by the Senate but defeated in the House, the motion to table was offered and agreed to.

19. 124 CONG. REC. 32334, 32335, 95th Cong. 2d Sess.

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

1. 80 CONG. REC. 9753, 74th Cong. 2d Sess.

and the Senate amendment be recommitted to the Committee on the Judiciary.

MR. MICHENER: Mr. Speaker, my understanding of the rule is that the motion suggested by the gentleman from New York is not preferential.

THE SPEAKER: The Chair is of opinion that the motion made by the gentleman from Michigan has priority. The question is on the motion of the gentleman from Michigan to lay the Senate amendment on the table.

The motion was agreed to.

Parliamentarian's Note: The effect of the motion to table the amendment was to table the bill also.

Amendment to Provision Following Its Adoption

§ 7.24 It is not in order in the House to recede from or insist on a House amendment with an amendment since the House may not amend a provision that it has already adopted.

On Feb. 1, 1937,[2] the House was considering a Senate amendment to House Joint Resolution 81, creating a Joint Committee on Government Organization. The following occurred:

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, will the gentleman from New York yield to me to submit an amendment to be read by the Clerk?

MR. [JOHN J.] O'CONNOR of New York: Just for information; yes.

MR. RANKIN: Mr. Speaker, I send an amendment to the Clerk's desk to be read for the information of the House.

The Clerk read as follows:

> Mr. Rankin offers the following amendment to the Senate amendment: After the word "nine" insert "and"; on page 1, line 9 [of the House text], strike out the word "seven" and insert the word "nine".

MR. RANKIN: That gives nine Members of the House and nine Members of the Senate.

MR. O'CONNOR of New York: A parliamentary inquiry, Mr. Speaker.

THE SPEAKER:[3] The gentleman will state it.

MR. O'CONNOR of New York: If I yield the floor to permit an amendment, will it be in order under the rule—I have some doubt about it?

THE SPEAKER: In reply to the inquiry made by the gentleman from New York, the Chair desires to call the attention of the gentleman and the attention of the House to the following rule.

Section 526 of Jefferson's Manual reads:

> But the House cannot 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.

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2. 81 CONG. REC. 646–48, 75th Cong. 1st Sess.

3. William B. Bankhead (Ala.).

Under that rule it seems to the Chair that the House having acted on the matter and the Senate having accepted that language, it would not be open for the amendment offered by the gentleman from Mississippi.

MR. RANKIN: We have a right to accept the Senate amendment with an amendment. We are not attempting to amend the House bill.

THE SPEAKER: The gentleman's amendment is to the text of the House bill. . . .

MR. RANKIN: Mr. Speaker, a parliamentary inquiry. My amendment states:

> I offer the following amendment to the Senate amendment.

I am not trying to amend what the House has done. It is specifically written that it is an amendment to the Senate amendment.

THE SPEAKER: The gentleman is not confining himself in his amendment to the Senate amendment, which deals only with the number of Senators on the joint committee; but he goes further down in the paragraph and adds additional matter to the text, to which both Houses have already agreed.

MR. RANKIN: All I do is to offer an amendment to the Senate amendment, not striking out their number but adding to ours, making them equal. I submit that under the rules of the House I have a right to offer an amendment to the Senate amendment.

THE SPEAKER: But the amendment offered by the gentleman must deal with the matter the Senate amendment deals with, as shown by the resolution. The Chair makes the further statement that the Chair has no disposition whatever to prevent the House from expressing itself upon the attitude assumed by the gentleman from Mississippi, but when the Chair is called upon to make a parliamentary decision, he is bound, of course, to conform with the rules and precedents of the House.

Debating Both Parts of Divided Motion To Recede and Concur

§ 7.25 When the question is divided on a motion to recede and concur, and the House debates the question of whether to recede under the hour rule and does not order the previous question on either motion of the divided question, then the second motion (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).[4] 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,[5] included debate on both the motion to recede and the preferential motion to concur with an amendment.

THE SPEAKER PRO TEMPORE:[6] 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 Oklahoma [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:[7] The question is, will the House recede from

4. *House Rules and Manual* § 912(c) (1997).
5. See 135 CONG. REC. 28754, 28766, 101st Cong. 1st Sess.
6. Sander M. Levin (Mich.).
7. Frank McCloskey (Ind.).

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].

Motion To Lay on the Table a Motion To Dispose of a Senate Amendment

§ 7.26 Where conferees on a particular Senate amendment in disagreement develop compromise language to settle the dispute between the two Houses which is "legislative language" to which the House managers cannot agree (under Rule XX clause 2) without specific permission of the House, the matter is often brought back in "technical disagreement; enabling the House to recede and concur in the amendment in disagreement with an amendment which contains "legislative" language and is germane to the Senate amendment.

On May 16, 1978,[8] when a Senate amendment in disagreement to H.R. 9005, making appropriations for the District of Columbia, fiscal 1978, was considered in the House, the proceedings were as follows:

> THE SPEAKER PRO TEMPORE:[9] The Clerk will report the next amendment in disagreement.
>
> The Clerk read as follows:
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> Senate amendment No. 37: Page 13, line 14, strike out: "$168,757,900" and insert "$102,173,400".

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8. 124 CONG. REC. 13921–23, 95th Cong. 2d Sess.
9. Thomas S. Foley (Wash.).

MOTION OFFERED BY MR. NATCHER

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$129,173,400: *Provided,* That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic Center".

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Bauman moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein.

MR. NATCHER: Mr. Speaker, I demand that the question be divided.

THE SPEAKER PRO TEMPORE: The question will be divided.

Does the gentleman from Kentucky (Mr. Natcher) seek time?

MR. BAUMAN: Mr. Speaker, I wonder if the gentleman would take some time briefly. I do not want to prolong this debate.

THE SPEAKER PRO TEMPORE: The gentleman from Kentucky (Mr. Natcher) is recognized for 30 minutes. . . .

MR. NATCHER: Mr. Speaker, I move the previous question on the motion to recede.

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the motion to recede.

There was no objection.

THE SPEAKER PRO TEMPORE: The question is, Will the House recede from its disagreement to Senate amendment No. 37.

The House receded from its disagreement to Senate amendment No. 37.

PREFERENTIAL MOTION OFFERED BY MR. NATCHER

MR. NATCHER: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Natcher moves that the House concur in the amendment of the Senate numbered 37 with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$129,173,400: *Provided,* That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic Center".

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

MR. BAUMAN: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Bauman moves to table the motion to concur in the amendment of the Senate numbered 37, with an amendment.

THE SPEAKER PRO TEMPORE: The question is on the preferential motion offered by the gentleman from Maryland (Mr. Bauman).

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

MR. BAUMAN: 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 190, nays 199, answered "present" 1, not voting 44. . . .

So the preferential motion to table was rejected.

The result of the vote was announced as above recorded.

MR. NATCHER: Mr. Speaker, I move the previous question on the motion now pending.

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the preferential motion offered by the gentleman from Kentucky (Mr. Natcher) to concur in the Senate amendment No. 37, with an amendment.

The question is on the preferential motion offered by the gentleman from Kentucky (Mr. Natcher).

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

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 199, nays 183, answered "present" 1, not voting 51.

Parliamentarian's Note: The motion to table a motion disposing of an amendment in disagreement does not carry with it the amendment and the bill itself, since if the motion is tabled other motions remain available for disposition of the amendment, whereas the tabling of a Senate amendment itself has the effect of carrying to the table the House bill as well.(10)

Tabling Motion To Dispose of Amendment in Disagreement

§ 7.27 A privileged motion to dispose of a Senate amendment in disagreement is subject to the motion to table; and the latter motion takes precedence over the motion for the previous question.

The application of the motion to lay on the table a motion to dispose of an amendment in disagreement is rare. There are few precedents but the principle is now established that adoption of such a motion does not carry the underlying matter with it. The use

10. Note distinction between § 7.26 and § 7.22 and § 7.23, supra.

of the motion here, excerpted from the *Congressional Record* of Feb. 22, 1978,[11] is illustrative of the modern practice.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move the previous question on the motion to recede and concur.

PREFERENTIAL MOTION OFFERED BY MR. LLOYD OF CALIFORNIA

MR. [JIM] LLOYD of California: Mr. Speaker, I offer a preferential motion that the motion of the gentleman from Texas (Mr. Mahon) to recede and concur be laid upon the table.

PARLIAMENTARY INQUIRY

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

THE SPEAKER PRO TEMPORE:[12] The gentleman will state it.

MR. MAHON: If the motion to table is defeated, then the next order of business would be a vote on my motion to recede and concur in the Senate amendment?

THE SPEAKER PRO TEMPORE: The next vote would be on ordering the previous question which the gentleman from Texas has moved, and then on the motion of the gentleman from Texas to recede and concur.

MR. MAHON: That is, if the motion to table is defeated?

THE SPEAKER PRO TEMPORE: If the motion is defeated.

PARLIAMENTARY INQUIRY

MR. LLOYD of California: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. LLOYD of California: If my motion should be defeated, would there be an opportunity to amend?

THE SPEAKER PRO TEMPORE: If the motion to table is defeated and the previous question is ordered, the answer is no on the pending motion.

MR. LLOYD of California: I thank the Speaker.

THE SPEAKER PRO TEMPORE: The question is on the preferential motion to lay on the table offered by the gentleman from California (Mr. Lloyd).

The question was taken.

MR. LLOYD of California: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. . . .

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

§ 8. Recognition To Offer Motions; Control of the Floor

Motions in the House to dispose of Senate amendments were traditionally debated under the hour rule, with the proponent of the motion controlling the time and yielding to others for debate.

11. 124 CONG. REC. 4072, 4073, 95th Cong. 2d Sess.
12. Charles A. Vanik (Ohio).