to an amendment, and so admissible. Just so, when, on a bill from the originating House, the other, at its second reading, makes an amendment; on the third reading this amendment is become the text of the bill, and if an amendment to it be moved an amendment to that amendment may also be moved, as being only in the 2d degree.

This principle is followed in the practice of the House (V, 6176–6178). For a discussion of the attitude of the Senate on this topic, see October 31, 1991 (p. 29494).

SEC. XLVI—CONFERENCES

§ 530. Parliamentary law as to asking conferences.

It is on the occasion of amendments between the Houses that conferences are usually asked; but they may be asked in all cases of difference of opinion between the two Houses on matters depending between them. The request of a conference, however, must always be by the House which is possessed of the papers. *3 Hats., 31; 1 Grey, 425.*

The House follows the principles set forth in this paragraph of the parliamentary law. A conference may be asked on only a portion of the amendments in disagreement, leaving the differences as to the remainder to be settled by the action of the two Houses themselves (V, 6401). In very rare instances conferences have been asked by one House after the other has absolutely rejected a main proposition (IV, 3442; V, 6258). A difference over an amendment to a proposed constitutional amendment may be committed to a conference (V, 7037).

§ 531. Conferences over matters other than differences as to amendments.

Although conferences between the two Houses of Congress are usually held over differences as to amendments to bills, occasionally differences arise as to the respective prerogatives of the Houses (II, 1485–1495) or as to matters of procedures (V, 6401), as in impeachment proceedings (III, 2304), which are referred to conference. In early and exceptional instances conferences have been asked as to legislative

matters when no propositions relating thereto were pending (V, 6255–6257).

§ 532. Conferences by means of select committees.

In very rare cases, also, the Houses interchange views and come to conclusions by means of select committees appointed on the part of each House (I, 3). Thus, in 1821, a joint committee was chosen to consider and report to the two Houses whether or not it was expedient to provide for the admission of Missouri into the Union (IV, 4471), and in 1877 similar committees were appointed to devise a method for counting the electoral vote (III, 1953).

§ 533. Requests for conferences.

The parliamentary law provides that the request for a conference must always be by the House that is in possession of the papers (V, 8254). It was formerly the more regular practice for the House disagreeing to amendments of the other to leave the asking of a conference to that other House if it should decide to insist (V, 6278–6285, 6324); but it is so usual in the later practice for the House disagreeing to an amendment of the other to ask a conference that an omission to do so has even raised a question (V, 6273). Yet it cannot be said that the practice requires a request for a conference to be made by the House disagreeing to the amendments of the other (V, 6274–6277). One House having asked a conference at one session, the other House may agree to the conference at the next session of the same Congress (V, 6286).

§ 534. Requests for conferences declined or neglected.

In rare instances one House has declined the request of the other for a conference (V, 6313–6315; Mar. 20, 1951, p. 2683), sometimes accompanying it by adherence (V, 6313, 6315). In one instance, in which the Senate declined a conference, it transmitted, by message, its reasons for so doing (V, 6313). Sometimes, also, one House disregards the request of the other for a conference and recedes from its disagreement, thereby rendering a conference unnecessary (V, 6316–6318). And in one case, in which one House has asked a conference to which the other has assented, the asking House receded before the conference took place (V, 6319). Also, a bill returned to the House with a request for a conference has been postponed indefinitely (V, 6199).

§ 535. Motions to request conferences.

After the stage of disagreement has been reached, a motion to ask a conference is considered as distinct from motions to agree or disagree to amendments of the other House (V, 6268) and the motions to agree, recede, or insist are considered as preferential (V, 6269, 6270). Where a motion to request a conference at this stage has been rejected, its repetition at the same stage of the proceedings, no other motion to dispose of the matter in disagreement having been considered, has not been permitted (V, 6325). Where a conference results in disagreement, a motion to request a new conference is privileged (V, 6586). Sometimes disagreements are voted on

by the House and conferences asked through the medium of special orders of business (IV, 3242–3249).

Before the stage of disagreement, any motion with respect to amendments between the two Houses is without privilege, except for motions with respect to the limited number of amendments that qualify under clause 2 of rule XXII or motions under clause 1 of rule XXII, to disagree to Senate amendments (or insist on House amendments) and to request or agree to an initial conference if the motion is authorized by the primary committee and all reporting committees of initial referral and if the Speaker chooses to recognize for that purpose. Under clause 2(a)(3) of rule XI, a committee may adopt a rule providing that the chair be directed to offer a motion under clause 1 of rule XXII. A motion under the latter clause may be repeated, if again authorized by the relevant committees, and if the Speaker again agrees to recognize for that purpose, even though the House has once rejected a motion to send the same matter to conference (Speaker Albert, Oct. 3, 1972, p. 33502).

§ 536. Managers of conferences.

Although usual, it is not essential that one House, in asking a conference, transmit the names of its managers at the same time (V, 6405). The managers, properly so called (V, 6335), constitute practically two distinct committees, each of which acts by a majority (V, 6334). The Speaker appoints the managers on the part of the House (clause 11 of rule I) and has discretion as to the number to serve on a given bill (V, 6336; VIII, 2193) but must appoint (1) a majority of Members who generally support the House position, as determined by the Speaker; (2) Members who are primarily responsible for the legislation; and (3) to the fullest extent feasible the principal proponents of the major provisions of the bill as it passed the House (clause 11 of rule I). Although the practice used to be to appoint three managers from each house (V, 6336), in the absence of joint rules each House may appoint whatever number it sees fit (V, 6328–6330). The two Houses have frequently appointed a disparate number of managers (V, 6331–6333; VIII, 3221); and where the Senate appointed nine and the House but three, a motion to instruct the Speaker to appoint a greater number of managers on the part of the House was held out of order (VII, 2193). In appointing managers the Speaker usually consults the Member in charge of the bill (V, 6336); and where an amendment in disagreement falls within the jurisdiction of two committees of the House, the Speaker has named Members from both committees and specified the respective areas on which they were to confer (Speaker Albert, Nov. 30, 1971, p. 43422). In appointing conferees on the general appropriation bill for fiscal year 1951, Speaker Rayburn appointed a set of managers for each chapter of the bill and four Members to sit on all chapters (Aug. 7, 1950, p. 11894). Although the appointment of conferees, both as to their number and composition, is within the discretion of the Chair (Speaker Garner, June 24, 1932, p. 13876; Speaker Martin, July 8, 1947, p. 8469), and although a point of order will not lie against the exercise of this discretion (VIII, 2193, 3221), the Speaker

normally takes into consideration the attitude of the majority and minority of the House on the disagreements in issue (V, 6336–6338; VIII, 3223), the varying views of the Members of the House (V, 6339, 6340), and does not necessarily confine the appointments to members of the committee in charge of the bill (V, 6370). In one case, in which the prerogatives of the House were involved, all of the managers were appointed to represent the majority opinion (V, 6338). See also § 637, *infra*.

§ 537. Reappointment of, at second and subsequent conferences.

Where there were several conferences on a bill, it was the early practice to change the managers at each conference (V, 6288–6291, 6324), and so fixed was this practice that their reappointment had a special significance, indicating an unyielding temper (V, 6352–6368); but in the later practice it is the rule to reappoint managers (V, 6341–6344) unless a change be necessary to enable the sentiment of the House to be represented (V, 6369).

§ 538. Vacancies, etc., in managers of conferences.

Managers of a conference are excused from service either by authority of the House (V, 6373–6376; VIII, 3224, 3227) or, since the 103d Congress, by removal by the Speaker (clause 11 of rule I). The absence of a manager may cause a vacancy, which the Speaker fills by appointment (V, 6372; VIII, 3228). If one House makes a change in its managers, it informs the other House, by message (V, 6377, 6378). According to the later practice the powers of managers who have not reported do not expire at the termination of a session, unless it be the last session (V, 6260–6262).

§ 539. Parliamentary law as to free and simple conferences.

Conferences may be either simple or free. At a conference simply, written reasons are prepared by the House asking it, and they are read and delivered, without debate, to the managers of the other House at the conference, but are not then to be answered. *4 Grey, 144.* The other House then, if satisfied, vote the reasons satisfactory, or say nothing; if not satisfied they resolve then not satisfactory and ask a conference on the subject of the last conference, where they read and deliver, in like manner, written answer to those reasons. *3 Grey, 183.* They are meant chiefly to record the justification of each House to the nation at large and to posterity and in proof that

the miscarriage of a necessary measure is not imputable to them. *3 Grey, 255.* At free conferences the managers discuss, viva voce and freely, and interchange propositions for such modifications as may be made in a parliamentary way, and may bring the sense of the two Houses together. * * *

§ 540. Free and simple conferences in modern practice.

This provision of the parliamentary law bears little relation to the modern practice of the two Houses of Congress, and that practice has evolved a new definition: "A free conference is that which leaves the committee of conference entirely free to pass upon any subject where the two branches have disagreed in their votes, not, however, including any action upon any subject where there has been a concurrent vote of both branches. A simple conference—perhaps it should more properly be termed a strict or a specific conference, though the parliamentary term is 'simple'—is that which confines the committee of conference to the specific instructions of the body appointing it" (V, 6403). And where the House had asked a free conference it was held not in order to instruct the managers (V, 6384). But it is very rare for the House in asking a conference to specify whether it shall be free or simple.

§ 541. Instruction of managers of a conference.

In their practices as to the instruction of managers of a conference, the House and the Senate do not agree. Only in rare instances has the Senate instructed (V, 6398), and these instances are at variance with its declaration, made after full consideration, that managers may not be instructed (V, 6397). And where the House has instructed its managers, the Senate sometimes has declined to participate and asked a free conference (V, 6402–6404). In the later practice the House does not inform the Senate when it instructs its managers (V, 6399), the Senate having objected to the transmittal of instructions by message (V, 6400, 6401). In one instance in which the Senate learned indirectly that the House had instructed its managers, it declared that the conference should be full and free, and instructed its own managers to withdraw if they should find the freedom of the conference impaired (V, 6406). But the House holds to the opinion that the House may instruct its managers (V, 6379–6382), although the propriety of doing so at a first conference has been questioned (V, 6388, footnote). And in rare instances in which a free conference is asked instruction is not in order (V, 6384). At a new conference the instructions of a former conference are not in force (V, 6383; VIII, 3240). And instructions may not direct the managers to do that which they might not otherwise do (V, 6386, 6387; VIII, 3235, 3244), as to effect a change in part of a bill not in disagreement (V, 6391–6394) or change the text to which both

Houses have agreed (V, 6388). Although managers may disregard instructions, their report may not for that reason be ruled out of order (V, 6395; VIII, 3246; June 8, 1972, p. 20282), and when a conference report is recommitted with instructions the managers are not confined to the instructions alone (VIII, 3247).

The motion to instruct managers should be offered after the vote to ask for or agree to a conference and before the managers are appointed (V, 6379–6382; VIII, 3233, 3240, 3256). The motion to instruct may be amended unless the previous question is ordered (V, 6525; VIII, 3231, 3240); thus a motion to instruct House conferees to agree to a numbered Senate amendment with an amendment may be amended, upon rejection of the previous question, to instruct the conferees to agree to the Senate amendment (June 9, 1982, pp. 13027, 13028, 13039, 13049). A Member may not be recognized for a unanimous-consent request to modify a pending motion to instruct unless yielded to for that purpose by the proponent (Mar. 29, 2006, p. __). The motion to instruct may be laid on the table without carrying the bill to the table (VIII, 2658). The motion is debatable (see clause 7(b) of rule XXII) unless the previous question is ordered (VIII, 2675, 3240), which the proponent may not move until those allotted time under clause 7(b) have yielded back (Oct. 3, 1989, p. 22842). After a motion to ask or agree to a conference is agreed to, only one valid motion to instruct is in order (VIII, 3236; Speaker Wright, Feb. 17, 1988, p. 1583); and the ruling out of such a motion does not preclude the offering of a proper motion (VIII, 3235; Dec. 7, 2005, p. __); but one motion having been considered and disposed of, further motions are not in order (VIII, 3236). The restriction on further motions does not apply to a motion to instruct under clause 7(c) of rule XXII (Aug. 22, 1935, pp. 14162–64).

A member of the minority is first entitled to recognition for a motion to instruct conferees (Speaker Bankhead, Oct. 31, 1939, pp. 1103–05; Speaker Albert, Oct. 19, 1971, pp. 36832–35), and if two minority members of the reporting committee seek recognition to offer a motion to instruct conferees before their appointment, the Chair will recognize the senior minority member of the committee (Oct. 10, 1986, p. 30181; Speaker Wright, Feb. 17, 1988, p. 1583).

§ 542. Parliamentary law as to reports of managers of a conference.

* * * And each party report in writing to their respective Houses the substance of what is said on both sides, and it is entered in their journals. *9 Grey, 220; 3 Hats; 280.* This report can not be amended or altered, as that of a committee may be. *Journal Senate, May 24, 1796.*

§ 543. Forms of conference reports.

In the two Houses of Congress conference reports were originally merely suggestions for action and were neither identical in the two Houses nor acted on as a whole (V, 6468–6471). In the House clause 7(a) of rule XXII provides that conference reports may be received at any time, except when the Journal is being read, while the roll is being called, or the House is dividing. They are privileged on or after the third calendar day (excluding Saturdays, Sundays, or legal holidays) after they have been filed and printed in the Record, together with the accompanying statement (clause 8 of rule XXII). The early reports were not signed by the managers (IV, 3905); but in the later practice the signatures of the majority of the managers of each House is required (V, 6497–6502; VIII, 3295). Sometimes a manager indorses the report with a conditional approval or dissent (V, 6489–6496, 6538). However, signatures with conditions are not counted toward a majority (Nov. 18, 1991, p. 32689. Supplemental reports or minority views may not be filed in connection with conference reports (VIII, 3302). The name of an absent manager may not be affixed, but the two Houses by concurrent action may authorize the manager to sign the report after it has been acted on (V, 6488). The minority portion of the managers of a conference have no authority to make either a written or verbal report concerning the conference (V, 6406). In the later practice reports of managers are identical, and made in duplicate for the two Houses, the House managers signing first the report for their House and the Senate managers signing the other report first (V, 6323, 6426, 6499, 6500, 6504). Under certain circumstances managers may report an entirely new bill on a subject in disagreement, but this bill is acted on as part of the report (V, 6465–6467; see also clause 9 of rule XXII). A quorum among the managers on the part of the House at a committee of conference is established by their signatures on the conference report and joint explanatory statement (Oct. 4, 1994, p. 27662).

§ 544. Partial conference reports.

Managers may report an agreement as to a portion of the numbered amendments in disagreement, leaving the remainder to be disposed of by subsequent action (V, 6460–6464). Where a Senate amendment to the title of a House bill was in conference, but inadvertently omitted from the conference report, the House adopted the report, and, by unanimous consent, insisted on its disagreement to the putatively reported amendment and agreed to a concurrent resolution that deemed the conference report to have "resolved all disagreements" (Oct. 10, 2002, p. 20333).

§ 545. Reports of inability to agree.

Where managers of a conference are unable to agree, or where a report is disagreed to in either House, another conference is usually asked (V, 6288–6291). When managers report that they have been unable to agree, the report is not acted on by the House (V, 6562; VIII, 3329; Aug. 23, 1957, p. 15816). Although under the earlier practice, when conferees reported in complete disagreement, the amendments in disagreement were considered available

for immediate disposition (VIII, 3299, 3332), the current practice (as a result of the amendment to clause 8(a) of rule XXII that became effective in the 93d Congress) is to require the matter to lay over until the third calendar day (excluding Saturdays, Sundays, or legal holidays) after the report in disagreement is filed and printed in the Record. In the earlier practice reports of inability to agree were made verbally or by unsigned written reports (V, 6563–6567); but in later practice they are written, in identical form, and signed by the managers of the two Houses (V, 6568, 6569).

§ 546. Managers restricted to the disagreements of the two Houses.

The managers of a conference must confine themselves to the differences committed to them (V, 6417, 6418; VIII, 3252, 3255, 3282), and may not include subjects not within the disagreements (V, 6407, 6408; VIII, 3253–3255, 3260, 3282, 3284), even though germane to a question in issue (V, 6419; VIII, 3256; Speaker Albert, Dec. 20, 1974, p. 41849). But they may perfect amendments committed to them if they do not in so doing go beyond the differences (V, 6409, 6413). Thus, where an amendment providing an appropriation to construct a road had been disagreed to, it was held in order to report a provision to provide for a survey for the road (V, 6425). Managers may not change the text to which both Houses have agreed (V, 6417, 6418, 6420, 6433–6436). But if the amendment in issue strikes all of the bill after the enacting clause and substitutes a new text, the managers have the whole subject before them and may exercise a broad discretion as to details (V, 6424; VIII, 3266), and may even report an entirely new bill on the subject (V, 6421, 6423; VIII, 3248, 3263, 3265, 3276; § 1088, *infra*). If the amendment in disagreement proposes a substitute differing greatly from the House provision they may eliminate the entire subject matter (Speaker Gillett, Sept. 14, 1922, p. 12598).

§ 547. Remedy where managers exceed their authority.

In the House the Speaker may rule out a conference report if it be shown that the managers have exceeded their authority (V, 6409–6416; VIII, 3256; Oct. 4, 1962, p. 22332; Nov. 14, 2002, pp. 22408, 22409). In the House points of order against reports are made or reserved after the report is read and before the reading of the statement (V, 6424, 6441; VIII, 3282, 3284, 3285, 3287), or consideration begins (V, 6903–6905; VIII, 3286), and comes too late after the report has been agreed to (V, 6442); and in case the statement is read in lieu of the report the point of order must be made or reserved before the statement is read (VIII, 3256, 3265, 3285, 3288, 3289). Where clause 8(c) of rule XXII applies, points of order must be made before debate begins on the report (Nov. 14, 2002, p. 22408).

A conference report held to violate clause 9 of rule XXII was vitiated, after which a privileged motion to recede and concur in a Senate amendment with an amendment incorporating by reference the text of an introduced House bill was offered (Nov. 14, 2002, p. 22409).

Under the former practice of the Senate, the Chair did not rule out conference reports, but the Senate itself expressed its opinion on the vote to agree to the report (V, 6426–6432). However, on March 8, 1918, the Senate adopted a "scope" rule providing for a point of order against conferees inserting matter not committed to them or changing the text agreed to by both Houses. This rule of the Senate was strictly construed (VIII, 3273, 3275) until the 104th Congress when the Senate overturned on appeal a ruling of its presiding officer that the inclusion of a special labor-law provision in a conference report exceeded the scope of conference (Oct. 3, 1996, pp. 27147–51). The Chair interpreted that action as tantamount to a change in the Senate rules until the 107th Congress. Public Law 106–553 provided that at the beginning of the 107th Congress the Presiding Officer of the Senate would apply precedents under Senate rule XXVIII as in effect at the end of the 103d Congress. Public Law 110–81 amended it to provide a new procedure (see, e.g., Nov. 7, 2007, p. __).

§ 548. Meeting and action of managers.

The managers of a conference may not report before the other House is notified of their appointment and a meeting is held (V, 6458). Conferences are generally held in the Capitol, and formerly with closed doors, although in rare instances Members and others were admitted to make arguments (V, 6254, footnote, 6263). Clause 12 of rule XXII now provides for at least one open conference meeting except if the House determines by record vote that all or part of the meeting may be closed to the public. The same rule now provides for a point of order in the House against the report and for an automatic request for a new conference if the House managers fail to meet in open session following appointment of the Senate conferees (Dec. 20, 1982, p. 32896). For a discussion of open conference meetings, see § 1093, *infra*. Rarely, also, papers in the nature of petitions have been referred to managers (V, 6263). The managers of the two Houses vote separately (V, 6336). Clause 12(a)(3) of rule XXII provides additional statements on the meetings, discussions, and signatures of House managers. Clause 13 of rule XXII provides a point of order against consideration of a conference report that differs in a non-clerical manner from the version placed before the House managers for signature.

§ 549. Action on a conference report in the two Houses.

The report of the managers of a conference goes first to one House and then to the other, neither House acting until it is in possession of the papers, which means the original bill and amendments, as well as the report (V, 6322, 6518–6522, 6586; VIII, 3301). The report must be acted on as a whole, being agreed to or disagreed to as an entirety (V, 6472–6480, 6530–6533; VIII, 3304, 3305; Speaker Bankhead, Aug. 22, 1940, p. 10763; Speaker Albert, Nov. 10, 1971, p. 40481); and until the report has been acted on no motion to deal with the individual amendments is in order (V, 6323, 6389, 6390; Speaker Rayburn, Mar. 16, 1942, pp. 2502–04). Under a special order of business recommended by the Committee on Rules, the House has considered a single, indivisible motion to adopt not only a con-

ference report but also sundry motions to dispose of amendments reported from conference in disagreement (June 18, 1992, p. 15453). Although ordinarily reports are agreed to by majority vote, a two-thirds vote is required on a report relating to a constitutional amendment (V, 7036). Conference reports must be acted on in both Houses and, in a case in which the Senate had adopted a report recommending that it recede from its amendments to a House bill, the House rejected the report and then agreed to the Senate amendments (Mar. 21, 1956, p. 5278). A conference report being made up but not acted on at the expiration of a Congress, the bill is lost (V, 6309). One House has, by message, reminded the other of its neglect to act on a conference report; but this was an occasion of criticism (V, 6309).

§ 550. Motions in order during action on a conference report.

When a conference report is presented, the question on agreeing is regarded as pending (V, 6517; VIII, 3300), and as the negative of it is equivalent to disagreement, the motion to disagree is not admitted (II, 1473; V, 6517; VIII, 3300). The reading of the amendments to which the report relates is not in order during its consideration (V, 5298). The report may not be amended on motion made in either House alone (V, 6534, 6535; VIII, 3306), but amendment is sometimes made by concurrent action of the two Houses (V, 6536, 6537; VIII, 3308). A motion to refer to a standing committee (V, 6558) or to lay on the table is not entertained in the House (V, 6538–6544); and a conference report may not be sent to Committee of the Whole on suggestion that it contains matter ordinarily requiring consideration in that committee (V, 6559–6561). It is in order on motion to recommit a conference report if the other body, by action on the report, have not discharged their managers (V, 6545–6553, 6609; VIII, 3310), and by concurrent resolution a report may be recommitted to conference after each House has acted thereon (VIII, 3316), but such a proposition would not be privileged in the House (V, 6554–6557; VIII, 3309).

A bill being recommitted to the committee of conference, no further action is taken by the House until it is again reported by the managers (VIII, 3326, 3327), and when reported is subject to another motion to recommit (VIII, 3325). Because instructions included in a motion to recommit a conference report are not binding, adoption of such a motion opens to further negotiation all issues committed to conference (Apr. 21, 1988, p. 8198). A motion to recommit a conference report may not instruct House managers to exceed the scope of conference (§ 1088, *infra*); and, under clause 7(d) of rule XXII, a motion to instruct may not contain argument (§ 1079, *infra*).

§ 551. Effect of disagreement to a conference report.

When either House disagrees to a conference report the matter is left in the position it was in before the conference was asked (V, 6525), and the amendments in disagreement come up for further action (II, 1473), but do not return to the state they were in before disagreement, so that they need not be considered in Committee of the Whole (V, 6589). Motions for disposition of Senate amendments, sending to conference and instruction of conferees, are again in order (VIII, 3303). However, if a conference report

is considered as rejected pursuant to the provisions of clause 10 of rule XXII because of the inclusion of nongermane matter, the pending question is as specified in that clause and, depending on the nature of the text in disagreement, may be to recede and concur with an amendment, to insist on the House position, or to insist on disagreement (see §§ 1089, 1090, *infra*).

§ 552. Custody of papers when a conference is asked before disagreement.

A conference may be asked, before the House asking it has come to a resolution of disagreement, insisting or adhering. *3 Hats., 269, 341.* In which case the papers are not left with the other conferees, but are brought back to the foundation of the vote to be given. And this is the most reasonable and respectful proceeding; for, as was urged by the Lords on a particular occasion, "it is held vain, and below the wisdom of Parliament, to reason or argue against fixed resolutions, and upon terms of impossibility to persuade." *3 Hats., 226.*

* * *

In the Houses of Congress conferences are sometimes asked before a disagreement, and while the rule as to retention of the papers undoubtedly holds good, neglect to observe it has not been questioned (V, 6585).

§ 553. Relations of adherence and conference under the parliamentary law.

* * * So the Commons say, "an adherence is never delivered at a free conference, which implies debate." *10 Grey, 137.* And on another occasion the Lords made it an objection that the Commons had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of the Commons that nothing was more parliamentary than to proceed with free conferences after adhering, *3 Hats., 269,* and we do in fact see instances of conference, or of free conference, asked after the resolution of disagreeing, *3 Hats., 251, 253, 260,*

286, 291, 316, 349; of insisting, *ib., 280, 290, 299, 319, 322, 355;* of adhering, *269, 270, 283, 300;* and even of a second or final adherence. *3 Hats., 270.* * * *

§ 554. Relations of adherence and conference under the practice of the two Houses of Congress.

The two Houses not observing the parliamentary distinctions as to free and other conferences, their practice in case of adherence is also different. Conferences are not asked after an adherence by both Houses, but have often been asked and granted where only one House has adhered (V, 6241–6244). A vote to adhere may not be accompanied by a request for a conference (V, 6303; VIII, 3208), because the House that votes to adhere does not ask a conference (V, 6304–6308). The request for a conference in such a case is properly accompanied by a motion to insist (V, 6308). And the House that has adhered may insist on its adherence when it agrees to the conference (V, 6251). But it is not considered necessary either to recede or insist before agreeing to the conference (V, 6242, 6244, 6310, 6311).

§ 555. Custody of the papers after an effective conference.

* * * And in all cases of conference asked after a vote of disagreement, &c., the conferees of the House asking it are to leave the papers with the conferees of the other; and in one case where they refused to receive them they were left on the table in the conference chamber. *Ib., 271, 317, 323, 354; 10 Grey, 146.*

This principle of the parliamentary law is recognized in both Houses, and is customarily followed in cases wherein the managers of the conference come to an agreement on which a report may be based (July 31, 1981, p. 18884). If conferees of House agreeing to conference surrender papers to House asking conference, the report can be received first by House asking the conference (VIII, 3330). In the 101st Congress, where a report following a successful conference was filed in both Houses, an objection to a unanimous-consent request in the Senate prevented the release of papers held at the Senate desk to the House, where the Senate in the normal course of events was scheduled to act first on the report (June 28, 1990, p. 16249).

§ 556. Custody of papers when managers of a conference fail to agree.

Where a conference breaks up without reaching any agreement the managers for the House that requested the conference, who have the papers by right, are justified in retaining them and carrying them back to the House (IV, 3905, footnote; V, 6246, 6254, 6571–6584; VIII, 3332). And in one case wherein under such circumstances the papers were taken back to the Senate, which was the body agreeing to the conference, the Senate after consideration sent them to the House, because it seemed proper for the asking House to take the first action (V, 6573). But sometimes managers have brought the papers to the agreeing House without question (V, 6239, footnote; July 14, 1988, p. 18411).

§ 557. Free or instructed conferences.

After a free conference the usage is to proceed with free conferences and not to return again to a conference. *3 Hats., 270; 9 Grey, 229.*

After a conference denied a free conference may be asked. *1 Grey, 45.*

The House instructs its managers whenever it sees fit, without regard to whether or not the preceding conference has been free or instructed.

§ 558. Parliamentary law as to purposes for which conferences may be held.

When a conference is asked, the subject of it must be expressed or the conference not agreed to. *Ord. H. Com., 89; 1 Grey, 425; 7 Grey, 31.* They are sometimes asked to inquire concerning an offense or default of a member of the other House. *6 Grey, 181; 1 Chand., 304.* Or the failure of the other House to present to the King a bill passed by both Houses. *8 Grey, 302.* Or on information received and relating to the safety of the nation. *10 Grey, 171.* Or when the methods of Parliament are thought by the one House to have been departed from by the other a conference is asked to come to a right understanding thereon. *10 Grey, 148.* So when an unparliamentary message has been sent, instead of answering it they ask a conference. *3 Grey, 155.* Formerly an ad-

dress or articles of impeachment or a bill, with amendments, or a vote of the House, or concurrence in a vote, or a message from the King were sometimes communicated by way of conference. *6 Grey, 128, 300, 387; 7 Grey, 80; 8 Grey, 210, 255; 1 Torbuck's Deb., 278; 10 Grey, 293; 1 Chandler, 49, 287.* But this is not the modern practice. *8 Grey, 255.*

§ 559. Obsolete provision as to conference on first reading.

A conference has been asked after the first reading of a bill. *1 Grey, 194.* This is a singular instance.

The House has no procedure conforming to this provision.

SEC. XLVII—MESSAGES

§ 560. Messages sent only when both Houses are sitting.

Messages between the Houses are to be sent only while both Houses are sitting. *3 Hats., 15.* * * *

Formerly this rule was observed (V, 6603, 6604), but since the 62d Congress messages have been received by the House when the Senate was not in session (VIII, 3338). Clause 2 of rule II was added in the 97th Congress, and amended in the 111th Congress, to authorize the Clerk to receive messages at any time that the House is not in session (H. Res. 5, Jan. 5, 1981, p. 98) or in recess (H. Res. 5, Jan. 6, 2009, p. __).

§ 561. Messages received during debate.

* * * They are received during a debate without adjourning the debate. *3 Hats., 22.*

In the House messages are received during debate, the Member having the floor yielding on request of the Speaker.

§ 562. Reception of messages during voting, in absence of a quorum, etc.

In Senate the messengers are introduced in any state of business, except: 1. While a question is being put. 2. While the yeas and nays are being called. 3. While the ballots are being counted. The first case is short; the second and third are