

## Chapter CXXXI.

### AMENDMENTS BETWEEN THE HOUSES.<sup>1</sup>

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1. Principles of the parliamentary law. Sections 6163–6165.<sup>2</sup>
  2. The motion to agree or concur. Sections 6166–6168.<sup>3</sup>
  3. Motions to amend or refer amendments of the other House. Sections 6169–6178.
  4. Text to which both Houses have agreed not to be changed. Sections 6179–6185.
  5. General decisions as to amending amendments of the other House. Sections 6186–6191.<sup>4</sup>
  6. Amendments of other House considered in Committee of the Whole. Sections 6192–6196.<sup>5</sup>
  7. General decisions as to consideration in the House. Sections 6197–6203.
  8. The motions to recede and concur. Sections 6204–6215.<sup>6</sup>
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  10. The motion to insist. Sections 6224–6228.
  11. The motion to adhere. Sections 6229–6253.<sup>7</sup>
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**6163. Either House may amend a bill of the other before passing it.**

**A bill of one House being passed in the other with amendment, the originating House may concur with an amendment, whereupon the other House may concur with still another amendment; but here the process stops.**

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<sup>1</sup>The six succeeding chapters of this volume relate also to this subject:

Chapter CXXXII.—General principles of conferences. (Secs. 6254–6325.)

Chapter CXXXIII.—Appointment of managers of a conference. (Secs. 6326–6378.)

Chapter CXXXIV.—Instruction of managers of a conference. (Secs. 6379–6406.)

Chapter CXXXV.—Manager to consider only matters in disagreement. (Secs. 6407–6442.)

Chapter CXXXVI.—Privilege and form of conference reports. (Secs. 6443–6515.)

Chapter CXXXVII.—Consideration of conference reports. (Secs. 6576–6589.)

<sup>2</sup>Respective duties of each House to recede from amendments objected to by the other. (Secs. 3904–3908 of Vol. IV.)

<sup>3</sup>Division of Senate amendment on vote relating to it not in order. (Secs. 6150–6156 of this volume.)

<sup>4</sup>Precedence of various motions. (Sec. 6324 of this volume.)

Amending Senate amendments proposing legislation. (Secs. 3909–3916 of Vol. IV.)

<sup>5</sup>See also sections 4795–4808 of Volume IV. The motion to recede has precedence of the motion to insist. (Sec. 6308 of this volume.)

<sup>6</sup>The motion to recede is not in order after the previous question is moved on the motion to adhere. (Sec. 6310 of this volume.) But the motion to recede is in order after the previous question is moved on a motion to insist. (Sec. 6321a of this volume.)

<sup>7</sup>See also sections 6308, 6401 of this volume.

**One House may agree outright in an amendment of the other, may agree with an amendment, or may disagree outright.**

**When the originating House disagrees to the amendment of the other House, the latter may recede from or insist on its own amendment but may not couple an amendment with this action.**

**When both Houses have insisted, neither inclining to recede, it is in order to adhere, but in Parliament adherence is not usually voted until there have been at least two conferences.**

**An adherence by both Houses to disagreement over amendments causes a bill to fail.**

Jefferson's Manual, in Section XLV, gives the parliamentary law governing amendments between the Houses:

When either House, e.g., the House of Commons, send a bill to the other, the other may pass it with amendments. The regular progression in this case is, that the Commons disagree to the amendment; the Lords insist on it; the Commons insist on their disagreement; the Lords adhere to their amendment; the Commons adhere to their disagreement. The term of insisting may be repeated as often as they choose to keep the question open. But the first adherence by either renders it necessary for the other to recede or adhere also; when the matter is usually suffered to fall.<sup>1</sup> (10 Grey, 148.) Later, however, there are instances of their having gone to a second adherence. There must be an absolute conclusion of the subject somewhere, or otherwise transactions between the Houses would become endless. (3 Hats., 268, 270.) The term of insisting, we are told by Sir John Trevor, was then (1679) newly introduced into parliamentary usage by the Lords. (7 Grey, 94.) It was certainly a happy innovation, as it multiplies the opportunities of trying modifications which may bring the Houses to a concurrence. Either House, however, is free to pass over the term of insisting, and to adhere in the first instance (10 Grey, 146); but it is not respectful to the other. In the ordinary parliamentary course there are two free conferences, at least, before an adherence. (10 Grey, 147.)

Either House may recede from its amendment and agree to the bill; 2 or recede from their disagreement to the amendment, and agree to the same absolutely or with an amendment; for here the disagreement and receding destroy one another, and the subject stands as before the disagreement. (Elysng, 23, 27; 9 Grey, 476.)

But the House can not recede from or insist on its own amendment, with an amendment; for the same reason that it can not send to the other House an amendment to its own act after it has passed the act. They may modify an amendment from the other House by ingrafting an amendment on it, because they have never assented to it; but they can not amend their own amendment, because they have, on the question, passed it in that form. (9 Grey, 363; 10 Grey, 240.) (In Senate, March 29, 1798.) Nor where one House has adhered to their amendment, and the other agrees with an amendment, can the first House depart from the form which they have fixed by an adherence.

In the case of a money bill, the Lords' proposed amendments became, by delay, confessedly necessary. The Commons, however, refused them, as infringing on their privilege as to money bills; but they offered themselves to add to the bill a proviso to the same effect, which had no coherence with the Lords' amendments; and urged that it was an expedient warranted by precedent, and not unparliamentary in a case become impracticable and irremediable in any other way. (3 Hats., 256, 266, 270, 271.) But the Lords refused, and the bill was lost. (1 Chand., 288.) A like case. (1 Chand., 311.) So the Commons resolved that it is unparliamentary to strike out, at a conference, anything in a bill which hath been agreed and passed by both Houses.<sup>3</sup> (6 Grey, 274; 1 Chand., 312.)

A motion to amend an amendment from the other House takes precedence of a motion to agree or disagree.

<sup>1</sup>A former joint rule of the two Houses of Congress, dating from June 10, 1780, but suffered to lapse with the other joint rules in 1876, provided: "After each House shall have adhered to their disagreement, a bill or resolution shall be lost."

<sup>1</sup>Agreeing to the amendment of the other House passes the bill without a vote on the bill itself.

<sup>1</sup>See also sections 6417-6420 of this volume.

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

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

**6164. The parliamentary law governing the precedence and effect of the motions to agree, disagree, recede, insist, and adhere.**

**As to the motions to agree or disagree, the affirmative of one is equivalent to the negative of the other.**

**The negative of the motion to recede is not equivalent to the affirmative of the motion to insist.**

**The motion to amend an amendment of the other House has precedence of the motion to agree or disagree.**

In Section XXXVIII of Jefferson's Manual the parliamentary law is laid down in reference to the precedence and effect of the motions to agree, disagree, recede, insist, and adhere:

A motion to recede being negatived does not amount to a positive vote to insist, because there is another alternative, to wit, to adhere.

A bill originating in one House is passed by the other with an amendment. A motion in the originating House to agree to the amendment is negatived. Does there result from this a vote of disagreement, or must the question on disagreement be expressly voted? The questions respecting amendments from another House are: First, to agree; second, disagree; third, recede; fourth, insist; fifth, adhere.

First. To agree. Either of these concludes the other necessarily, for the positive of

Second. To disagree. either is exactly the equivalent to the negative of the other, and no other alternative remains. On either motion amendments to the amendment may be proposed; e.g., if it be moved to disagree, those who are for the amendment have a right to propose amendments, and to make it as perfect as they can, before the question of disagreeing is put.

Third. To recede. You may then either insist or adhere.

Fourth. To insist. You may then either recede or adhere.

Fifth. To adhere. You may then either recede or insist.

Consequently the negative of these is not equivalent to a positive vote the other way. It does not raise so necessary an implication as may authorize the Secretary, by inference, to enter another vote; for two alternatives still remain, either of which may be adopted by the House.

**6165. Illustration of disposition of amendments between the Houses without intervention of a committee of conference.**—On February 24, 1903,<sup>1</sup> the House considered the Senate amendments to the bill (H. R. 15520) "to establish a standard of value and to provide for a coinage system in the Philippine Islands," the same having been reported from the Committee on Insular Affairs with the recommendation that the Senate amendment be amended, and agreed to as amended.

The question was taken on the first amendment recommended by the Committee on Insular Affairs, and it was agreed to. Then the second amendment was agreed to.

Then the question was taken on agreeing to the Senate amendment as amended, and it was agreed to.

<sup>1</sup>Second session Fifty-seventh Congress, Journal, p. 281; Record, p. 2580.

The Senate later, on February 25,<sup>1</sup> agreed to the House amendments, and so the bill was passed without resort to a conference.

**6166. The motion to agree, or concur, should be put in the affirmative, and not the negative, form.**—On January 14, 1868,<sup>2</sup> Mr. Speaker Colfax construed the practice of the House to be that, on a question of agreeing or disagreeing to Senate amendments, the question should be put on the motion to agree or concur, even although the motion had been to disagree or nonconcur.

**6167. A negative vote on a motion to disagree was held equivalent to an affirmative vote to agree.**—On March 2, 1829,<sup>3</sup> the House was considering a Senate amendment to the bill (H. R. 42) “for the preservation and repair of the Cumberland road.”

Mr. Charles F. Mercer, of Virginia, moved that the House disagree to the Senate amendment.

On this question there were, yeas 54, nays; 79.

And the Speaker<sup>4</sup> then decided that the said amendment was thereby concurred in by the House.

**6168. The Committee of the Whole having recommended disagreement to a Senate amendment, and the House having negated a motion to concur in the recommendation, it was held that the House had agreed to the amendment.**—On March 1, 1823,<sup>5</sup> the House was considering a Senate amendment to the bill entitled “An act making appropriations for the public buildings,” and the pending question was taken, “Will the House concur with the Committee of the Whole on the state of the Union in their disagreement to said amendment?”

And it was determined in the negative.

The nonconcurrence with the Committee of the Whole in their disagreement to the said amendment was decided by the Speaker<sup>6</sup> equivalent to the affirmative of a question to concur therein.

And so the said amendment was concurred in.

**6169. A motion to amend an amendment from the other House takes precedence of a motion to agree or disagree.**

**When the House disagrees to a Senate amendment after amending it the adopted amendment is of no effect.**

On April 22, 1902,<sup>7</sup> the Committee of the Whole House was considering the Senate amendment to the bill (H. R. 8587) for the allowance of certain claims for stores and supplies, etc.

Mr. Oscar W. Underwood, of Alabama, having proposed a motion, which gave rise to a question of order, the Chairman<sup>8</sup> said:

The Chair understands the motion of the gentleman from Alabama to be simply a motion to amend the Senate amendment, and after that amendment and all other amendments have been passed upon

<sup>1</sup> Record, pp. 2605–2607.

<sup>2</sup> Second session Fortieth Congress, Globe, p. 506.

<sup>3</sup> Second session Twentieth Congress, Journal, pp. 377–379.

<sup>4</sup> Andrew Stevenson, of Virginia, Speaker.

<sup>5</sup> Second session Seventeenth Congress, Journal, p. 300.

<sup>6</sup> Philip P. Barbour, of Virginia, Speaker.

<sup>7</sup> First session Fifty-seventh Congress, Record, pp. 4531, 4541, 4542.

<sup>8</sup> Marlin E. Olmsted, of Pennsylvania, Chairman.

the motion to concur will be in order. \* \* \* The Chair is of the opinion that it would not be in order to move to concur until the Senate amendment has been perfected by the committee by making such amendments as it is desired to make.

Thereupon the committee agreed to the amendment of Mr. Underwood, striking out a portion of the Senate amendment, and also another amendment proposed by Mr. Edward Robb, of Missouri, inserting the following:

To the heirs and legal representatives of John W. Hancock, deceased, of Iron County, Mo., the sum of \$1,160.

These amendments having been agreed to, and no further motion to amend being made, a motion was entertained to recommend nonconcurrence in the Senate amendment, and the said motion was agreed to.

Mr. Joseph G. Cannon, of Illinois, rising to a parliamentary inquiry, asked the effect of the recommendation to nonconcur after amendments had been agreed to.

The Chairman said:

In the opinion of the Chair the situation is the same as if in Committee of the Whole an amendment had been offered and carried to the bill, and then the bill itself had been negatively reported. \* \* \* Therefore it has no particular significance at this time.

The committee having voted to rise, the Chairman reported "that that committee had had under consideration the Senate amendment to the bill H. R. 8587, and, having made two amendments thereto, had instructed him to report the bill back to the House, with the recommendation that the House do nonconcur in the Senate amendment and ask for a conference."

The question being put in the House, Mr. Robb, rising to a parliamentary inquiry, asked as to the amendment adopted on his motion.

The Speaker pro tempore<sup>1</sup> said:

The gentleman's motion is not in, because there is a motion to nonconcur. If there had been a concurrence the gentleman's amendment would be in.

Thereupon the House voted to nonconcur and ask a conference.

On April 23 and 24<sup>2</sup> the Committee of the Whole House on the state of the Union considered the Senate amendments to the bill (H. R. 9206) relating to oleomargarine and other dairy products. The committee recommended concurrence with all amendments except No. 9. This amendment, which extended over several pages, was first amended, and then the committee recommended concurrence.

The House, following the report of the committee, agreed to the amendments to No. 9, concurred in it as amended, and concurred in the other amendments.

In the Senate, on April 28,<sup>3</sup> the said amendments of the House to amendment No. 9 were considered. The President pro tempore,<sup>4</sup> quoting Jefferson's Manual that—

A motion to amend an amendment from the other House takes precedence of a motion to agree or disagree.

<sup>1</sup> John Dalzell, of Pennsylvania, Speaker pro tempore.

<sup>2</sup> Record, pp. 4593-4601, 4629-4642; Journal, pp. 639, 640.

<sup>3</sup> Record, pp. 4746-4749.

<sup>4</sup> William P. Frye, of Maine, President pro tempore.

admitted motions to amend before the question was put on concurrence. The motions to amend being decided in the negative, the motion to concur was agreed to.

So the bill was finally passed.

**6170.** On March 27, 1867,<sup>1</sup> the House was considering an amendment of the Senate to a concurrent resolution of the House providing for the adjournment of Congress.

Mr. Robert C. Schenck, of Ohio, had moved to concur in the Senate amendment with an amendment.

Mr. Rufus P. Spalding, of Ohio, proposed a simple motion to concur.

The Speaker<sup>2</sup> said:

A motion to concur is always in order as tending to bring the two Houses together in their action; but a motion to amend an amendment of the Senate has priority of a motion to concur.

**6171.** On January 21, 1898,<sup>3</sup> the House was in Committee of the Whole House on the state of the Union, considering the Senate amendments to the urgent deficiency appropriation bill.

The Senate amendment numbered 5 having been read, Mr. John C. Bell, of Colorado, moved to concur in it.

Mr. Joseph G. Cannon, of Illinois, moved to concur with an amendment.

The Chairman having announced that the vote would be taken first on the latter motion, Mr. Joseph W. Bailey, of Texas, made the point of order that the question should be taken first on concurrence.

After debate the Chairman<sup>4</sup> overruled the point of order.<sup>5</sup>

**6172. Before the stage of disagreement has been reached the motion to refer to a committee Senate amendments returned with a House bill has precedence of a motion to agree to the amendments.**—On May 17, 1884,<sup>6</sup> the bill of the House for the relief of Fitz John Porter was returned from the Senate with an amendment.

Mr. J. Warren Keifer, of Ohio, moved that the bill be referred to the Committee on Military Affairs. Mr. Samuel J. Randall, of Pennsylvania, raised the point that the motion to concur or nonconcur had precedence.

At first the Speaker said that the purpose of all parliamentary law was to bring the two Houses together if possible, and in the absence of positive rule to the contrary such practice should be adopted as would tend to produce that result at the earliest possible moment.

Later the Speaker<sup>7</sup> reversed the ruling, saying:

The effect of such a ruling would of course be to prevent under any circumstances the reference of a Senate amendment to a committee of the House, because it is well established that a refusal to

<sup>1</sup> First session Fortieth Congress, Journal, pp. 123, 124; Globe, p. 388.

<sup>2</sup> Schuyler Colfax, of Indiana, Speaker.

<sup>3</sup> Second session Fifty-fifth Congress, Record, pp. 839, 840.

<sup>4</sup> Sereno E. Payne, of New York, Chairman.

<sup>5</sup> This is also the rule of Jefferson's Manual (see sec. 6163 of this volume). The motion to agree with an amendment is divisible, but it is not necessary to require a division unless it is desirable to amend an amendment of the other House in several particulars.

<sup>6</sup> First session Forty-eighth Congress, Record, p. 3942; Journal, p. 1199.

<sup>7</sup> John G. Carlisle, of Kentucky, Speaker.

concur is equivalent to nonconcurrence, while a refusal to nonconcur is equivalent to concurrence. Therefore, in either event the matter would be finally concluded \* \* \* and there could be no reference to a committee. The Chair thinks that inasmuch as a refusal to refer to a committee does not prevent a vote afterwards on the other motions, the Chair was wrong in his ruling, and now holds that the vote should be first taken on the motion to commit. It does not appear that the precise question now decided has heretofore been decided in the House. It is unquestionably true \* \* \* that the first question is upon concurrence—that is, as between the motion to concur and the motion to nonconcur—but so far as the Chair can ascertain it has never been decided that a motion to concur or nonconcur has precedence over a motion to commit or postpone the consideration of the amendment. In the absence of any positive rule upon the subject, and in view of the fact that if the motion to commit is not put to the House before the motion to concur or nonconcur it can not be voted on at all, the Chair thinks his former ruling ought not to be adhered to.

**6173.** On February 21, 1893,<sup>1</sup> the House proceeded to the consideration of the Senate amendments to the bill (H.R. 9350) to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes and their locomotives with driving-wheel brakes, and for other purposes.

Mr. George D. Wise, of Virginia, having submitted a motion that the House concur in the amendments of the Senate, pending which motion Mr. James D. Richardson, of Tennessee, had submitted a motion that the bill and amendments be committed to the Committee on Interstate and Foreign Commerce, and the question of order being submitted as to the relative precedence of the motions to commit and to concur—

The Speaker<sup>2</sup> held that, the previous question not having been moved on the motion to concur, and the amendments of the Senate never having been considered by a committee of the House, the motion of Mr. Richardson to commit was in order, and took precedence of the motion to concur.

**6174.** On December 21, 1896,<sup>3</sup> the House was considering the Senate amendments to the immigration bill, when Mr. Richard Bartholdt, of Missouri, moved that the bill be recommitted to the Committee on Immigration and Naturalization.

Mr. Lorenzo Danford, of Ohio, rising to a parliamentary inquiry, asked if a motion to nonconcur in the Senate amendments and agree to the conference asked would be in order as a substitute for the motion of the gentleman from Missouri.

The Speaker<sup>4</sup> replied that the vote would have to be taken first on the motion to refer to the committee.

**6175. A motion being made to agree to an amendment of the other House with an amendment, it is in order to perfect that amendment by another amendment and a substitute.**—On April 22, 1897,<sup>5</sup> the House was in Committee of the Whole House on the state of the Union, considering the Senate amendments to the Indian appropriation bill, and the Clerk had read this amendment:

That the Secretary of the Interior shall, within sixty days after the passage of this act, establish and thereafter maintain at the city of Omaha, in the State of Nebraska, a warehouse for Indian supplies, from which distributions shall be made to such Indian tribes of the West and Northwest as the Secretary of the Interior may direct.

<sup>1</sup> Second session Fifty-second Congress, Journal, p. 101; Record, p. 1954.

<sup>2</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>3</sup> Second session Fifty-fourth Congress, Record, p. 372.

<sup>4</sup> Thomas B. Reed, of Maine, Speaker.

<sup>5</sup> First session Fifty-fifth Congress, Record, pp. 810–812.

Mr. Jonathan P. Dolliver, of Iowa, moved to recommend concurrence in this amendment, with an amendment striking out "Omaha," etc., and inserting "Sioux City," etc.

Mr. John F. Shafroth, of Colorado, moved an amendment to Mr. Dolliver's amendment, striking out "Sioux City" and inserting "Denver."

Mr. James S. Sherman raised a point of order against this amendment.

The Chairman<sup>1</sup> said:

The Chair is of the opinion that the amendment of the Senate must be treated as a part of the text of the bill, and that a second amendment would be admissible under the rules and practice of the House. \* \* \* The Chair is under the impression that the amendment of the gentleman from Iowa [Mr. Dolliver] was the first proposition to concur with an amendment, and to that an amendment is offered by the gentleman from Colorado [Mr. Shafroth].

Thereupon Mr. Richard Bartholdt moved a substitute for Mr. Dolliver's amendment, providing for "St. Louis" instead of "Omaha."

This substitute was entertained.<sup>2</sup>

**6176. An amendment of one House being amended by the other, the first House may amend the last amendment, but further amendment is not permissible.**—On April 28, 1902,<sup>3</sup> the Senate was considering House amendments to an amendment of the Senate to the bill (H.R. 9206) relating to oleomargarine and other dairy products.

To an amendment of the House, Mr. Henry M. Teller, of Colorado, proposed an amendment.

Thereupon Mr. Stephen B. Elkins, of West Virginia, proposed an amendment to the amendment of Mr. Teller.

The President pro tempore<sup>4</sup> said:

A further amendment is not now in order, as it would be an amendment in the third degree.

**6177.** On the legislative day of June 5, 1900,<sup>5</sup> but the calendar day of June 6, the conferees of the House on the disagreeing votes of the two Houses on the naval appropriation bill reported that they had been unable to agree as to several amendments, one of which related to the purchase of armor plate.

In the Senate amendment relating to this subject the House concurred with an amendment.

In this House amendment to the original Senate amendment the Senate concurred with an amendment.

The House agreed to this last amendment, thus closing the disagreement.<sup>6</sup>

**6178. An instance of substitute amendments between the Houses carried to the furthest degree.**—On March 25, 1867,<sup>7</sup> the House adopted a con-

<sup>1</sup> William P. Hepburn, of Iowa, Chairman.

<sup>2</sup> Where extensive amendment is proposed it is better, by division of the question, to separate the motion to agree from the amendment. Then the pending Senate amendment may be perfected freely, after which the question may be taken on agreeing.

<sup>3</sup> First session Fifty-seventh Congress, Record, p. 4749.

<sup>4</sup> William P. Frye, of Maine, President pro tempore.

<sup>5</sup> First session Fifty-sixth Congress, Record, pp. 6840, 6841.

<sup>6</sup> See Jefferson's Manual, p. 175. In this case the process of agreeing with an amendment has evidently been carried to its uttermost limit. The House must have either agreed or disagreed to the last amendment of the Senate.

<sup>7</sup> First session Fortieth Congress, Journal, p. 110; Globe, p. 334.



current resolution providing for an adjournment of the two Houses of Congress until the first Wednesday of May, and then for other adjournments after recesses until the first Wednesday of November.

On March 27<sup>1</sup> this resolution was returned from the Senate with an amendment striking out all after the resolving clause and inserting a new text providing for a simple adjournment on the 28th instant. The House voted to concur in the amendment of the Senate with an amendment striking out the text of the Senate amendment after the word "That" (the first word) and inserting a new text providing for a modification of the original House proposition.

On March 28<sup>2</sup> the House received from the Senate a message announcing that the Senate had agreed to the amendment of the House to the amendment of the Senate to the concurrent resolution with an amendment striking out all after the word "That" (first word after the resolving clause) and inserting a new text providing a modified proposition. The House thereupon disagreed to the amendment of the Senate and asked a conference, which was agreed to by the Senate. This conference did not report, another resolution having been adopted.

**6179. The House may not even by unanimous consent change the text to which both Houses have agreed.**—On May 1, 1902,<sup>3</sup> the Speaker laid before the House the bill (H.R. 11535) for the protection of game in Alaska, returned from the Senate with the following amendment:

Page 6, line 2, after "act," insert: " : *Provided further*, That nothing contained in the foregoing sections of this act shall be construed or held to prohibit or limit the right of the Smithsonian Institution to collect in or ship from the district of Alaska animals or birds for the use of the Zoological Park in Washington, D.C."

Mr. Francis W. Cushman, of Washington, moved that the House concur in the Senate amendments with the following amendments:

Amend in line 16, page 4, by inserting after the word "publish" the following:

"*Provided further*, That hides, heads, and parts of game animals and birds taken prior to the passage of this act may be shipped out of Alaska at any time prior to July 15, 1902."

Also in line 12, page 4, after the word "collection," insert "and shipment."

The Speaker<sup>4</sup> said:

The Chair will call the attention of the gentleman from Washington to the fact that his proposed amendments apply to a section of the bill upon which both Houses have agreed, and not to the amendment of the Senate. The gentleman's amendments, therefore, are out of order.

Mr. John F. Lacey, of Iowa, asked unanimous consent that the amendments be considered. Thereupon the Speaker said:

The Chair believes that even the proceeding by unanimous consent can not be used to change the text of a bill upon which the two Houses have agreed.

**6180. In considering in the House Senate amendments to a House bill, it is not in order to change the text to which both Houses have agreed.**—On February 28, 1885,<sup>5</sup> the House was considering the post-office appro

<sup>1</sup>Journal, pp. 122–124; Globe, pp. 388–391.

<sup>2</sup>Journal, pp. 135, 137, 140; Globe, pp. 425.

<sup>3</sup>First session Fifty-seventh Congress, Record, p. 4956.

<sup>4</sup>David B. Henderson, of Iowa, Speaker.

<sup>5</sup>Second session Forty-eighth Congress, Journal, p. 719; Record, p. 2304.

priation. bill, which had already passed the House and had been passed by the Senate with amendments.

An amendment having been proposed by Mr. Hernando D. Money, of Mississippi, relating to the free transmission of certain publications of the second class through the mails, Mr. William S. Holman, of Indiana, made the point of order that the amendment related to a portion of the bill that had been agreed to by both Houses, and therefore was not in order.

The Speaker<sup>1</sup> sustained the point of order, holding that it was not in order to change the original text of a bill which had passed both Houses.

**6181. The text to which both Houses have agreed may not be changed in the slightest particular.**—On April 23, 1902,<sup>2</sup> while the House in Committee of the Whole House on the state of the Union was considering the Senate amendments to the bill (H. R. 9206) relating to oleomargarine and other dairy products, the following Senate amendment was read:

In line 25, page 2, and line 1, page 3, strike out the words “ingredient or” and insert the word “artificial.”

The original text of the House bill contained the words “ingredient or coloration,” the Senate striking out “ingredient or,” but leaving the last word, “coloration,” in the text and agreeing to it.

Mr. James W. Wadsworth, of New York, moved to insert after the word “coloration” the words “except colored butter.”

Over this motion a debate arose, it being urged that, although technically it changed the text to which both Houses had agreed to insert an amendment after “coloration,” yet one substantive proposition was involved in the change proposed by the Senate amendment, and the House might modify that substantive proposition by any germane amendment.

The Chairman<sup>3</sup> said:

If the Chair may be permitted to state the parliamentary situation, it is this: The gentleman from New York made a motion to concur in Senate amendment No. 4, which simply strikes out the words “ingredient or” and inserts in place thereof the word “artificial.” Then the gentleman from New York rose to offer an amendment which the Chair understood to be an amendment to the Senate amendment, and therefore ruled that it had precedence of the motion of the gentleman from Connecticut; but when the amendment of the gentleman from New York came to be read it was found to be a proposition to insert in the text of the bill, as agreed to by both Houses, after the word “coloration,” line 1, page 3, being a part of the text of the bill not amended by the Senate—to insert at that point certain other matter, which the Chair thereupon ruled out of order. \* \* \* The word “coloration” is not a part of the Senate amendment, but a part of the text of the bill. It would be in order to offer an amendment to the word “artificial”—adding another word, possibly, thereto. \* \* \* But the Chair is still of opinion that the amendment, coming as it does in the text of the bill after the word “coloration,” although it is only one word beyond the Senate amendment, the effect is just the same as if it were ten words or ten lines, and the Chair therefore adheres to the ruling that the text of the bill, which has been agreed to by both Houses, is sacred and can not be amended in Committee of the Whole. \* \* \* It is not within the province of the Chair to construe the meaning of words which have been agreed to by both branches of Congress.

<sup>1</sup> John G. Carlisle, of Kentucky, Speaker.

<sup>2</sup> First session Fifty-seventh Congress, Record, pp. 4593–4595, 4597.

<sup>3</sup> Marlin E. Olmsted, of Pennsylvania, Chairman.

Later, on the same day, another Senate amendment was considered, as follows:

In line 1, page 4, strike out before the word "that" the words "or ingredient."

To this Mr. James W. Wadsworth, of New York, proposed the following amendment:

Amend Senate amendment No. 8 by inserting after the word "ingredient," line 1, page 4, the words "but colored butter shall not be construed as artificial coloration."

Mr. James A. Tawney, of Minnesota, made the point of order that this amendment proposed to change the text as agreed to by both Houses.

The Chairman said:

If the Chair correctly understands the motion of the gentleman from New York, it is to insert at the place where the Senate strikes out the words "or ingredient" the words which the Clerk has read. The Chair thinks the amendment is in order and overrules the point of order.

**6182. The text to which both Houses have agreed may not be amended, even by adding a new section to the bill.**—On April 24, 1902,<sup>1</sup> the House in Committee of the Whole House on the state of the Union was considering the Senate amendments to the bill (H.R. 9206) relating to oleomargarine and other dairy products.

The Senate amendments had been considered, when Mr. Thomas C. McRae, of Arkansas, proposed an amendment in the form of a new section to come in at the end of the bill.

Mr. James A. Tawney, of Minnesota, made the point of order that it was not in order to amend the original text to which both Houses had agreed.

The Chairman<sup>2</sup> said:

Upon a motion made yesterday to amend a portion of the text of the bill, the Chair ruled, following a decision made by Speaker Carlisle, that it was not within the power of the House, and consequently not within its power while in Committee of the Whole House, to amend any portion of the bill which had been agreed upon by both the House and Senate. This amendment proposes to amend the text of the bill which has so been agreed upon by both Houses by adding entirely new matter thereto. The Chair sustains the point of order.

**6183. The fact that an amendment proposed to a Senate amendment would in effect change a provision of the text to which both Houses have agreed does not constitute a reason why the Speaker should rule it out.**—On February 26, 1902,<sup>3</sup> while the Committee of the Whole House on the state of the Union was considering the Senate amendments to the bill (H.R. 5833) temporarily to provide revenue for the Philippine Islands, Mr. James D. Richardson, of Tennessee, proposed to a Senate amendment the following amendment:

That upon all articles the growth and product of the Philippine Archipelago coming into the United States from the Philippine Archipelago there shall not be collected any rate of duty, but the trade between the Philippine Islands and the United States shall be free so long as they are a part of the United States.

Mr. Sereno E. Payne, of New York, made the point of order that the amendment would in effect change a part of the bill which had not been amended by the

<sup>1</sup>First session Fifty-seventh Congress, Record, p. 4642.

<sup>2</sup>Marlin E. Olmsted, of Pennsylvania, Chairman.

<sup>3</sup>First session Fifty-seventh Congress, Record, pp. 2189, 2190.

Senate, i.e., that it would change a provision of the text to which both Houses had agreed.

In the course of the debate Mr. Richardson called to the attention of the Chair a ruling establishing the principle:

The fact that a proposed amendment is inconsistent with the text or embodies a proposition already voted on constitutes a condition to be passed upon by the House and not by the Speaker.

The Chairman<sup>1</sup> overruled the point of order.

**6184.** On May 15, 1828,<sup>2</sup> the House was considering the Senate amendments to the tariff bill, the particular amendment under consideration being that which fixed the time when the iron schedules should take effect as the 1st day of September.

Mr. Churchill C. Cambreleng, of New York, asked if it would be in order to amend the Senate's amendment by a proviso that none of the duties of the bill should be collected until September 1.

The Speaker<sup>3</sup> replied that it would not be, saying:

The House, having passed the bill, is *functus officio* in regard to it, except so far as it acts upon the amendments of the Senate. It may either concur with or disagree to those amendments simply, or it may amend them, and then, as amended, concur with or disagree to them; but the amendment proposed, though it is offered as an amendment to that of the Senate, is, in effect, an amendment to our own bill, in a part to which the amendment of the Senate does not apply, and is, therefore, out of order.

**6185.** On July 10, 1832,<sup>4</sup> during the consideration of Senate amendments to the bill (H. R. 584) "to alter and amend the several acts imposing duties on imports," the question was stated on agreeing to the twenty-second amendment, viz, to increase the duty on brown sugar, and sirup of sugar cane, in casks, from 2½ cents per pound to 3 cents per pound.

Mr. William Drayton, of South Carolina, moved to amend the Senate amendment by striking out "three" and inserting "two" cents.

Mr. Henry A. Bullard, of Louisiana, made a point of order that this motion was not in order, because it reduced the duty below the rate already fixed by the House in the bill.

The Speaker<sup>3</sup> decided that Mr. Drayton's motion was in order.

Mr. Bullard appealed, and the decision of the Speaker was overruled, 81 votes to 78 votes.

**6186. Where the Senate had amended a House bill by striking out a section, it was held in order in the House to concur with an amendment inserting a new text in lieu of that stricken out.**—On August 11, 1856,<sup>5</sup> the House began the consideration of the bill (H. R. 153) making appropriations for the support of the Army, which had been returned from the Senate with an amend

<sup>1</sup> William P. Hepburn, of Iowa, Chairman.

<sup>2</sup> First session Twentieth Congress, Debates, p. 2698.

<sup>3</sup> Andrew Stevenson, of Virginia, Speaker.

<sup>4</sup> First session Twenty-second Congress, Journal, p. 1127; Debates, p. 3894.

<sup>5</sup> First session Thirty-fourth Congress, Journal, pp. 1424, 1426.

ment striking out a section which prohibited the use of troops of the United States to enforce the acts of the legislature of Kansas, etc.

Pending the question on agreeing to the Senate amendment, Mr. Lewis D. Campbell, of Ohio, moved to amend the Senate amendment by inserting in lieu of the provision stricken out a proviso that no part of the military force of the United States should be used in aid of the enforcement of any enactment of the body claiming to be the Territorial legislature of Kansas, until such enactments should have been affirmed and approved by Congress, etc.

Mr. Howell Cobb, of Georgia, submitted as a question of order that, as the Senate amendment proposed simply to strike out a section of the House bill, the House must either agree or disagree with the Senate amendment. How was it possible to agree to strike out with an amendment?

The Speaker<sup>1</sup> ruled that it was in order to concur in the Senate amendment with the amendment proposed.

An appeal was laid on the table, 97 yeas to 81 nays.

**6187. In amending a Senate amendment the House is not confined within the limits of amount set by the original bill and the Senate amendment.**—On February 26, 1902,<sup>2</sup> while the Committee of the Whole House on the state of the Union was considering the Senate amendments to the bill (H. R. 5833) temporarily to provide revenue for the Philippine Islands, the following amendment was read:

On page 2, line 1, after the word "countries," insert:

*Provided*, That upon all articles the growth and product of the Philippine Archipelago coming into the United States from the Philippine Archipelago there shall be levied, collected, and paid only 75 per cent of the rates of duty aforesaid," etc.

Mr. George B. McClellan, of New York, moved to amend the Senate amendment by striking out the figures "75" and inserting in lieu thereof "25."

Mr. Sereno E. Payne, of New York, made the following point of order:

As I understand it, the House having fixed the rate at 100 per cent and the Senate at 75 per cent, the House must agree upon something between 75 and 100 per cent.

After debate the Chairman<sup>3</sup> overruled the point of order.

**6188. In the consideration of Senate amendments in the House, an amendment must be germane to the particular Senate amendment to which it is offered, it not being sufficient that it should be germane to provisions of the bill.**—On July 3, 1884,<sup>4</sup> the House having under consideration a general pension bill which had been returned with Senate amendments, the question was on concurring with a Senate amendment striking out the word "wars" and inserting "war."

Mr. Goldsmith W. Hewitt, of Alabama, moved that the House concur in the amendment with an amendment.

<sup>1</sup>Nathaniel P. Banks, of Massachusetts, Speaker.

<sup>2</sup>First session Fifty-seventh Congress, Record, p. 2188.

<sup>3</sup>William P. Hepburn, of Iowa, Chairman.

<sup>4</sup>First session Forty-eighth Congress, Journal, p. 1653.

Mr. Thomas M. Browne, of Indiana, made the point of order that Mr. Hewitt's amendment was not in order, not being germane to the subject-matter of the Senate amendment.

The Speaker<sup>1</sup> sustained the point of order on the ground that an amendment proposed to an amendment of the Senate must be germane to that amendment, and could not be held in order on the ground of being germane to the subject-matter of the pending bill, for the reason that the text of the bill, except as amended by the Senate, was not again open to amendment by the House.

**6189.** On March 8, 1898,<sup>2</sup> the House was in Committee of the Whole House on the state of the Union considering the Senate amendments to the Indian appropriation bill, one of these amendments being as follows:

That the time fixed by the Indian appropriation act, approved June 7, 1897, for opening for location and entry, under all land laws of the United States, the lands of the Uncompahgre Indian Reservation in Utah, under the limitations and exceptions as therein provided, is hereby extended six months from the 1st day of April, 1898.

On behalf of the Committee on Indian Affairs, Mr. James S. Sherman, of New York, proposed to concur in the Senate amendment with this amendment:

And the Secretary of the Interior is authorized to lease the said reserved lands containing said minerals, said leases to be upon such royalty as the said Secretary may determine to be reasonable, and said leases to be for such periods, not exceeding ten years, as he may determine; and regulations and limitations shall be provided by the Secretary as to the amount of lands embraced in each lease, or as to assignments of said leases, so as to prevent any monopoly of said minerals; and the Secretary will make all such rules and regulations as may be necessary for the purpose of carrying out the objects of this act.

Mr. William H. King, of Utah, made the point of order that the proposed amendment was not germane and was a change of existing law.

After debate, the Chairman<sup>3</sup> sustained the point of order.

**6190.** On March 10, 1898,<sup>4</sup> the House was in Committee of the Whole House on the state of the Union considering Senate amendments to the Indian appropriation bill.

One of the Senate amendments (No. 72) was for the ratification of a treaty with the Seminole tribe of Indians.

It was moved that the House concur in this with an amendment ratifying a similar treaty with the Kiowa, Comanche, and Apache tribes of Indians.

Mr. James S. Sherman, of New York, raised the point of order that the amendment to the amendment was not germane and that it was new legislation.

The Chairman<sup>3</sup> sustained the point of order.

**6191.** On March 10, 1898,<sup>5</sup> the House was in Committee of the Whole House on the state of the Union considering the Senate, amendments to the Indian appropriation bill.

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<sup>1</sup> John G. Carlisle, of Kentucky, Speaker.

<sup>2</sup> Second session Fifty-fifth Congress, Record, pp. 2640-2643.

<sup>3</sup> William P. Hepburn, of Iowa, Chairman.

<sup>4</sup> Second session Fifty-fifth Congress, Record, p. 2716.

<sup>5</sup> Second session Fifty-fifth Congress, Record, p. 2713.

Amendment No. 58, the free-homestead amendment, was under consideration. This amendment proposed to give to settlers certain lands, proceeds of which, if the lands were sold, would go to agricultural colleges in the country.

Mr. Levin I. Handy, of Delaware, moved that the House concur with the Senate amendment with an amendment striking out of the act of August 3, 1890, that portion which restricts the national appropriations for agricultural colleges to proceeds of the sale of public lands.

Mr. James S. Sherman, of New York, made the point of order that this amendment was a change of existing law, and also not germane to the Senate amendment.

After debate, the Chairman<sup>1</sup> said:

It appears to the present occupant of the chair that this question is not a new one; that there are very many precedents for the decision he proposes to make, and he has no difficulty at all in arriving at the conclusion that the point of order, or both points of order, should be sustained, and so sustains the points of order.

Mr. Handy having appealed, the decision of the Chair was sustained, 140 yeas to 34 noes.

**6192. When a House bill with Senate amendments is committed to the Committee of the Whole that committee considers only the amendments.—**

On April 23, 1902,<sup>2</sup> the House, under the terms of a special rule making the motion privileged, voted to go into Committee of the Whole House on the state of the Union for the consideration of the Senate amendments to the bill (H. R. 9206) relating to oleomargarine and other dairy products.

The bill having been taken up in Committee of the Whole, Mr. Oscar W. Underwood, of Alabama, raised a question of order that the whole bill, as well as the Senate amendments, was before the committee for amendment.

The Chairman<sup>3</sup> said:

The Chair will state that in his judgment it would not be within the province of the House itself to consider those portions of the bill which have been agreed upon by both House and Senate, but only the Senate amendments. Therefore it would not be within the province or authority of the House to direct the Committee of the Whole to consider anything more than the Senate amendments. The Chair does not understand the rule as requiring or intending that the Committee of the Whole House on the state of the Union shall consider more than the Senate amendments to the House bill.

Mr. John S. Williams, of Mississippi, having renewed the question of order that the whole bill should be considered, the Chairman said:

The Chair will call the attention of the gentleman from Mississippi to a ruling apparently upon this precise point made by Speaker Carlisle in 1895:

“An amendment having been proposed by Mr. Hernando D. Money, of Mississippi, relating to the transmission of certain publications of the second class through the mails, Mr. William S. Holman, of Indiana, made the point of order that the amendment related to a portion of the bill that had been agreed to by both Houses, and therefore was not in order.

“The Speaker [Mr. Carlisle] sustained the point of order, holding that it was not in order to change the original text of a bill which had been passed by both Houses.”

The Chair would state that in his judgment the position of the gentleman from Alabama is in direct opposition to the ruling of Speaker Carlisle. In that case the House itself was considering the

<sup>1</sup> William P. Hepburn, of Iowa, Chairman.

<sup>2</sup> First session Fifty-seventh Congress, Record, pp. 4585, 4586.

<sup>3</sup> Marlin E. Olmsted, of Pennsylvania, Chairman.

post-office appropriation bill, which had passed the House and had been passed by the Senate with amendments. It had not been sent to conference. It simply came back as this bill has, with certain Senate amendments, and the Chair ruled that it was not in order for the House itself to consider anything but the Senate amendments. The House itself not having that power, it certainly can not be construed to have power to direct the Committee of the Whole House on the state of the Union to do something which the House itself can not do.

**6193. The process of amending Senate amendments in Committee of the Whole, and the subsequent agreement of the House to the amendments as amended.**—On March 1, 1831,<sup>1</sup> the House resolved itself into a Committee of the Whole House on the state of the Union for the consideration of the amendments of the Senate to the bill (H. R. 528) making appropriations for the support of Government for the year 1831.

After some time therein the committee rose and the Chairman reported the said amendments with amendments.

The Senate amendments were then taken up in order. When the Committee of the Whole had amended, the House voted on the question of concurring with the Committee of the Whole in agreeing to the amendment proposed to the Senate amendment; and where the Committee of the Whole, instead of amending, had agreed or disagreed to the Senate amendment, the question was put on concurring with the Committee of the Whole in this agreement or disagreement.

Finally, after the amendments of the Senate had been gone through, the question was put on concurring with the Senate amendments as amended.<sup>2</sup>

**6194. In Committee of the Whole, a Senate amendment, even though it be very long, is considered as an entirety and not by paragraphs or sections.**—On April 22, 1902,<sup>3</sup> the Committee of the Whole House proceeded to consider the Senate amendment to the bill (H. R. 8587) for the allowance of certain claims for stores and supplies, etc. This amendment, while in form a single amendment, consisted in reality of many paragraphs relating to many different claims.

A question arising as to procedure, the Chairman<sup>4</sup> said:

The Chair will state that the consideration of Senate amendments in Committee of the Whole House, as we are now doing, is of very rare occurrence. But, considering the rules and precedents so far as applicable, the Chair is inclined to hold that the entire Senate amendment must first be read, and then the Chair is of the opinion that amendments may be offered to any clause, paragraph, or line, precisely as if the amendment covered but one page or one line.

This is probably the longest Senate amendment that has ever come over to the House. It covers many pages and embraces many paragraphs to clauses, and yet it is only one amendment. The inquiry is quite pertinent, whether an amendment to this amendment must be offered when, in reading, the Clerk has reached the paragraph to which it is applicable, or withheld until the entire Senate amendment has been read.

The rule as adopted April 17, 1789, provided that—

“Upon bills committed to a Committee of the Whole House the bill shall be first read throughout by the Clerk and then again read and debated by clauses, leaving the preamble to be last considered \* \* \*. After the report (to the House) the bill shall again be subject to be debated and amended by clauses before a motion to engross it be taken.”

<sup>1</sup> Second session Twenty-first Congress, Journal, pp. 392–394; Debates, pp. 830–839.

<sup>2</sup> Andrew Stevenson, of Virginia, Speaker; Charles A. Wickliffe, of Kentucky, Chairman.

<sup>3</sup> First session Fifty-seventh Congress, Record, p. 4530.

<sup>4</sup> Marlin E. Olmsted, of Pennsylvania, Chairman.



In the revision of 1880 this rule was omitted, possibly because the practice of reading a bill by paragraphs for amendment had become such a matter of course in the practice of Committees of the Whole that its repetition was considered unnecessary, or possibly because it was entirely overlooked, but the present Rule XXIII, section 6, provides that—

“The committee may, by the vote of a majority of the members present, at any time after the five-minute debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph.”

This is a recognition of the practice of reading and amending the bill itself by clauses or paragraphs, but the Chair is unable to find any rule or evidence of any practice or any precedent for the reading of an amendment by paragraphs for amendments to the amendment. Certainly an amendment offered originally in Committee of the Whole would not be so read. Although it might be a very long amendment, embracing many paragraphs, it would be read as an entirety, and then an amendment or successive amendments might be offered to any part of it. Now, this is not a Senate bill. It is simply a Senate amendment to a House bill and, in the opinion of the Chair, to be treated as any other amendment that is to say, first read as an entirety, and then considered as subject to such amendments as may be offered to any part thereof, precisely the same as if, instead of coming from the Senate, it had been offered to-day for the first time by a member of this Committee of the Whole House.

**6195. Senate amendments referred to the Committee of the Whole must be considered, although they may not be within the rule requiring such consideration.**—On April 23, 1902,<sup>1</sup> the House went into Committee of the Whole House on the state of the Union for the consideration of the Senate amendments to the bill (H. R. 9206) relating to oleomargarine and other dairy products. This bill, when received from the Senate with amendments, had been referred to the Committee on Agriculture, and having been reported by that committee had been referred to the Committee of the Whole, under the rule relating to all nonprivileged reports, i. e., the report was made at the Clerk’s desk and not in open House.

The bill having been taken up in Committee of the Whole, Mr. E. Stevens Henry, of Connecticut, having risen to a parliamentary inquiry, asked whether or not the Committee of the Whole would be required to consider all the amendments.

The Chairman<sup>2</sup> said:

The Chair understands that there are ten Senate amendments to the bill as passed by the House. There is a rule—Rule XXIII, section 3—requiring that all propositions involving a tax or involving the expenditure of money must be considered in a Committee of the Whole House, and the Chair understands the gentleman’s inquiry to be whether consideration now is to be limited to such Senate amendments as do either involve a tax or the expenditure of money. Upon that inquiry the Chair would state that while the rule referred to does require absolutely that all propositions of a certain character shall be considered in a Committee of the Whole House, it does not prevent the House from ordering other questions to be considered in Committee of the Whole. There is also another rule—No. 13—which requires that all bills which involve a tax shall be referred to the Committee of the Whole House on the state of the Union—not only the part imposing the tax, but the whole bill. This bill was originally referred to that committee, and was considered by that committee before it was passed by the House.

Now, it has been returned by the Senate with sundry amendments. Those amendments have been referred to the Committee of the Whole House on the state of the Union, and the House has to-day adopted a rule and an order requiring, as the Chair understands it, the consideration of all the Senate amendments, which the Chair thinks it is quite within the province of the House to do. The Chair thinks that therefore all of the Senate amendments are to be considered in this Committee of the Whole House on the state of the Union.

<sup>1</sup>First session Fifty-seventh Congress, Record, p. 4585.

<sup>2</sup>Marlin E. Olmsted, of Pennsylvania, Chairman.

**6196. Senate amendments considered in Committee of the Whole are each subject to general debate and amendment under the five-minute rule.**—On February 8, 1904,<sup>1</sup> the urgent deficiency appropriation bill, with Senate amendments thereto, was under consideration in Committee of the Whole House on the state of the Union, when Mr. James A. Tawney, of Minnesota, proposed a parliamentary inquiry as to the method of procedure.

In response thereto, the Chairman<sup>2</sup> said:

The Chair rules that the bill has not to be read, but that each amendment has to be read, and that there may be general debate on each amendment. If the amendment contains more than one paragraph it may be considered, under the five-minute rule, by paragraphs.

**6197. When Senate amendments to a House bill are considered in the House they are taken up in their order.**—On July 27, 1892,<sup>3</sup> the House resumed the consideration of the amendments of the Senate to the bill (H. R. 7520) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1893, and for other purposes, pending when the House adjourned on the preceding day.

The Speaker<sup>4</sup> stated, in substance, that the pending amendments of the Senate should severally be considered in their respective order; that pending such consideration amendments to the amendment of the Senate under consideration would be in order until the previous question should be ordered thereon, and that each amendment of the Senate should be so considered or otherwise disposed of before passing to the next amendment.

**6198.** On the Calendar day of March 3, 1901,<sup>5</sup> but the legislative day of March 1, the House was considering Senate amendments to the sundry civil appropriation bill, and various Members demanded separate votes on amendments which they specified.

A vote having been taken on all the other amendments in gross, the Speaker then stated that the excepted amendments would be taken up in the order in which they were numbered in the bill.

Mr. James S. Sherman, rising to a parliamentary inquiry, asked if the vote should not be taken first on the amendment on which a separate vote was first asked.

The Speaker<sup>6</sup> said that the amendments should be voted on in the order in which they appeared in the bill.

**6199. Early instances where one House postponed to an indefinite time bills returned from the other with amendments disagreed to and requests for a conference.**—On March 2, 1799,<sup>7</sup> a message from the Senate stated that they agreed to the first amendment and disagreed to the second and third amendments proposed by the House to the bill sent from the Senate entitled

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<sup>1</sup> Second session Fifty-eighth Congress, Record, p. 1732.

<sup>2</sup> Frank D. Currier, of New Hampshire, Chairman.

<sup>3</sup> First session Fifty-second Congress, Journal, p. 336; Record, pp. 6824, 6864.

<sup>4</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>5</sup> Second session Fifty-sixth Congress, Record, p. 3572.

<sup>6</sup> David B. Henderson, of Iowa, Speaker.

<sup>7</sup> Third session Fifth Congress, Journal, p. 513 (Gales & Seaton ed.).

“An act to reform the superior court of the territory of the United States northwest of the Ohio,” and that they desired a conference with the House on the subject-matter of the said amendments, to which conference they had appointed managers on their part.

The House, after considering the message,

*Resolved*, That the further consideration of the said bill and amendments be postponed until the next session of Congress.

As this was the last session of the Fifth Congress, this amounted to indefinite postponement.

On March 2,<sup>1</sup> also, the House, after considering a Senate amendment to a bill “authorizing a detachment from the militia of the United States,”

*Resolved*, That this House do unanimously disagree to the said amendment.

Later a message from the Senate announced that they had postponed further consideration of bill and amendment to next session.

**6200. Instance where a House bill returned with Senate amendments adhered to was postponed indefinitely.**—On January 23, 1809,<sup>2</sup> Mr. Nathaniel Macon, of North Carolina, from the joint committee of conference on the disagreeing votes of the two Houses on the bill “authorizing the appointment and employment of an additional number of navy officers, seamen, and marines,” reported that after conferring freely they had been unable to agree.

On January 24<sup>3</sup> a message from the Senate announced that they adhered to their amendments.

On January 31,<sup>4</sup> on motion of Mr. Burwell Bassett, of Virginia,

*Ordered*, That the further consideration of the last-mentioned bill, with the amendments, be postponed indefinitely.

On April 21, 1810,<sup>5</sup> the bill “to examine into the title to the batture in front of the suburb of St. Mary” was indefinitely postponed under similar conditions.

**6201. A motion to lay on the table a House bill returned with Senate amendments is in order.**—On May 6, 1820,<sup>6</sup> the House proceeded to consider a message from the Senate notifying the House that the Senate had disagreed to the first amendment of the House to the bill (S. 59) to provide for clothing the Army of the United States in domestic manufactures, and for other purposes.

The House voted to insist on their said amendment, and ordered the Clerk to acquaint the Senate therewith. No conference was asked.

On May 10 a message from the Senate announced that they insisted on their disagreement, but the message included no request for a conference.

On May 11 the House proceeded to consider the message, and a motion to postpone the bill indefinitely was disagreed to. The bill was then laid on the table.

This was the last proceeding on the bill.

<sup>1</sup> Journal, p. 516 (Gales & Seaton ed.).

<sup>2</sup> Second session Tenth Congress, Journal, p. 483 (Gales & Seaton ed.).

<sup>3</sup> Journal, p. 488.

<sup>4</sup> Journal, p. 502.

<sup>5</sup> Second session Eleventh Congress, Journal, p. 384 (Gales & Seaton ed.).

<sup>6</sup> First session Sixteenth Congress, Journal, pp. 493, 511, 516 (Gales & Seaton ed.).

**6202.** On March 3, 1853,<sup>1</sup> the House was considering the Senate amendments to the naval appropriation bill, when Mr. Alexander H. Stephens, of Georgia, moved to lay the bill on the table.

Mr. David T. Disney, of Ohio, made the point of order that the motion was not in order, since the House had sent the bill to the Senate, which had returned it with amendments. The House now had no power over the bill.

The Speaker<sup>2</sup> said:

The Chair decides that the motion to lay upon the table is in order.

**6203.** On August 2, 1854,<sup>3</sup> the House was considering the Senate amendments to the civil and diplomatic appropriation bill.

Mr. John Wheeler, of New York, moved that the bill be laid on the table.

Mr. David T. Disney, of Ohio, made the point of order that the motion was not in order, saying that the writers on parliamentary law held that a bill being returned from a coordinate body with amendments the originating body could only agree or disagree to the amendments.

The Speaker<sup>2</sup> overruled the point of order, saying:

The Chair is determined in his own mind as to the rule on this subject. It is in order to move to lay the amendments of the Senate upon the table, and if the motion be agreed to, it carries the bill with it. The Chair has no doubt about his decision.

Mr. Disney having appealed, the appeal was laid on the table.

**6204. The motion to recede takes precedence of the motion to insist.—**

On January 22, 1834,<sup>4</sup> the House proceeded to the consideration of the message from the Senate informing the House that the Senate had adhered to their second amendment to the bill (H. R. 36) making appropriations, in part, for the support of the Government for the year 1834.

A motion was made by Mr. James K. Polk, of Tennessee, that the House do insist on its disagreement to the said amendment and ask a conference with the Senate on the subject-matter thereof.

A motion was then made by Mr. Samuel A. Foot, of Connecticut, that the House recede from its disagreement to the said amendment.

The Speaker<sup>5</sup> decided that this motion took precedence of the motion to insist and ask a conference.

**6205. A motion to recede being decided in the negative, the House does not thereby vote to insist.—**On February 18, 1903,<sup>6</sup> the Speaker pro tempore<sup>7</sup> held that the House by deciding in the negative a motion to recede and concur did not thereby vote to insist, quoting from Jefferson's Manual in support of the ruling.

<sup>1</sup> Second session Thirty-second Congress, Globe, p. 1148.

<sup>2</sup> Linn Boyd, of Kentucky, Speaker.

<sup>3</sup> First session Thirty-third Congress, Journal, p. 1250; Globe, pp. 2071, 2072.

<sup>4</sup> First session Twenty-third Congress, Journal, pp. 229, 1126; Debates, p. 2497.

<sup>5</sup> Andrew Stevenson, of Virginia, Speaker.

<sup>6</sup> Second session Fifty-seventh Congress, Record, p. 2351.

<sup>7</sup> John Dalzell, of Pennsylvania, Speaker pro tempore.

**6206.** On February 25, 1903,<sup>1</sup> the House was considering the bill (S. 4825) to provide for a union railroad station in the District of Columbia, the Senate having disagreed to the House amendments to the bill.

Mr. Joseph W. Babcock, of Wisconsin, had moved that the House insist on its amendments.

Mr. Edward Morrell, of Pennsylvania, had moved that the House recede, and the question was about to be taken on this motion when Mr. Babcock, rising to a parliamentary inquiry, asked:

I ask, as a parliamentary inquiry, what difference there is, in effect, between the motion I make to insist and the gentleman's motion to recede? Is it not, in fact, the same motion; that is, an affirmative vote on one proposition is the same as a negative vote on the other?

The Speaker<sup>2</sup> said:

Not in this case. We have here a Senate bill with House amendments. The bill has passed, and the amendments only are in controversy. The gentleman from Wisconsin [Mr. Babcock] moves to insist on the amendments. The gentleman from Pennsylvania [Mr. Morrell] moves to recede. If the House recedes from these amendments, that ends the matter; that disposes of the controversy. If the House does not recede, there may be several things that may be done under parliamentary law.

**6207. Amendments being in issue between the Houses, the motion to recede may be repeated at a new stage of the proceedings.**—On January 30, 1834,<sup>3</sup> the House disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 36) making appropriations, in part, for the support of Government for the year 1834.

Mr. Richard H. Wilde, of Georgia, thereupon moved that the House recede from its disagreement.

The Chair, recalling a motion to recede that had been decided in the negative before the conference was asked, ruled the motion out of order, as the House had expressly refused to recede.

On February 7, a motion to reconsider the vote disagreeing to the report having failed, Mr. Wilde renewed his motion to recede.

The Speaker<sup>4</sup> entertained the motion, saying that when it was first made the Chair had not looked to the particular stage of the bill, and had supposed that the second motion to recede would not be in order; but, on reflection, he was clearly of opinion that his first opinion was wrong, and that it was in order. The parliamentary usage, the Chair said, was this: That after a question was once made and carried, in the affirmative or negative, it could not again be revived, but must stand as the judgment of the House. This rule, however, was rather to be kept in substance than in words; and Mr. Speaker Onslow had (while in the House of Commons) given a construction to this part of the *Lex Parliamentaria*, which had ever since universally prevailed. It was that this rule did not extend to prevent putting the same question in the different stages of a bill (open to amendment), nor to prevent the discharge of orders that have been previously made, though on great

<sup>1</sup> Second session Fifty-seventh Congress, Record, pp. 2659, 2660.

<sup>2</sup> David B. Henderson, of Iowa, Speaker.

<sup>3</sup> First session Twenty-third Congress, Debates, pp. 2561, 2683.

<sup>4</sup> Andrew Stevenson, of Virginia, Speaker.

deliberation. The true doctrine was that in every stage of a bill every part of the bill is submitted to the opinion of the House, and open to amendment, either for insertion or omission, whether the same amendment has been, in a former stage, accepted or rejected. The House might therefore have refused, in the first instance, to recede, with a view to see the effect of a conference. Consequently, after having had a conference and rejected the report of the committee, they might now be disposed to recede. The bill was not in the same stage, and the Chair had no doubt that it was in order to move again to recede.

The motion to recede was accordingly put and decided in the affirmative.

**6208. A motion to recede and concur is in order even after the previous question has been demanded on a motion to insist.**—On March 2, 1905,<sup>1</sup> the House was considering the Senate amendments to the naval appropriation bill, and the following amendment had been read:

That the Secretary of the Navy shall cause a thorough inquiry to be made as to the cost of armor plate and of armor plant, the report of which shall be made to Congress.

Mr. George E. Foss, of Illinois, moved that the House insist on its disagreement to the Senate amendment, and on that motion asked the previous question.

Mr. John F. Rixey, of Virginia, moved that the House recede and concur.

A question arising, the Speaker<sup>2</sup> said:

Now, this is a motion to further insist on the disagreement, and the gentleman demands the previous question, but pending that the gentleman from Virginia [Mr. Rixey] moves that the House recede and concur. Now, the Chair recognizes that motion. It is an illogical ruling heretofore that would allow it to be recognized, and, on careful examination, the decision that was made was based, the Chair is convinced, upon error;<sup>3</sup> but the Chair will follow the ruling notwithstanding.

So the question was put first on Mr. Rixey's motion.

**6209. A motion to recede and concur is divisible, and being divided and the House having receded, a motion to amend has precedence of the motion to concur.**—On February 27, 1907,<sup>4</sup> the army appropriation bill, which had been returned from the Senate with sundry amendments thereto, came before the House for consideration, and Senate amendment numbered 20, relating to the retirement of a certain class of officers, was read.

Mr. George W. Prince, of Illinois, moved to recede and concur<sup>5</sup> in this amendment with an amendment.

Mr. James Hay, of Virginia, thereupon moved to recede and concur in the Senate amendment, urging that this motion had precedence of that made by Mr. Prince.

<sup>1</sup>Third session Fifty-eighth Congress, Record, pp. 3883, 3884.

<sup>2</sup>Joseph G. Cannon, of Illinois, Speaker.

<sup>3</sup>See section 6321a of this volume for the decision here referred to.

<sup>4</sup>Second session Fifty-ninth Congress, Record, p. 4123.

<sup>5</sup>The House had already disagreed to the Senate amendments, and a conference had been held. The managers had made a partial report, which was agreed to by the House, but had reported that they could not agree as to amendment 20. The Record shows that Mr. Prince moved "to concur with an amendment," but the Speaker entertained the motion as "to recede and concur with an amendment"—the proper form.

The Speaker<sup>1</sup> held:

The Chair will state to the gentleman from Illinois [Mr. Prince] and the gentleman from Virginia [Mr. Hay] that before the stage of disagreement the motion to concur with an amendment takes precedence of the motion to concur, but it is divisible—that is to say, first, a vote on the amendment, then on the motion to concur. The gentleman from Illinois moves not only to recede and concur, which would bring the two bodies together, but moves to recede and concur with an amendment. Now, that presents two propositions, or rather three. Does the gentleman ask a division? \* \* \* On former occasions there has been much of contention as to the precedence of these motions, and the Chair now recalls that the House has already once disagreed with the Senate amendment, and the Chair is informed by the clerk at the Speaker's table that there is probably a precedent exactly in point. The Chair will read: "The stage of disagreement having been reached"—

That is this case—

"the motion to recede and concur takes precedence of the motion to recede and concur with an amendment."

Referring to several precedents. \* \* \* The gentleman from Illinois [Mr. Prince] moves to recede and concur in the Senate amendment with an amendment. That involves two propositions—to recede and to concur with an amendment; in fact, three propositions, for the motion to concur may be separated from the motion to amend. The gentleman from Virginia moves to recede and concur, a motion containing two propositions. Now, there being two propositions, one to recede and the other to concur, these if agreed to as one motion would bring the House in accord with the Senate, and as far as this amendment is concerned, pass the bill; and so it has been held that this motion when undivided has precedence of the double or treble motion that the House recede and concur with an amendment. There being two propositions in the motion of the gentleman from Virginia [Mr. Hay], the House will see at once that if it desire to amend freely, without being restricted to a single amendment, it must be possible to divide the motion to recede and concur and the motion to concur with an amendment. Hence, while the motion of the gentleman from Virginia would take precedence, yet on demand of a Member it is divisible, and the first question would be on a motion to recede, and if the House concludes to recede, then on the motion to concur, unless a preferential motion to amend should come in.

Thereupon a division of the question was demanded, and the question was first put on the motion to recede.

The House voted to recede, whereupon the Speaker said that as the House had retired from its position of disagreement, the motion to amend had precedence of a motion to concur, explaining:

The House has receded from its position of disagreement with the Senate, and that leaves the situation as if there had been no disagreement. At that stage a motion to amend takes precedence of the motion to concur.

Mr. Prince thereupon moved an amendment, which was disagreed to.

Thereupon the question was taken on the motion to concur, and the House agreed to it.

**6210.** On March 2, 1907,<sup>2</sup> the conference report on the agricultural appropriation bill had been ruled out on a point of order, and the House thereupon took up for consideration the Senate amendments in disagreement.

This amendment was read:

Survey of and report on Appalachian and White Mountain watersheds: To enable the Secretary of Agriculture to examine, survey, and ascertain the natural conditions of the watersheds at and near the sources of the various rivers having their sources in the Southern Appalachian Mountains and the White Mountains, and to report to Congress the area and natural conditions of said watersheds, the price at which the same can be purchased by the Government, and the advisability of the Govern-

<sup>1</sup> Joseph G. Cannon, of Illinois, Speaker.

<sup>2</sup> Second session Fifty-ninth Congress, Record, pp. 4483–4489.

ment's purchasing and setting apart the same as a national forest reserve for the purpose of conserving and regulating the water supply and flow of said streams in the interest of agriculture, water power, and navigation, \$25,000, to be immediately available.

Mr. Jesse Overstreet, of Indiana, moved to recede and concur with an amendment, which was read.

After debate, Mr. Charles R. Thomas, of North Carolina, rising to a parliamentary inquiry, asked:

Will the motion to recede and concur not take priority over the motion of the gentleman from Indiana?

The Speaker<sup>1</sup> replied:

The Chair understands that a motion to recede and concur would take priority, but both motions are divisible, and if the motion was taken first on receding, as it would be,<sup>2</sup> then the motion to amend would have precedence over the motion to concur.

**6211.** On June 25, 1902,<sup>3</sup> the House had agreed to a partial report of the conference committee on the naval appropriation bill, and the amendments of the Senate remaining in disagreement were taken up for consideration.

Mr. H. C. Loudenslager, of New Jersey, moved that the House recede and concur in the Senate amendment numbered 92, relating to submarine boats.

Mr. Ebenezer J. Hill, of Connecticut, demanded a division of the motion.

The Speaker,<sup>4</sup> granting the demand, announced that the question would first be taken on receding.<sup>5</sup>

**6212. The House having receded from its disagreement to Senate amendments, they are open to amendment precisely as before the original**

<sup>1</sup>Joseph G. Cannon, of Illinois, Speaker.

<sup>2</sup>Of course the House would have to vote affirmatively on the motion to recede before a motion to amend could be offered.

<sup>3</sup>First session Fifty-seventh Congress, Record, pp. 7391, 7392.

<sup>4</sup>David B. Henderson, of Iowa, Speaker.

<sup>5</sup>There is one ruling based on the idea that the motion to recede and concur should not be divided, which illustrates the difficulties arising without a division.

On the calendar day of March 3, 1901 (second session Fifty-sixth Congress, Record, p. 3577), but the legislative day of March 1, the House was considering a Senate amendment to the sundry civil appropriation bill. This amendment, about thirty pages in length, made appropriations and legislative provisions for three separate expositions, one at Buffalo, another at Charleston, and a third at St. Louis.

Mr. James S. Sherman, of New York, moved to recede and concur in this amendment, with an amendment striking out the portion providing for the exposition at Charleston.

Mr. Joseph W. Bailey, of Texas, moved to amend the motion by striking out also the portion of the Senate amendment relating to the exposition at Buffalo.

The Speaker (David B. Henderson) said: "The Chair desires to say to the gentleman from Texas that, as just stated in reply to his parliamentary inquiry, the motion of the gentleman from New York is subject to amendment. Still, the amendment must be germane to that motion; and as the amendment of the gentleman from Texas affects an entirely separate matter, it would seem to the Chair that it must be in the form of a separate motion and can not be offered as an amendment to the motion of the gentleman from New York. The proposition of the gentleman from Texas will be in order after the disposition of the motion now before the House. \* \* \* The gentleman from Texas will readily realize that a motion to strike out one part of a bill would not properly be subject to amendment by a motion to strike out an entirely different part, which was not germane." And in this case the House was prevented from expressing its will unhampered, because after voting to recede and concur with one amendment another might not be offered.



**disagreement.**—On March 3, 1849,<sup>1</sup> Mr. Samuel F. Vinton, of Ohio, from the committee of conference on the disagreeing votes on amendments to the civil and diplomatic appropriation bill, reported that the committee had been unable to come to any agreement, and asked that they might be discharged.

Mr. George Ashmun, of Massachusetts, rising to a parliamentary inquiry, asked as to the position of the bill.

The Speaker<sup>2</sup> said that if the House refused to insist on its disagreement to the Senate amendments it might recede. If it receded, the amendments would then be open to amendment precisely as they were before the original disagreement. The question would then be restored to the precise condition in which it was before the House disagreed to the Senate's amendments.

**6213.** On August 31, 1841,<sup>3</sup> the House was considering the Senate amendments to the fortifications appropriation bill, and had reached the fourth amendment, which inserted in the bill the following:

For defraying the expenses of selecting and purchasing a site for a western, southwestern, or northwestern armory, to be selected by the President of the United States, the sum of \$75,000.

A motion was made, and decided in the affirmative, that the House recede from its disagreement to this amendment.

And the question recurred that the House do agree to the amendment, when a motion was made by Mr. George W. Summers, of Virginia, to amend this amendment by striking out certain words and inserting certain others.

This amendment proposed by Mr. Summers was agreed to.

The question was then taken on concurring in the Senate amendment as amended, and was decided in the affirmative.

**6214.** On June 17, 1842<sup>4</sup> the House was considering the Senate amendments to the bill (H. R. 73) for the apportionment of Representatives among the several States according to the Sixth Census. And the question was taken first on receding and then on concurring in the several amendments.

**6215. By receding from its disagreement to a Senate amendment the House does not thereby agree to the same.**—On May 6, 1828,<sup>5</sup> the Senate returned the bill “making appropriations for the Indian Department for the year 1828,” and insisted on their amendment, which had been disagreed to by the House.

The House receded from their disagreement to the said amendment.

Thereupon the Speaker<sup>6</sup> decided that the question would recur upon agreeing to the said amendment of the Senate, the fact of receding not being equivalent to an agreement.

In this decision the House acquiesced.

**6216. The House may not recede from its own amendments with an amendment.**

<sup>1</sup> Second session Thirtieth Congress, Globe, p. 695.

<sup>2</sup> Robert C. Winthrop, of Massachusetts, Speaker.

<sup>3</sup> First session Twenty-seventh Congress, Journal, pp. 444–447; Globe, pp. 412, 413.

<sup>4</sup> Second session Twenty-seventh Congress, Journal, p. 986; Globe, pp. 643, 644.

<sup>5</sup> First session Twentieth Congress, Journal, p. 1042.

<sup>6</sup> Andrew Stevenson, of Virginia, Speaker.

**One House may not send to the other an amendment of its own bill after it is passed.**

On June 28, 1906,<sup>1</sup> the House agreed to a partial conference report on the agricultural appropriation bill.

Thereupon the amendments remaining in disagreement were considered, including amendment of the Senate No. 29, in which the House had concurred with an amendment, to which the Senate had disagreed.

Mr. James W. Wadsworth, of New York, moved that the House insist on its amendment to the Senate amendment.

Mr. Charles R. Davis, of Minnesota, proposed a motion that the House recede from its amendment with an amendment.

Mr. Wadsworth made a point of order that the motion was not in order.

The Speaker<sup>2</sup> held:

We concurred in the Senate amendment with an amendment to which they have disagreed. The Chair understands the rule to be that the House in the present condition can only insist or recede. With the consent of the House, the Chair will have the following read:

“But the House can not recede from or insist on its own amendment with an amendment, for the same reason that it can not send to the other House an amendment to its own act after it has passed the act. They may modify an amendment from the House by ingrafting an amendment on it, because they have never assented to it; but they can not amend their own amendment, because they have, on the question, passed it in that form. (9 Grey, 363; 10 Grey, 240.) In Senate, March 29, 1798. Nor, where one House has adhered to their amendment and the other agrees with an amendment, can the first House depart from the form which they have fixed by an adherence. (Jefferson’s Manual, Sec. XLV.)”

And so far as the Chair is informed and believes, these precedents have been followed by both the Senate and House. \* \* \* But we have already concurred in the Senate amendment with an amendment. \* \* \* If we recede now from the amendment of the House, it leaves the Senate amendment concurred in, and that is the end of the whole matter. \* \* \* We have already concurred in the Senate amendment with an amendment, and the Senate has disagreed to our amendment, and we can not change the issue without the consent of the Senate, and perhaps not even with the consent of the Senate.

**6217.** On January 14, 1868,<sup>3</sup> the House disagreed to the Senate amendments to the bill (H. R. 207) to provide for the exemption of cotton from internal tax. In the Senate Mr. John Sherman proposed, on January 16, that the Senate recede from its amendments, with an amendment to the House bill. But, the bill going over, on January 20, Mr. Sherman stated that after consultation with the chief clerk he had come to the conclusion that the motion was not in order under the rules, and he would therefore move to insist and ask a conference as the best way of attaining the object desired.

**6218.** On March 3, 1879,<sup>4</sup> the Senate was considering its own amendment to strike out a certain paragraph in the legislative appropriation bill as it came from the other House. This paragraph contained two different propositions, one relating to qualifications of jurors in United States courts and the other to use of marshals and their deputies at the polls. The Senate Committee on Appropriations reported

<sup>1</sup> First session Fifty-ninth Congress, Record, pp. 9566, 9568, 9569.

<sup>2</sup> Joseph G. Cannon, of Illinois, Speaker.

<sup>3</sup> Second session Fortieth Congress, Globe, pp. 552, 627.

<sup>4</sup> Third session Forty-fifth Congress, Record, pp. 2181, 2335–2337.

the bill with an amendment, striking out the whole paragraph; but when the Senate voted on it the question was divided, and the question was taken first on striking out the portion relating to jurors, and then on that relating to marshals. The House disagreed to the amendment, the Senate insisted, and the conferees being appointed, reported inability to agree.

The amendment in all these proceedings was treated as a single amendment (except for the division of the question on the original adoption of it), and when it came up after the failure of the conference, Mr. Allen G. Thurman, of Ohio, moved to recede from the amendment of the Senate except as to the portion of it relating to jurors.

Mr. Roscoe Conkling, of New York, having stated that the amendment was a single one, made a point of order that the motion was out of order.

The Vice-President<sup>1</sup> said:

The Chair was under the impression that there were two amendments, and in that case the Senator from Ohio having moved to recede from one and having left the other distinct could now move to recede from that. Upon the statement of the Senator from New York that the amendment was a single one, but taken in divisions in the Senate, it does not change the character of being a single amendment now.

Therefore he ruled the motion out of order.

Mr. Thurman having appealed, after debate, the appeal was laid on the table without division.

**6219. The stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment.**—On August 10, 1894,<sup>2</sup> the House was considering certain Senate amendments to the sundry civil appropriation bill, on which there was still disagreement between the two Houses.

The question being on amendment No. 280, Mr. John A. Pickler, of South Dakota, moved that the House recede from its disagreement to the amendment and agree thereto.

Mr. Thomas C. McRae, of Arkansas, submitted a motion that the House recede from the amendment and agree to the same with an amendment.

The Speaker pro tempore<sup>3</sup> held that inasmuch as the motion of Mr. Pickler tended to bring the Houses to a more immediate agreement than the motion of Mr. McRae, the motion of Mr. Pickler had precedence.<sup>4</sup>

**6220.** On March 2, 1895,<sup>5</sup> the House was considering Senate amendments to the sundry civil appropriation bill on which there was still disagreement between the two Houses.

Mr. Samuel M. Robertson, of Louisiana, moved that the House recede from its disagreement to amendment No. 107 (relating to the sugar bounty), and agree to the same.

<sup>1</sup> William A. Wheeler, of New York.

<sup>2</sup> Second session Fifty-third Congress, Journal, p. 557; Record, p. 8389.

<sup>3</sup> James D. Richardson, of Tennessee, Speaker pro tempore.

<sup>4</sup> This and the following decisions are made on a state of fact wherein no division of the question is demanded. For principles of procedure where a division is demanded, see section 6209 of this chapter.

<sup>5</sup> Third session Fifty-third Congress, Journal, p. 185; Record, p. 3178.

Mr. Nelson Dingley, of Maine, submitted a motion that the House recede from its disagreement and agree to the amendment of the Senate with an amendment which he was about to propose.

The Speaker pro tempore<sup>1</sup> suggested that the pending motion to recede, and agree absolutely to the amendment of the Senate, would take precedence over the motion proposed by Mr. Dingley.

Mr. Dingley insisted that the motion he was about to submit had precedence over the pending motion.

After debate, on the question of order, the Speaker pro tempore held as follows:

The Chair thinks there can be no doubt about the rule. The very purpose of a conference is to reach an agreement between the two Houses. A motion to recede takes precedence of a motion to insist, upon the theory that it removes all differences. Reasoning by this analogy, the motion to recede absolutely ought to take precedence of a motion to recede with an amendment, because the former motion would terminate the controversy between the two Houses, while the latter motion would still leave an amendment between them. If it is not the will of the House to recede and agree to the Senate amendments, it can vote down the pending motion, and the motion of the gentleman from Maine would then be in order.

On page 257 of the Digest this language is found:

“While the motion to amend a Senate amendment takes precedence in the first instance over a motion to agree or disagree, yet if the House has disagreed, and subsequently the amendments are again before the House, the motion to recede and agree takes precedence over the motion to recede and agree with an amendment.”

The Chair overrules the point of order made by the gentleman from Maine, because it is the opinion of the Chair that the motion best calculated to dispose of the difference between the two Houses ought to have precedence.

**6221.** On June 3, 1896,<sup>2</sup> the House was considering a conference report on the urgent deficiency bill when Mr. Joseph D. Sayers, of Texas, moved that the House recede from its disagreement to the amendment numbered 27 and agree to the same with an amendment.

Mr. Thomas Updegraff, of Iowa, proposed a motion to recede and concur.

A question arising, after debate, the Speaker pro tempore held:

The Chair is of the opinion that at the present period of the disagreement between the two Houses a motion to recede and concur takes precedence of a motion to recede and concur with an amendment. That has been the ruling on previous occasions. The motion to recede brings the two Houses together.

**6222.** On July 16, 1897,<sup>3</sup> the House was considering certain Senate amendments to the naval appropriation bill which were in disagreement. An amendment numbered 98, relating to the purchase of armor plate for naval vessels being before the House, Mr. Joseph D. Sayers, of Texas, moved that the House recede from its disagreement to the amendment and agree to the same.

Mr. Charles A. Boutelle, of Maine, moved that the House recede from its disagreement and agree to the amendment with an amendment.

Mr. Alexander M. Dockery, of Missouri, made the point that the motion to recede and concur had precedence.

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<sup>1</sup> Joseph W. Bailey, of Texas, Speaker pro tempore.

<sup>2</sup> First session Fifty-fourth Congress, Record, p. 6068.

<sup>3</sup> First session Fifty-fifth Congress, Record, p. 2661.

The Speaker<sup>1</sup> sustained the point of order.<sup>2</sup>

**6223.** On July 6, 1898,<sup>3</sup> the House was considering certain Senate amendments to the general deficiency appropriation bill, upon which there was a condition of disagreement between the two Houses.

The amendment embodying the Pacific railroad funding proposition having been reached, and a motion to recede and concur being pending, Mr. John A. Barham, of California, rising to a parliamentary inquiry, asked if a motion to recede and concur with an amendment would be in order.

The Speaker pro tempore<sup>4</sup> said:

The motion to recede and concur would take precedence of a motion to concur with an amendment, for the reason that the motion to recede and concur, if agreed to, would bring the two Houses together and at once dispose of the bill.

**6224. The motion to recede and concur in a Senate amendment with an amendment takes precedence of a motion to insist further on the House's disagreement to the Senate amendment.**—On July 16, 1897,<sup>5</sup> the House was considering certain Senate amendments to the naval appropriation bill, on which there was still disagreement between the two Houses, and the Clerk had read the amendment numbered 98, which related to the purchase of armor plate for battle ships.

Mr. Joseph G. Cannon, of Illinois, moved that the House further insist on its disagreement to this Senate amendment.

Mr. William A. Stone, of Pennsylvania, moved to recede from the disagreement and concur with an amendment, which he presented.

The Speaker<sup>1</sup> held that the motion to recede and concur with an amendment took precedence of the motion to further insist.<sup>6</sup>

**6225. The stage of disagreement having been reached the motion to insist has precedence of the motion to refer.**—On July 31, 1886,<sup>7</sup> the Speaker laid before the House the bill (S. 1599) for the relief of the Phoenix National Bank of the City of New York, with an amendment of the House thereto and a message from the Senate disagreeing to the amendment and requesting a conference upon the disagreeing votes of the two Houses.

Mr. William S. Holman, of Indiana, moved to refer the bill, amendment, and message to the Committee on Claims.

Pending this motion, Mr. Darwin R. James, of New York, moved that the House insist upon its amendment and agree to the conference asked by the Senate.

<sup>1</sup> Thomas B. Reed, of Maine, Speaker.

<sup>2</sup> First session Fifty-fourth Congress, Record, p. 6422, for a like ruling.

<sup>3</sup> Second session Fifty-fifth Congress, Record, p. 6731.

<sup>4</sup> Sereno E. Payne, of New York, Speaker pro tempore.

<sup>5</sup> First session Fifty-fifth Congress, Record, pp. 2641, 2642.

<sup>6</sup> This decision was made in a case where no division of the question was demanded. The House in ordinary practice rarely wishes to make more than one amendment to a Senate amendment, and hence a division of the question is rarely demanded. For practice where it is demanded see section 6209 of this chapter.

<sup>7</sup> First session Forty-ninth Congress, Journal, p. 2457; Record, p. 7820.

The Speaker<sup>1</sup> held the latter motion to be privileged, for the reason that the bill had now reached the stage of actual disagreement between the two Houses, and the appointment of conferees on the part of the House would be in order as soon as the House had insisted on its amendment and agreed to the request of the Senate for a conference.

**6226. An instance wherein one House receded from its own amendment after the other House had returned it concurred in with an amendment.**—On June 27, 1898,<sup>2</sup> the District of Columbia appropriation bill (H. R. 8428) was returned to the House with the notification that the Senate had receded from sundry of its amendments to the bill, including the Senate amendment No. 74. This amendment related to electric lighting in the District, and the House had at first disagreed to it, but later on, June 17, had receded and concurred in it with an amendment legislating as to a conduit system for electric-light wires. The Senate disagreed to the House amendment to Senate amendment No. 74, and then, at the same time, receded from the said amendment No. 74, thus concluding the matter and accepting this portion of the bill as it came from the House originally.<sup>3</sup>

**6227. After the stage of disagreement had been reached on amendments between the Houses, the Senate decided that new matters might not be brought in by way of amendment.**—On June 28, 1882,<sup>4</sup> the Senate took up the bill (H. R. 4167) to enable national banking associations to extend their corporate existence. This bill had been returned from the House with Senate amendments disagreed to, but without any request for a conference.

Mr. William B. Allison, of Iowa, moved that the Senate insist on its amendments and ask a conference of the House.

<sup>1</sup>John G. Carlisle, of Kentucky, Speaker.

<sup>2</sup>Second session Fifty-fifth Congress, Record, pp. 6097, 6099, 6377.

<sup>3</sup>The action of the Senate in first disagreeing to the House amendment to the Senate amendment seems to have been simply an act of courtesy, to avoid the appearance of ignoring entirely the legislative proposition submitted by the House. The action of the Senate in this case is unusual, and the steps of it are as follows:

The House sends over a bill which the Senate amends and returns to the House.

The House concurs in the amendment with an amendment.

The question then arises: May the Senate recede from its amendment and concur with the original bill?

In such a case the Senate has the following courses open:

It may concur in the House amendment to the Senate amendment.

It may insist on its amendment and ask a conference.

It may adhere to its amendment.

May it also recede from its amendment and concur in the original House bill? Undoubtedly such would have been the proper course had the House disagreed to the Senate amendment instead of agreeing to it in a modified form. Does the partial agreement of the House, which may be in reality no agreement at all, since it may make the Senate amendment more distasteful to the Senate than was the original bill, bind the Senate either to accept this distasteful legislation or to enter upon a course of disagreement against it, when there lies the shorter and more simple form of receding from the original amendment and agreeing to the bill?

But if the motion is admissible, which would have precedence, the motion to concur with the House amendment to the Senate amendment or the motion to recede from the original Senate amendment and concur in the bill? Either motion would bring the two Houses together, and perhaps the one first made should have precedence.

<sup>4</sup>First session Forty-seventh Congress, Record, pp. 5441–5445.

Mr. James B. Beck, of Kentucky, proposed a motion that the bill and amendments be referred to the Committee on Finance, in order that several amendments made necessary by recent developments might be incorporated.

Mr. Allison at once objected that:

After the House has concurred in a portion of the amendments sent to it and nonconcurred in others, I do not see how it is possible, under the rules of the two Houses, to materially amend the amendments which we have already made.

Mr. John T. Morgan, of Alabama, said:

I do not think it is legitimate to refer the bill back to the committee at this time, unless the Senate shall agree to reconsider the vote by which it passed the bill, for that committee is shut out by the action of the Senate of record here from the consideration of any other matter than the mere question of the agreement or disagreement to the action proposed by the House.

Mr. John Sherman, of Ohio, said:

The bill has passed beyond our consideration; the text of the bill can not be changed, even by unanimous consent of the Senate; it would be a violation of the rules of the Senate and of the rules of parliamentary order. We can not play Indian in this game; we can not pass a bill and then recede from it afterwards. We may recede from the amendments that we proposed to the House which are in our power or we may go and confer with them, and if the amendments are not agreeable to the Senate we may change them somewhat or abandon them or we may get the House conferees to agree with us; but there is nothing pending between the two Houses except the disagreeing votes of the two Houses on the amendments. It is a violation of the rules to bring any new matter into this debate. I remember when a distinguished Senator of this body, the present Postmaster-General, Mr. Howe, undertook, by consent of a committee of conference, to introduce new matter, the Senate practically reproved him, so much so that Mr. Howe refused to consent to serve on any future committee in regard to that subject-matter, because it was deemed to be a violation of his duty to vary in the slightest degree from the question between the two Houses, which was the question of the pending amendments disagreed to by one of the Houses. It would be an extraordinary proceeding for us to send back this bill to the Committee on Finance with a view to introduce matter not contained in the pending amendment. \* \* \* All questions of conference between the two Houses form the most delicate process of legislation. We can not add one single thing to the proposition we have made to the House.

In view of the objections, Mr. Beck proposed to modify his motion by adding directions to the committee to consider whether or not the Senate amendments should be adhered to.

The Senate agreed to this modification; but the motion to refer with the instructions was then disagreed to, yeas 16, nays 37.

Then the motion to insist and ask a conference was agreed to.

**6228. Both Houses insisting, and neither asking a conference, the bill failed.**—On March 3, 1879,<sup>1</sup> after two ineffectual conferences on the army appropriation bill, the two Houses being unable to agree on the subject of the use of troops at elections, one of the House conferees, Mr. Abram S. Hewitt, of New York, having reported the inability of the conferees to agree, moved that the House further insist. This motion was agreed to, but Mr. Hewitt purposely refrained from moving that a further conference be asked. When the Senate were notified they, on motion of Mr. James G. Blaine, of Maine, voted to insist, and refrained from asking a conference. So the bill failed.

**6229. The House may recede from its disagreement to certain amendments and adhere to it as to others.**—On September 28, 1850,<sup>2</sup> the House was

<sup>1</sup>Third session Forty-fifth Congress, Journal, pp. 663, 676; Record, pp. 2339, 2379, 2394.

<sup>2</sup>First session Thirty-first Congress, Journal, p. 1593.

considering the Senate amendments to the bill (H. R. 334) making appropriations for civil and diplomatic expenses of the Government.

Mr. Edward Stanly, of North Carolina, moved that the House recede from their disagreement to the Senate's amendments numbered 1 and 18.

And the question being put, the motion was agreed to.

Mr. Stanly then moved that the House adhere to their disagreement to the Senate amendments numbered 89, 90, 91.

And the question being put, this motion was agreed to.

**6230. Bills on which one House had adhered have been lost by the expiration of the Congress, even while the roll was being called on a motion to recede that might have passed the bill.**—In 1871,<sup>1</sup> the bill (H. R. 2509) to abolish the grades of admiral and vice-admiral of the Navy, after being the subject of unsuccessful conference, was lost by the adherence of the Senate to their amendments. The Congress expired before the roll call was completed in the House on the motion to recede.

**6231.** On March 3, 1877,<sup>2</sup> the conferees on the army appropriation bill reported that they had been unable to agree. The House had asked the conference and apparently the papers were retained by the House conferees when the conferees were unable to agree. The report of inability to agree being made, Mr. William R. Morrison moved that the House adhere (as recorded in the record of debates) or insist (as recorded in the Journal). The Congress expired during the roll call on this motion. So the bill was lost.

**6232.** On March 3, 1879,<sup>3</sup> the House adhered to its disagreement to the Senate amendments to the legislative appropriation bill, and the bill was lost. This was after two ineffectual conferences, the difference between the two Houses being on account of certain legislation proposed by the House in regard to the qualifications of jurors and the use of troops in elections.

**6233.** In many instances bills have been lost by the adherence of both Houses, sometimes, in earlier days, when no effort at adjustment by conference had been made.

The inability of the two Houses to agree on even the slightest amendment to a bill causes the loss of the bill.

On May 17, 1790,<sup>4</sup> the House proceeded to consider the conference report on the House amendments to the Senate bill entitled "An act for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act." It was voted:

*Resolved,* That this House do recede from their first amendment and in lieu thereof propose to strike out, in the last line of the third section, the words "And Hillsborough," etc.

*Resolved,* That this House do insist on their second amendment to the said bill.

On May 19, 1790,<sup>5</sup> a message from the Senate announced that they receded from their disagreement to the first amendment and agreed to the amendment as

<sup>1</sup> Third session Forty-first Congress, Journal, pp. 490, 513.

<sup>2</sup> Second session Forty-fourth Congress, Journal, pp. 684, 688, 698; Record, pp. 2251, 2252.

<sup>3</sup> Third session Fifty-fifth Congress, Journal, pp. 680, 693; Record, p. 2403.

<sup>4</sup> Second session First Congress, Journal, p. 109 (old ed.), 217 (Gales & Seaton ed.).

<sup>5</sup> Journal, pp. 111, 112 (old ed.), 219 (Gales & Seaton ed.).



amended by the House; and that they adhered to their disagreement to the second amendment.

On May 20<sup>1</sup> the House having proceeded to reconsider their second amendment resolved to adhere to it.

So the bill was lost.

**6234.** On April 9, 1790<sup>2</sup> Mr. Fisher Ames, of Massachusetts, from the managers appointed on the part of the House to attend a conference with the Senate on the subject-matter of the amendment depending between the two Houses to the bill entitled “An act to provide for the remission or mitigation of fines, forfeitures, and penalties, in certain cases” reported that they had not been able to agree.

On April 12, 1790,<sup>3</sup> the House proceeded to reconsider the amendment proposed by the Senate, and it was—

*Resolved,* That this House do adhere to their disagreement to the same amendment.<sup>4</sup>

**6235.** On July 22, 1790,<sup>5</sup> Mr. Elbridge Gerry, of Massachusetts, submitted the report of the conference on the amendments to the bill “to establish the post-office and post roads within the United States,” and the House resolved to adhere to their disagreement to the first amendment, and to recede or insist on their disagreement to several other amendments.

On July 26, 1790,<sup>6</sup> a message from the Senate announced that they adhered to their first amendment to the bill, and that they insisted or receded in the case of other amendments.

So the bill was lost.

Also on March 3, 1791<sup>7</sup> the bill entitled “An act concerning consuls and viceconsuls” was lost through adherence by both Houses.

On December 20, 1791,<sup>8</sup> the bill “apportioning representatives among the people of the several States” was lost in the same way.

On May 6, 1794,<sup>9</sup> the bill “to encourage the recruiting service” was also lost; also on June 9, 1794,<sup>10</sup> the bill “for the more effectual protection of the southwestern

<sup>1</sup> Journal, p. 112 (old ed.), 219 (Gales & Seaton ed.).

<sup>2</sup> Second session First Congress, Journal, p. 77 (old ed.), 192 (Gales & Seaton ed.).

<sup>3</sup> Journal, p. 78 (old ed.), 192 (Gales & Seaton).

<sup>4</sup> The bill was lost evidently, as on April 27, 1790, a new bill to the same effect was reported in the House. Other instances of adherence are:

August 24, 1789 the House adhered to disagreement to amendment of the Senate to the act to establish the Treasury Department. The Senate receded. (First session First Congress, Journal, p. 113.)

September 17, 1789, the House adhered to its disagreement to Senate amendment to bill allowing compensation to President, Vice-President, etc. (First session First Congress, Journal, p. 142.)

September 25, 1789, the House adhered to its amendment to a Senate bill “to regulate processes in the courts of the United States.” (First session First Congress, Journal, p. 156.) On September 28, after a conference had failed, the House receded from their adherence “so far as to agree to the amendments proposed by the Senate to the same.” (Journal, pp. 159–161.)

<sup>5</sup> Second session First Congress, Journal, pp. 180, 182 (old ed.), 276 (Gales & Seaton ed.).

<sup>6</sup> Journal, p. 185 (old ed.), 278 (Gales & Seaton ed.).

<sup>7</sup> Third session First Congress, Journal, pp. 96–98.

<sup>8</sup> First session Second Congress, Journal, pp. 54, 55, 58–61.

<sup>9</sup> First session Third Congress, Journal, p. 293.

<sup>10</sup> First session Third Congress, Journal, p. 432.

frontier settlers;" also March 1, 1797,<sup>1</sup> on resolutions relating to accounts between the United States and the States.

**6236.** On January 23, 1799,<sup>2</sup> the bill to provide "for the enumeration of the inhabitants of the United States" was lost by adherence of both Houses to disagreement over an amendment.

On December 29, 1803,<sup>3</sup> the bill "fixing the salaries of certain officers therein mentioned," was lost.

On March 3, 1805,<sup>4</sup> the bill "making an appropriation for the payment of witnesses," etc., was lost.

On March 31, 1810,<sup>5</sup> the bill "respecting the commercial intercourse between the United States and Great Britain and France" was lost.

**6237.** On April 19, 1806,<sup>6</sup> the House proceeded to consider the amendment proposed by the Senate to strike out the second and third sections of the bill entitled "An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians," and a division of the question being demanded, the question was taken that the House do agree with so much of the Senate amendment as proposed to strike out the second section of the bill. This was decided in the negative, yeas 33, nays 57.

Then the question being taken on agreeing to the residue of the amendment, for striking out the third section of the bill, it was decided in the negative, 35 yeas, 53 nays.

The House then—

*Resolved,* That this House do disagree to the said amendment, and adhere to their disagreement.

The same day a message from the Senate announced that they adhered to their amendment.

So the bill was lost.

**6238.** On March 3, 1827,<sup>7</sup> the bill (S. 66) "to regulate the commercial intercourse between the United States and the Colonies of Great Britain" was lost by the adherence of both Houses in a disagreement as to an amendment of the House.

**6239.** On March 3, 1837,<sup>8</sup> the House proceeded to the consideration of the message from the Senate in relation to the amendment pending to the bill (H. R. 756) "making appropriations for certain fortifications of the United States for the year 1837," when it was—

*Resolved,* That this House do agree to the conference asked by the Senate on the disagreeing votes of the two Houses on the amendment of the Senate to the said bill.

This amendment struck out the clause providing for the distribution of the surplus revenue.

Three conferees were then appointed on the part of the House.

<sup>1</sup> Second session Fourth Congress, Journal, pp. 261, 266.

<sup>2</sup> Third session Fifth Congress, Journal, p. 103.

<sup>3</sup> First session Eighth Congress, Journal, pp. 247, 248.

<sup>4</sup> Second session Eighth Congress.

<sup>5</sup> Second session Eleventh Congress.

<sup>6</sup> First session Ninth Congress, Journal, pp. 408, 410 (Gales & Seaton ed.): Annals, p. 1082.

<sup>7</sup> Second session Nineteenth Congress, Journal, pp. 384, 392.

<sup>8</sup> Second session Twenty-fourth Congress, Journal, pp. 596, 600, 601, 605; Debates, pp. 1022, 2149.

The same day Mr. John Bell, of Tennessee, from the House managers, reported that the managers from the two Houses had conferred, "and had separated without coming to any agreement."

Thereupon Mr. Bell moved that the House adhere to its disagreement, and the motion was agreed to, yeas 107, nays 98.

Subsequently a message was received from the Senate announcing that they had adhered to their amendment.

So the bill was lost.<sup>1</sup>

**6240.** On January 25, 1865,<sup>2</sup> the House adhered to its disagreement to an amendment of the Senate to the deficiency appropriation bill (H. R. 620), the amendment infringing on what the House considered its right to provide suitable salaries for its own employees. On the next day a message was received from the Senate announcing that they adhered to their amendment. So the bill was lost.

**6241. One House, after an amendment or disagreement by the other, may at once adhere, but this does not preclude the granting of the request of the other House for a conference.**—On May 3, 1826,<sup>3</sup> a message from the Senate announced that they adhered to their amendment to the bill "to amend the judiciary system of the United States," to which amendment the House had disagreed.

The message was referred to the Committee on the Judiciary, and on May 5, Mr. Daniel Webster, from that committee, reported this resolution:

*Resolved*, That a conference be asked of the Senate, upon the subject-matter of the disagreeing votes of the two Houses, on the amendment proposed by the Senate to the said bill.<sup>4</sup>

Mr. John Forsyth, of Georgia, asked if the measure proposed was within the rules of the House.

The Speaker<sup>5</sup> replied that it was, saying:

When, in case of a disagreement, not only one House but both Houses adhere to the position taken, there is an end of all further proceedings, and the bill in dispute must drop; but where only one House has adhered, there are instances of a conference.

The resolution was agreed to and the conferees were appointed.

**6242.** On January 17, 1834,<sup>6</sup> the House considered the amendments with which the Senate had returned the bill (H. R. 36) "making appropriations, in part, for the support of the Government for the year 1834," and disagreed to the second amendment relating to use of the contingent fund of the two Houses.

The Senate returned the bill with the message that they adhered<sup>7</sup> to their second amendment, and this message came up for consideration in the House on

<sup>1</sup> It is evident that the papers remained with the House conferees after the conference broke up, and that the report was acted on first in the House, and that the Senate did not act until they received the message announcing the action of the House. (See Debates, p. 1022.)

<sup>2</sup> Second session Thirty-eighth Congress, Journal, pp. 147, 151; Globe, p. 416.

<sup>3</sup> First session Nineteenth Congress, Journal, pp. 510, 517 Debates, p. 2603.

<sup>4</sup> Note that in this case the House does not further insist before asking the conference.

<sup>5</sup> John W. Taylor, of New York, Speaker.

<sup>6</sup> First session Twenty-third Congress, Journal, pp. 211, 229, 231; Debates, pp. 2493–2498.

<sup>7</sup> This motion to adhere at once without insisting was made in the Senate by Mr. Daniel Webster, of Massachusetts, who said there were precedents for it, and that no disrespect was offered the other House. (Debates, p. 333.)

January 22, when Mr. James K. Polk, of Tennessee, moved that the House insist on its disagreement to the amendment, and ask a conference with the Senate.

Mr. John Quincy Adams, of Massachusetts, made the point of order that when either House announced to the other its adherence, there could be no conference.

After discussion, the Speaker<sup>1</sup> said that in the British Parliament it was once the usage not to confer after adherence, but that rule had been changed, and it was the practice to ask a conference after an adherence by both Houses. The practice here had been different. After an adherence by both Houses, it had never been the usage to ask a conference. But when one House mounted up at once to an adherence, and the other did not, the other could ask a conference. This last course was taken in two prominent instances—in regard to the Missouri restriction bill, and the judiciary bill, as he showed by reference to the journals. It was for the House now to adhere (in which case there could be no conference), or to recede; or to insist and ask a conference.

The House voted not to insist, but asked the conference and appointed managers.

**6243.** On January 23<sup>2</sup> when the message of the House came up in the Senate, it was referred to the Committee on Finance, in view of the novel question involved, and the same day Mr. Daniel Webster, of Massachusetts, made the following report from that committee:

The House requests a conference after the Senate had adhered to its amendments, to which the House had previously disagreed. It can not be denied that the Senate has a right to refuse such conference—a case exactly similar having been so disposed of by the Senate in 1826, as will be seen by the extracts from its Journals, which are appended to this report; but the committee think it equally clear that such is not the usual and ordinary mode of proceeding in cases of this kind. It is usually esteemed more respectful, and more conducive to that good understanding and harmony of intercourse between the two Houses which the public interest so strongly requires, to accede to requests for conferences even after an adhering vote. Such conferences have long been regarded as the established and approved mode of seeking to bring about a final concurrence of judgment in cases where the Houses have differed; and the committee think it unwise either to depart from the practice altogether, or to abridge it, or decline to conform to it in cases such as those in which it has usually prevailed. It should only be, therefore, as the committee think, in instances of a very peculiar character that a free conference, invited by the House, should be declined by the Senate.

The committee therefore recommended that the Senate agree to the conference, which was done.

**6244.** On July 20, 1867,<sup>3</sup> the last day before the recess, the Senate returned the concurrent resolution of the House providing for the recess, with an amendment. The House disagreed to the amendment, and at once adhered to the disagreement.

The Senate thereupon insisted on their amendment and asked a committee of conference.

The House thereupon receded from its adherence and agreed to the conference.

**6245. One House having adhered, the other may further insist and ask a conference.**—On February 21, 1815,<sup>5</sup> a message from the Senate announced that they disagreed to the amendment of the House to the “resolutions expressive

<sup>1</sup> Andrew Stevenson, of Virginia, Speaker.

<sup>2</sup> Debates, pp. 336, 337.

<sup>3</sup> First session Fortieth Congress, Journal, pp. 245, 246; Globe, pp. 753, 757, 761.

<sup>4</sup> Third session Thirteenth Congress, Journal, pp. 746, 747, 752, 755 (Gales & Seaton ed.); Annals, pp. 1174, 1184.

of the thanks of Congress to Major-General Jackson and the troops under his command for their gallantry and good conduct in the defense of New Orleans," except so much as strikes out the word "immediate" in the third line of the first resolution.

The House thereupon insisted on their amendment, and directed the Clerk to inform the Senate of their action.

The Senate presently informed the House that they adhered to their disagreement.

On February 22 the House proceeded to reconsider so much of their amendment as the Senate had adhered in a disagreement to, and decided, after debate, to ask a conference with the Senate, conferees were appointed, and the Senate was informed.

The Senate agreed to the conference, and a report having been made by the conferees, was agreed to by both Houses.

**6246.** On June 14, 1860,<sup>1</sup> Mr. Schuyler Colfax, of Indiana, from the second committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (S. 416) to secure homesteads to actual settlers on the public domain, and for other purposes, reported that after full and free conference the committee had separated without coming to any agreement.<sup>2</sup>

Then, on motion of Mr. Colfax—

*Ordered,* That the House adhere to its amendment disagreed to by the Senate to the said bill of the Senate No. 416.

On June 15, a message from the Senate announced that they further insisted on their disagreement, and asked a further conference of the House.

The House voted to further insist on its disagreement, and to agree to the conference.

**6247. Instances where, after one House had adhered, the other receded.**—On July 1, 1789,<sup>3</sup> a message was received from the Senate stating that they agreed to the amendment proposed by the House to their third amendment to the bill "for imposing duties on tonnage," so far as to admit the insertion of the words substituted by the House in lieu of others proposed by the Senate; but that they adhered to such other part of the said third amendment as was disagreed to by the House; and that they also adhered to their fourth, fifth, and sixth amendments to the said bill, on a disagreement to which the House had insisted.

The House having proceeded to the consideration of the message, receded from their disagreement to the third, fourth, fifth, and sixth amendments adhered to by the Senate.

**6248.** On March 23, 1790,<sup>4</sup> the House considered the Senate amendments to the bill "making appropriations for the support of Government for the year 1790," and the same were amended and agreed to.

<sup>1</sup>First session Thirty-sixth Congress, Journal, pp. 1092, 1096; Globe, pp. 2988, 3038.

<sup>2</sup>It will be noticed that in this case, where there was no agreement, the papers were kept by the House conferees, although the House had asked the conference. (See Journal of June 11, p. 1056.) So in the preceding conference, asked by the House on May 30 (Journal, p. 958), the report was made to the House first on June 11, a new conference being asked of the Senate on that date.

<sup>3</sup>First session First Congress, Journal, p. 69 (old ed.), 56 (Gales & Seaton ed.); Annals, pp. 639–643.

<sup>4</sup>Second session First Congress, Journal, p. 61 (old ed.), 179 (Gales & Seaton ed.); Annals, p. 1523.

The same day a message was received from the Senate stating that they disagreed to the amendment proposed by the House to their last amendment, and adhered to that amendment.

On March 24<sup>1</sup> the House proceeded to reconsider the last amendment, adhered to by the Senate, and it was—

*Resolved*, That this House do recede from their disagreement to the said amendment.

**6249.** On March 2, 1827,<sup>2</sup> the House having adhered to their disagreement to the Senate's amendment to the Indian appropriation bill, the Senate receded.<sup>3</sup>

**6250.** On March 3, 1864<sup>4</sup> after the failure of three conferences, the House adhered to its disagreement to the Senate amendments to the bill (H. R. 122) to increase the internal revenue. On March 4 the Senate receded from their amendments and the bill was in this way passed.

**6251.** One House having adhered may recede from its adherence and agree to a conference asked by the other.

**One House having adhered, may, at the next stage, vote to further adhere.**

**One House having receded from certain of its amendments may not, at a subsequent stage, recall their action in order to form a new basis for a conference.**

On March 2, 1867,<sup>5</sup> a message from the Senate announced that the Senate had receded from all their amendments to the bill (H. R. 896) making appropriations for the legislative, executive, and judicial expenses of the Government, except the forty-fourth amendment, and that they had adhered to that amendment.

The House voted to insist on the forty-fourth amendment, and ask a conference with the Senate.

A message from the Senate announced that they had receded from their adherence and agreed to the conference. When the Senate took this action, a desire was expressed that the Senate might also recall its action receding from its other amendments, in order that they all might be considered in the new conference, but after informal discussion between the Chair and Mr. William Pitt Fessenden, of Maine, it was decided to be impossible Without the assent of the House.

The conferees of the new conference were unable to agree, and this being reported, the Senate voted to further adhere to the forty-fourth amendment.

The House thereupon receded from its disagreement to the amendment.

**6252. The House may recede from its adherence.**—On June 25, 1902,<sup>6</sup> Mr. John A. T. Hull, of Iowa, moved that the House recede from its adherence to its disagreement to Senate amendment No. 14 to the army appropriation bill, and agree to the same with an amendment.

<sup>1</sup> Journal, p. 64 (old ed.), 181 (Gales & Seaton ed.).

<sup>2</sup> Second session Nineteenth Congress, Journal, pp. 370, 374.

<sup>3</sup> Instances of one body receding after the other had adhered were common—March 27, 1792, May 8, 1792, February 25, 1793 (first and second session Second Congress); also March 2, 1795 (second session Third Congress, Journal, p. 303); also March 3, 1797 (second session Fourth Congress, Journal, pp. 276, 279, 281), May 7, 1798 (second session Fifth Congress, Journal, p. 463), January 17, 1798 (second session Fifth Congress, Journal, pp. 136–139).

<sup>4</sup> First session Thirty-eighth Congress, Journal, pp. 339, 344; Globe, pp. 935, 937.

<sup>5</sup> Second session Thirty-ninth Congress, Journal, pp. 583, 585, 587, 590; Globe, p. 1979.

<sup>6</sup> First session Fifty-seventh Congress, Record, pp. 7387, 7388.

Mr. James D. Richardson, of Tennessee, made the point of order that the House, after having adhered, might not recede.

The Speaker<sup>1</sup> said:

The Chair is ready to rule on the point of order. While an adherence is the highest expression the House can give in respect to an amendment, still it is never beyond the power of the House to recede from adherence, and there are abundant authorities where this has been done.

**6253. After the House had adhered it reconsidered its action, receded from its disagreement, and agreed to the Senate amendment with an amendment.**<sup>2</sup>—On September 2, 1789,<sup>3</sup> the House considered the amendments of the Senate to the bill “for allowing a compensation to the Members of the Senate and House of Representatives of the United States, and to the officers of both Houses,” and

*Resolved*, That this House do disagree to the first, second, and third amendments, and do agree to all the other amendments to the said bill.

On September 7, 1789,<sup>4</sup> a message from the Senate stated that they adhered to their first amendment and receded from their other amendments.

On September 8<sup>5</sup> the House asked for a conference on the amendment and appointed conferees.

On September 9<sup>6</sup> a message from the Senate announced their agreement to the conference.

On September 10<sup>7</sup> the conferees reported to the House, whereupon it was moved that the House recede from their disagreement and agree to the Senate amendment with an amendment. This motion was decided in the negative, yeas 24, nays 29.

Thereupon it was—

*Resolved*, That this House do adhere to their disagreement to the said first amendment.

On September 11<sup>8</sup> it was moved that the House reconsider the vote of adherence.

A point of order being made, the Speaker<sup>9</sup> declared the motion in order; and this decision was sustained on appeal.<sup>10</sup>

The reconsideration then took place; the motion to recede and concur with an amendment was offered again and agreed to.

September 12<sup>11</sup> a message from the Senate announced their agreement to the amendment of the House.

<sup>1</sup> David B. Henderson, of Iowa, Speaker.

<sup>2</sup> It is not necessary, however, that the vote to adhere be reconsidered. See section 6310 of this volume.

<sup>3</sup> First session First Congress, Journal, pp. 120, 121 (old ed.), 95 (Gales & Seaton ed.); Annals, p. 867.

<sup>4</sup> Journal, p. 131 (old ed.), 104 (Gales & Seaton ed.); Annals, p. 921.

<sup>5</sup> Journal, p. 132 (old ed.), 105 (Gales & Seaton ed.); Annals, p. 921.

<sup>6</sup> Journal, p. 133 (old ed.), 105 (Gales & Seaton ed.); Annals, p. 922.

<sup>7</sup> Journal, pp. 134, 135 (old ed.), 106 (Gales & Seaton ed.); Annals, p. 923.

<sup>8</sup> Journal, pp. 136, 137 (old ed.), 107, 108 (Gales & Seaton ed.); Annals, pp. 924, 925.

<sup>9</sup> Frederick A. Muhlenburg, of Pennsylvania, Speaker.

<sup>10</sup> It is not necessary, however, to go through the process of reconsidering the vote to adhere. (See sec. 6252 of this chapter.)

<sup>11</sup> Journal, p. 138 (old ed.), 109 (Gales & Seaton ed.); Annals, p. 926.