Chapter CXXXVII.

CONSIDERATION OF CONFERENCE REPORTS.

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6516. A conference report and the accompanying statement are required to be printed in the Corgressional Record before being considered, except during the last six days of a session.

Present form and history of section 2 of Rule XXIX.

Section 2 of Rule XXIX provides:

It shall not be in order to consider the report of a committee of conference until such report and the accompanying statement shall have been printed in the Record, except on either of the six days preceding the end of a session.

This rule dates from May 22, 1902,[5] when Mr. James D. Richardson, of Tennessee, reported it from the Committee on Rules and it was agreed to by the House. It was originally proposed by Mr. William P. Hepburn, of Iowa, and referred to the Committee on Rules.

6517. A conference report being presented, the question on agreeing to it is regarded as pending.—On June 5, 1900,[6] the Speaker had put the question on agreeing to the conference report on the disagreeing votes of the two Houses on the bill (S. 3419) "making further provisions for a civil government for Alaska,

[1] See also section 6609 of this volume.
[2] See also section 6311 of this volume.
[3] See also section 6334 of this volume.
[4] When a report is not acted on, the bill to which it relates is lost. (Sec. 6309 of this volume.)
[5] First session Fifty-seventh Congress, Record, pp. 5784, 5836.
[6] First session Fifty-fifth Congress, Record, p. 6712.

and for other purposes;" and had declared the question agreed to, when Mr. John F. Lacey, of Iowa, made the point of order that no motion had been made to adopt the conference report, but that the Chair had put the motion, assuming it to have been made.

The Speaker [1] said:

It required no motion. It was the pending question, and the Chair put it when the adoption of the conference report was pending.[2]

6518. A conference report may not be considered when the original bill and amendments are not before the House.[3]—On June 14, 1906,[4] Mr. Edward L. Hamilton, of Michigan, called up the conference report on the bill (H. R. 12707) to enable the people of Oklahoma and Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona and New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

But before the consideration of the report had begun the Speaker [5] said:

The Chair is informed at the Clerk's desk that there has been no message from the Senate on this subject, and that we have not the original papers.

Therefore the consideration of the report was abandoned, Mr. Hamilton withdrawing it.

6519. On June 26, 1902,[6] the conferees on the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans, presented in the House their final report, through Mr. William P. Hepburn, of Iowa, chairman of the managers.

The report and statement having been read, it appeared that the original bill and amendment were not in possession of the House.

The Speaker [1] said:

It is impossible to consider this matter unless the papers are before the House, and they do not seem to be in the possession of the House.

The report and statement of the conferees are in our possession, but the House is not in possession of the papers; and it has been repeatedly held, and long ago thrashed out, that business can not be done by this body unless the papers are in its possession.

Mr. William Sulzer, of New York, as a parliamentary inquiry, asked what papers were necessary.

The Speaker said:

The bill itself and the substitute bill and all of the original papers in the case. The Chair will state that nothing can be done until these original papers are found.

Mr. Hepburn, as a parliamentary inquiry, asked if the House could not, by unanimous consent, proceed with the report.

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[1] David B. Henderson, of Iowa, Speaker.

[2] Conference reports come before the House by means of the high privilege conferred by Rule XXIX. See section 6443 of this volume.

[3] See also sec. 6586 of this chapter.

[4] First session Fifty-ninth Congress, Record, p. 8486.

[5] Joseph G. Cannon, of Illinois, Speaker.

[6] First session Fifty-seventh Congress, Record, p. 7433.

The Speaker said:

Not without the original papers. The matter will have to go over until they are found.

6520. On March 3, 1869,[1] Mr. Speaker Colfax expressed the opinion, in the case of a verbal report from a committee of conference, that "no motion could be entertained or action had on any bill not in the possession of the House."

6521. On April 23, 1858,[2] in the Senate, Mr. James S. Green, of Missouri, presented the report of the managers of the conference on the bill (S. 161) "for the admission of the State of Kansas into the Union." The original bill and amendments were at that time before the House, having been presented with the report of the House managers.

Objection was at once made by Mr. Charles E. Stuart, of Michigan, that the report could not be made because the papers were with the other House—i. e., the original Senate bill, the House amendment, and the substitute proposed by the conferees. At once a debate began as to whether a conference report might be presented in the absence of the papers. Mr. Stuart quoted the parliamentary law showing that the papers were left always with the House agreeing to the conference—i. e., in cases where the conference was asked after a vote of disagreement. He admitted that in a case where a conference has been asked without a disagreement, the papers are retained by the House asking the conference. In this case the Senate had disagreed, and asked the conference, and the papers were properly with the House. The Senate decided to receive the report, the presiding officer, Mr. James M. Mason, of Virginia, deciding that the report might be presented and then that objectionable matter might be considered later if any should be found. The report having been presented, Mr. Stuart renewed his objection to action without the papers, and a debate, evidently divided somewhat on party lines as regarded the merit of the bill, arose. It was urged by Mr. Green and others that the report of the conferees was the only thing acted on, and that it could be acted on in the absence of the bill itself. They declared that this had frequently been done. On the other hand it was urged that such a procedure never took place, except by unanimous consent or in the late hours of a session. In the course of the debate Mr. William H. Seward, of New York, said:

I think that the written law on this subject is perfectly plain. According to that law this bill is in the House of Representatives; and this proposition being nothing more than an amendment to a bill, which bill is not here, but is in the House of Representatives, presents just exactly the same question which would occur if an individual Senator were to rise in his place and propose the same amendment, in the same words, to a bill now pending in the House of Representatives. The fact that this amendment has come from the committee of conference does not alter the nature or effect of the transaction in the least; for * * * it is either a new bill, and therefore must be read three times before it can pass, which is a reductio ad absurdum, or else it is an amendment; and if it is an amendment, and not an original or new bill, then it is an amendment to something, and it can not be an amendment to anything that is here, and can only be an amendment to a bill which is somewhere, which bill is not here, but is in the House of Representatives. It is a practical as well as a legal impossibility for the Senate to amend a bill which they have not the custody of, and which is not before them; for the effect of passing the amendment, or concurring in the report, is to stamp that amendment upon the identical parchment upon which the bill is written, and obliterate from the bill the matter for which the amendment is substituted.

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[1] Third session Fortieth Congress, Globe, p. 1891.

[2] First session Thirty-fifth Congress, Globe, pp. 1758, 1761, 1762, 1795, 1805, 1898, 1899.

The debate continued until April 26, when the Senate, by a vote of 32 yeas to 9 nays, voted to take up the report. This vote does not seem to have been a test of strength.

The report was accordingly considered and debated until April 30, when a message was received from the House informing the Senate of the agreement of the House to the report of the conferees. This brought the papers before the Senate.

As soon as this report was made to the Senate Mr. Hunter urged a vote on the pending report in that body. Some question arose as to whether the Senate should not postpone its report and act directly on the papers from the House, but Mr. Green urged that the papers being in the possession of the Senate obviated the objections previously made to action on the report which he submitted. The vote was then taken on agreeing to the report submitted by Mr. Green, and it was agreed to. Thus the bill was passed.

6522. On March 3, 1879,[1] the report of the conferees on the Post-Office appropriation bill was presented in the Senate, when Mr. George F. Edmunds, of Vermont, called for the bill. It was explained that the bill was in the hands of the enrolling clerk. Mr. Edmunds demanded it as a right, claiming that the bill should be before the Senate when the conference report was acted on.

The Vice-President[2] I ruled that the point of order was well taken, and the consideration of the report was suspended until the bill could be procured.

6523. The question on the adoption of a final conference report has precedence of a motion to recede and concur in amendments of the other House.—On March 3, 1899,[3] Mr. William W. Grout, of Vermont, presented the final conference report on the disagreeing votes of the two Houses on the District of Columbia appropriation bill.

Mr. David B. Henderson, of Iowa, rising to a parliamentary inquiry, said:

Does a motion to recede from the disagreement of the House and to concur in the Senate amendments take precedence over a motion to adopt this report?

The Speaker[4] I replied that it did not.

6524. The consideration of a conference report may be interrupted, even in the midst of the reading of the statement, by the arrival of the hour previously fixed for a recess.—On June 9, 1890,[5] Mr. M. M. Boothman, of Ohio, submitted 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. 3538) for the relief of Albert H. Emery.

The report having been read and the detailed statement accompanying the same having been partly read,

Mr. Charles Tracey, of New York, made the point of order that the hour of 5 o'clock p. m. having arrived, the House must take a recess under the order of the House.

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[1] Third session Forty-fifth Congress, Record, p. 2315.

[2] Mr. William A. Wheeler, of New York.

[3] Third session Fifty-fifth Congress, Record, p. 2927.

[4] Thomas B. Reed, of Maine, Speaker.

[5] First session Fifty-first Congress, Journal, p. 720; Record, p. 5861.

The Speaker [1] sustained the point of order.

The House accordingly took a recess until 8 o'clock p. m.

6525. The rejection of a conference report leaves the matter in the position it occupied before the conference was asked.

The motion to instruct conferees may be amended unless the previous question be ordered.

The minority have no especial privileges as to asking conferences.

On June 12, 1890,[2] the House resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (S. 1) to protect trade and commerce against unlawful restraints and monopolies.

The question being on agreeing to the report, it was decided in the negative.

Thereupon, Mr. Richard P. Bland, of Missouri, having raised the question of order that it was the parliamentary right of the minority to ask for another conference with instructions,

The Speaker [1] overruled the question of order, and held that the rejection of the report left the bill and amendments in the same position as when the conference was asked and ordered, and that the pending question was on the amendment of the Senate to the amendment of the House to the bill, and that the proper mode of procedure was the appointment of a further conference with instructions, if the House so desired, to its conferees with respect to the amendments. The Speaker further held that the motion for instructions was amendable, unless the previous question was ordered thereon.

6526. While a conference is in progress the House which asks it may alone discharge the conferees, and having possession of the papers, may act on the amendments in disagreement.

In the House the discharge of conferees from the subject committed to them is effected by an order reported from the Committee on Rules and agreed to by the House.

Form of special order for discharging managers of a conference and disposing of amendments in dispute.

On August 13, 1894,[3] Mr. Thomas C. Catchings, of Mississippi, from the Committee on Rules, submitted this resolution:

Resolved, That after the adoption of this resolution it shall be in order in the House to move that the order heretofore made requesting a conference with the Senate on the disagreeing votes of the two Houses on H. R. 4864 (the tariff bill) be rescinded; that the conferees heretofore appointed on the part of the House be discharged from further duty in that behalf, and that the House recede from its disagreement to the Senate amendments to said bill in gross and agree to the same. That after two hours' debate on said motion (which shall be indivisible) the vote shall be taken without delay or other motion; general leave to print is hereby granted for ten days.

Mr. Thomas B. Reed, of Maine, made the point of order that the resolution was not in order, for the reason that it provided for action by the House upon a bill and amendments thereto which were not before the House; that the bill (H. R. 4864)

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[1] Thomas B. Reed, of Maine, Speaker.

[2] First session Fifty-first Congress, Journal, p. 735; Record, p. 5981.

[3] Second session Fifty-third Congress, Journal, pp. 563, 564; Record, pp. 8469, 8470.

should properly be in the custody of the Senate, and in a parliamentary sense was in the possession of the Senate; and that it was therefore beyond the power of the House to act upon the amendments to it.

After debate the Speaker [1] overruled the point of order, holding as follows:

In order to fully understand the exact question presented by the gentleman from Maine it is necessary, first, to look at the exact condition of this bill, and second, to the exact proposition that has been recommended in the report which has been read.

The House passed a bill. It went to the Senate. The Senate amended that bill and requested a conference. The House acceded to the request for a conference. The conference was held and a report of disagreement reported to the respective Houses. The House received the report and asked a conference and transmitted the papers to the Senate.

When it reached the Senate that body did something more than agree to the request for a conference. It was then in the power of the Senate to have receded from its disagreement in toto, and the bill would have become law; but the Senate did not do that. They insisted upon their amendments and returned the bill to the House. Now, of course, under the parliamentary law, where a bill is theoretically it ought to be practically and physically. The gentleman from Maine cites a case where the point is made upon a report presented in the House that the Senate had acceded to the request for a conference and it was not in order to present the report in the House until the Senate had acted. That seems to be the scope and effect of Jefferson's Manual. But the rule which is now before the House proposes to change the rule in Jefferson's Manual so far as this proceeding is concerned. So that the question arises, not whether under Jefferson's Manual this course may be pursued, but whether if the House chooses to change that rule its act is legal, binding, and valid.

There is no question that the House has a right to change or abrogate or alter any rule in Jefferson's Manual so far as it applies to its proceedings, but the question to consider now is as to the validity of the act, conceding that the rule authorizes the act to be done. So that the precedent cited by the gentleman, where the Speaker under that rule refused to receive the report, does not cover this question.

Now, as to the effect this rule would have if adopted, I have found but one precedent, and that was in the Forty-second Congress at the second session. I have the history of that bill—Senate bill 508. It passed the Senate on May 16, 1872.

On May 31 a message was received from the House stating that the House had passed with amendment the bill of the Senate 508. On June 1 the Senate disagreed to the amendment of the House to said bill, asked a conference on the disagreeing votes of the two Houses thereon, and appointed conferees. On June 4 a message was received from the House stating that the House had insisted upon its amendment to Senate bill 508 and had agreed to the conference. On June 10, 1872, on motion of Mr. Harlan, one of the conferees on the part of the Senate, the committee of conference on said bill was discharged from its further consideration, and the Senate receded from its disagreement to the amendment of the House and agreed to the same; and the House Journal shows that on June 10, 1872, when this action was taken in the Senate on motion of one of the conferees, and during the existence of the conference committee, the bill was in the House.[2] Now, that case is on all fours with this. In that case the Senate passed the bill; in this case the House passed it. In that case the Senate disagreed to the House amendment and asked for a conference, and the House acceded to the request for a conference. Under the rule laid down in Jefferson's Manual, if an agreement to report had been made, it must first have been made in the House. But there was no agreement. The conferees in that case, as in this case, had failed to reach an agreement, and in the Senate, on motion of Mr. Harlan, one of the conferees, the conferees were discharged and the Senate receded and the bill became a law.

Now, the object of all conferences between the two Houses is to get the minds of the Houses together to pass the bill. The Senate conferees are insisting upon the Senate amendments. The

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[1] Charles F. Crisp, of Georgia, Speaker.

[2] Mr. Speaker Crisp was evidently in error as to the custody of the bill, which was with the Senate when this action was taken. Perhaps the fact that the legislative days of the House and Senate were not coincident on the calendar day when the proceedings occurred explains the misunderstanding. (See sec. 6527.)

House conferees are insisting upon the rejection of those amendments. That conference committee is now in existence, and it has been held in the case just indicated that, pending that condition of affairs, the House which has rejected the amendment may recede from that action and permit the bill to become a law.

6527. On June 1, 1872,[1] the Senate disagreed to the amendment of the House to the bill (S. 508) for the relief of certain tribes of Indians, and asked a conference with House thereon.

On June[3] the House insisted on its amendments and agreed to the conference.

On the legislative day of June 10[3] in the Senate (legislative day of June 8[4] in the House), on motion of Mr. James Harlan, of Iowa, the committee of conference was discharged from further consideration of the disagreeing votes of the two Houses on the bill,[5] and the Senate receded from its disagreement to the amendment of the House and agreed to the same.

On the same calendar day (but not the same legislative day) the bill was reported in the House as truly enrolled and was signed by the Speaker.[6]

6528. A conference report being presented for printing merely, and the original papers being in "possession of the other House," a motion to discharge the conferees was held not to be privileged.—On June 2, 1906,[7] Mr. E. L. Hamilton, of Michigan, presented for printing under the rule the conference report on the bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona and New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Thereupon Mr. Arthur P. Murphy, of Missouri, claiming the floor for a privileged resolution, offered the following:

Resolved, That the rule or resolution heretofore adopted on January 25, 1906, sending H. R. 12707, commonly known as the "statehood bill," to conference, be, and the same is hereby, rescinded and vacated as to all matters and things therein contained, and that the conferees on the part of the House be, and they are hereby, discharged from further consideration or action thereon; and it shall be in order for the House immediately, without debate, intervening motion, or appeal, to proceed to vote upon the following proposition: Shall the House agree to and concur in the Senate amendments to H. R. 12707, known as the "statehood bill?"

Mr. Sereno E. Payne, of New York, made the point of order that the resolution was not privileged or parliamentary.

The Speaker[8] said:

The Chair will state that the position of this bill is that the Senate conferees have the papers, and under the practice and precedents the report is there first made. Even if it presented a question of

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[1] Second session Forty-second Congress, Senate Journal, p. 916.

[2] House Journal, p. 1041.

[3] Senate Journal, p. 1028.

[4] House Journal p. 1136.

[5] The Globe (p. 4465) shows that the bill and amendments were in actual possession of the Senate when this motion was made.

[6] House Journal, p. 1127.

[7] First session Fifty-ninth Congress. Record, pp. 7788, 7789.

[8] Joseph G. Cannon, of Illinois, Speaker.

privilege at this stage and the House had the papers, the Chair doubts if this would be in order; but it is clearly out of order, because the report presented here is presented for printing only. The Chair sustains the point of order.

6529. Where the conference was asked by the House, may the Senate, by a motion to discharge its conferees, get possession of the bill and papers?

Senate discussion as to the rule governing the appointment of conferees.[1]

Instance of a bill which failed in conference.

On February 18, 1905,[2] in the Senate, the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, with the Senate amendments thereto, was returned to the Senate from the House with the Senate amendments disagreed to, and with a request for a conference, the House having appointed conferees.

A debate arising, Mr. Henry M. Teller, of Colorado, said:

Mr. President, I think the rule has been in parliamentary bodies, not only in this country but in others, particularly in Great Britain, that when a measure of this kind comes, as this comes, from another body, a coordinate branch of the legislature, the friends of the measure as it passed the body (and it is true in the other House, as well as in this) take charge of it from that time on. When we shall have reached the point, if we should reach it, that there is to be a conference, they are entitled then to a majority in that conference. I do not say that the rule here would be that the chairman of the committee to which the subject properly belongs would not be entitled to be a member of the conference, but I do say that has not been the rule in the Senate as a general thing. I will admit there have been exceptions, because in the case of many of the bills which come here no one has very much interest in the amendments and no one cares very much about it.

Sometimes there is a variety of amendments so great in number that it would be difficult to say who should be the champion of those amendments. In such cases undoubtedly we have repeatedly appointed as members of the conference committee those who were opposed to the amendments as well as those in favor of them.

I am at a loss, Mr. President, to know, under the ruling of the Chair, exactly what to discuss. I am at a loss to know who has this bill in hand. I am at a loss to know whom to follow, who is the leader; and I do not know exactly what motion ought to be made. I think it would be in order for me to make a motion that the Senate adhere to its amendments. I will take the ruling of the Chair on that point. I do not know which motion should have precedence.

On February 20,[3] the same subject was debated, and Mr. Arthur P. Gorman said:

There is now no question that conferees from the first must be so constituted as to represent, and to be in honor bound to represent, the views of the Senate upon every proposition of amendment made by it.

Second, that they must be free from any instruction of the Senate; and, third, the conferees on the part of the House asking the conference shall come into that conference perfectly free from any instruction on the part of the House.

I said on Saturday, and I repeat now, that it is unfortunate, certainly very unwise—destructive to good government—in my judgment, to refer in open discussion in this body to any action of the

[1] See also sec. 6371 of this volume.

[2] Third session Fifty-eighth Congress, Record, pp. 2812–2816.

[3] Record, pp. 2895–2898.

House of Representatives. Parliamentary law prohibits it, and I am sorry to say that it is so laxly observed. The close observance of such a rule would prevent much of the friction that has taken place in the past, and seems to exist now, and is likely to grow. Disagreeable as the duty may be, the presiding officer should stop instantly any Senator who attempts to quote any statement made in the other House. Therefore I approach that phase of the question with a great deal of hesitation.

I accept the record that has been made as a complete one, and yet we can not fail to take note of what has been done and said outside of the Congress of the United States, and I do so at this time only for the purpose of emphasizing the necessity that the conferees to be appointed on the part of the Senate in this case shall represent fairly and earnestly the view of the Senate. Committees of this body of all sorts are to be elected by the body except when it is done otherwise by unanimous consent. As a rule—indeed, I believe it is almost the universal rule—the Chair, by the unanimous consent of the body, has appointed conferees. I know of no exception to that rule in the last thirty years.

But there has grown up another custom, to which there have been exceptions only in very, very rare cases, and that is that the conferees on the part of this body shall be the chairman of the committee who has charge of the bill and usually the senior member of the majority next to him and the senior Senator representing the other side of the Chamber. There have been one or two exceptions. One was made by the distinguished presiding officer [Mr. Frye] who now occupies the chair, in whose perfect fairness we have confidence. He now approaches a case that is unique and one that necessarily must embarrass him. It is a case that requires, in my judgment, under the circumstances, in view of what has occurred elsewhere, extraordinary care in the selection of the conferees.

By a decided majority of the Senate, as the votes upon the various amendments show, the admission of Oklahoma and the Indian Territory as one State was determined upon, and therefore the conferees would have no difficulty in ascertaining the desire of this body upon that proposition. And it is suggested to me that that is not in controversy. But an amendment having been made to the eighteenth section by accident, I think, it throws the whole section into conference. That was an error into which my friend the Senator from Georgia [Mr. Bacon] and I fell, because we did not know where the amendment offered by the Senator from Utah [Mr. Kearns] was attached to the bill. But that opens every provision of the bill, as I understand the usages of conference committees.

The other and second vote that was pronounced, and, I believe, unanimous, was upon the amendment offered by the distinguished Senator from Ohio [Mr. Foraker], that in submitting the matter to the people a separate vote should be taken in both Arizona and New Mexico upon the question of uniting those two Territories in one State. After that the crucial vote came on the amendment offered by the distinguished Senator from Georgia [Mr. Bacon] that rather than accept the proposition as it came from the House of Representatives, to unite New Mexico and Arizona in one State, we would eliminate those two Territories from the bill and let them remain Territories, as they now are.

That was determined upon unquestionably by a majority of the Senate, though slim. Still it is the voice of the Senate, and that view, I submit with great deference, ought to be represented in the conference by a Senator who is in hearty accord with the majority of the Senate.

Then came the proposition of the distinguished Senator from California [Mr. Bard] to admit New Mexico as a State, leaving out Arizona. First, in Committee of the Whole, the proposition was adopted by one majority, eliminating the vote of the Senator from Utah [Mr. Kearns], and in the Senate a tie vote threw it out. Offered again in a modified form, it carried.

Mr. President, as I said a moment since, it is perfectly within the rule, and a single objection will prevent the appointment of the conferees by the Chair. I think, as I said a moment ago, that has not been done for thirty years. In the case of the present occupant of the chair [Mr. Frye] and every other presiding officer whom I have known since 1880, I have never known an instance where the Chair has not been absolutely fair in the conduct of the business of this body. I apply that remark emphatically to the present occupant of the chair. I think it is perfectly proper, in view of the closeness of the vote and of the great interest that is taken in the question, if the Chair will permit me to say so, that he should follow the example which he wisely set. I can not lay my hand upon the very clause of the Chinese exclusion act which was amended in this body, but so close was the vote that the Senator from Pennsylvania, contrary to the custom which has grown almost to be a rule, was not appointed to serve on the conference committee, and a Senator who concurred in the views of the majority on the position taken by the Senate was substituted.

On February 25[1] the President pro tempore appointed the following conferees: Messrs. Albert J. Beveridge, of Indiana; Knute Nelson, of Minnesota; and William B. Bate of Tennessee.[2]

On March 1,[3] in the Senate, the conferees not having agreed, Mr. Joseph W. Bailey, of Texas, offered a motion:

Mr. Bailey moves that the order heretofore made by the Senate insisting on its amendments to H. R. 14749, a bill "to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States," and agreeing to a conference, be rescinded; that the conferees heretofore appointed on the part of the Senate be discharged from further duty in that behalf, and that the Senate recede from its amendment on page 23, No. 46, and its amendment on page 42, beginning with line 9, down to and including line 24 on page 59, in the print of February 9, 1905, and insist upon its other amendments to the said bill.

Mr. Orville H. Platt, of Connecticut, expressed a doubt as to whether the motion, if adopted, would bring the bill before the Senate; but the matter went over without a decision.

On March 2[4] Mr. Bailey addressed the Senate on the motion. In the course of his remarks, Mr. Henry Cabot Lodge, of Massachusetts, said:

I should like to ask the Senator from Texas how we can possibly deal with this subject, which is not before the Senate? The papers are not here; the bill is not here. How can we do anything more than to ask the House to return the bill?

Mr. Bailey said:

Of course that raises a question which I supposed at a proper time would be raised, but I will digress from what I was about to say long enough to make this observation.

If it be true that the Senate can not resort to some such procedure as this, then it must be true that a conference committee can take the papers relating to any subject-matter and, by prolonging their conference until within an hour or an insufficient time before adjournment, can deprive either House or both Houses of the opportunity to enact a measure which an overwhelming majority might earnestly desire to make a law.

Mr. J. C. S. Blackburn, of Kentucky, then said:

The Senate is not now in possession of the papers in this case. The Senate has no possession of them. A conference committee is composed of Members of both Houses of Congress, and by order of the Senate that bill and every paper connected with it have been put beyond the control or reach of the Senate by such a procedure as is suggested.

The condition that the Senator from Texas so much apprehends is not imminent. The Senate can repossess itself, but not by this method of procedure. That bill and the papers accompanying it are now in the possession of a joint committee, one-half composed of the membership from this Chamber, and one-half from the membership of the House. So the Senate is no longer in possession either of the bill or of the papers to be affected by the resolution of the Senator from Texas.

The matter was not disposed of, and did not come up thereafter. No report was ever made by the conferees.

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[1] Record, p. 3359.

[2] This action, with the original bill and other papers, was transmitted to the House and was there delivered to the House conferees, to be held in their possession until an actual report (not simply a notification of entire failure to agree) should be agreed on. Then, under the law, the papers would be turned over to the Senate conferees.

[3] Record, p. 3747.

[4] Record, pp. 3870–3872.

6530. A conference report must be acted on as a whole.[1]—On March 17, 1852,[2] the House was considering the report of the committee of conference on the bill (S. 146) to make land warrants assignable. Mr. Thomas H. Bayly, of Virginia, rising to a parliamentary inquiry, asked if a conference report was an entirety, or whether a separate vote could be had on the various propositions included.

The Speaker[3] replied that the report was an entirety, and must be agreed to or disagreed to as a whole.

6531. On February 26, 1901,[4] Mr. Alston G. Dayton, of West Virginia, presented the conference report on the naval appropriation bill.

Mr. William P. Hepburn, of Iowa, asked for a separate vote on one of the several amendments included in the report.

The Speaker[5] held that there could not be separate votes on different portions of the conference report.

6532. On the calendar day of March 3, 1901,[6] but the legislative day of March 1, the conference report on the sundry civil appropriation bill was under consideration, when Mr. William W. Kitchin, of North Carolina, rising to a parliamentary inquiry, asked if it would be in order to demand a separate vote on any of the items on which the conferees had agreed.

The Speaker[5] held that the report must be acted on as a whole.

6533. On June 28, 1902,[7] the House was considering the final report of the committee of conference on the District of Columbia appropriation bill, when Mr. Joseph W. Babcock, of Wisconsin, asked for a separate vote on certain of the Senate amendments dealt with in the report.

Mr. James T. McCleary, of Minnesota, made the point of order that such separate vote was not permissible.

The Speaker[5] said:

> The point of order is sustained. The report must be adopted as an entirety or voted down as an entirety.

6534. A conference report may not be amended or altered on motion made in either House.—On June 23, 1906,[8] the House was considering the conference report on the bill (H. R. 12987) to amend the interstate-commerce law and enlarge the powers of the Interstate Commerce Commission, when Mr. John S. Williams, of Mississippi, proposed to amend the conference report.

The Speaker:[9]

> Answering the parliamentary inquiry, if the conference report is voted down, then the Senate amendments to the House bill are undisposed of, as fully as they were when they were first disagreed to.
>
> * * * Oh, but the gentleman sees at once that this is a conference report, which stands as a

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[1] This has been the rule in the later practice. In the earlier practice it was otherwise. See secs. 6468–6472 of this volume.

[2] First session Thirty-second Congress, Globe, p. 777.

[3] Linn Boyd, of Kentucky, Speaker.

[4] Second session Fifty-sixth Congress, Record, p. 3084.

[5] David B. Henderson, of Iowa, Speaker.

[6] Second session Fifty-sixth Congress, Record, p. 3571.

[7] First session Fifty-seventh Congress, Record, p. 7595.

[8] First session Fifty-ninth Congress, Record, p. 9082.

[9] Joseph G. Cannon, of Illinois, Speaker.

unit. The effect of the report is to dispose of all matters of disagreement between the House and Senate, and there is but one possible disposition to be made of it. * * * And that is to reject it or agree to it.

* * * If the gentleman will indulge the Chair, a proposition like unto that which he makes for unanimous consent would, if agreed to, be barren; or if it had any effect at all it would be equivalent to a rejection of the report; but if it served no other useful purpose, it might give somebody the opportunity to claim that if he were the Lord he would do this, that, or the other. * * *

This is a proposition that the Senate is interested in as well as the House, a proposition to close the matters in difference, and the only way to close them is by adopting the conference report or by rejecting the conference report, and put all the Senate amendments in difference again.

* * * The Chair will state that in the judgment of the Chair the gentleman asks something which the House has not the power to do in the present stage of this measure. If it has any effect at all, it would be equivalent to rejecting the report.

6535. On May 20, 1826,[1] the House was considering the report of the committee of conference on the disagreeing votes of the two Houses on the bill to carry into effect the treaty with the Creek Nation.

The conferees recommended a certain modification of the Senate amendment which was in disagreement; and the motion before the House was that the House recede from their disagreement to the amendment of the Senate, and agree to the same as modified and reported by the conferees on the part of the two Houses.[2]

Mr. John Forsyth, of Georgia, proposed an amendment to this modified form reported by the conferees.

The Speaker[3] decided that the report of the committee of conference could not be amended.

6536. Conference reports are sometimes amended by concurrent action of the two Houses.—On February 23, 1855,[4] the House, on motion of Mr. George W. Jones, of Tennessee—

Ordered, That the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 96) entitled "An act to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850," heretofore agreed to by the two Houses, be amended by striking out the words "six hundred and fifty" in the third line of the second page of said report, and inserting in lieu thereof the words "five hundred and fifty."

Ordered, That the Clerk request the concurrence of the Senate therein.

On the succeeding day a message from the Senate announced that that body had agreed to the amendment to the conference report.

6537. On March 3, 1879,[5] the House agreed to the conference report on the bill (H. R. 6143) making appropriations for the post-office service. Soon after a concurrent resolution was passed and sent to the Senate for correcting this report. The resolution was presented to the Senate before the conference report had been agreed to there. Mr. George F. Edmunds, of Vermont, insisted that the proper procedure was to disagree to the conference report, and thus have the error cor-

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[1] First session Nineteenth Congress, Journal, p. 615; Debates, p. 2672.

[2] At the present time the conferees embody their recommendations in a report, and the question is on agreeing to the report; and not on the various parliamentary motions needed to carry into effect the recommendations of the report. Up to a later period than 1826 conference reports were not printed in full in the Journal.

[3] John W. Taylor, of New York, Speaker.

[4] Second session Thirty-third Congress, Journal, pp. 436, 453; Globe, p. 903.

[5] Third session Forty-fifth Congress, Record. pp. 2315, 2372, 2376.

rected in a new report. If the report should be agreed to the resolution might fail to be acted on or might be disagreed to. The Senate followed this view, and the report was disagreed to and a new conference arranged.

6538. Under the later practice the motion to lay a conference report on the table has not been entertained, it being considered more courteous to the other body to take such action as would be communicated by message.

Instance wherein a House manager indorsed on a conference report his dissent and protest.

Instance in 1848 wherein a conference report was signed by the managers of the two Houses.

On August 14, 1848,[1] Mr. Joseph R. Ingersoll, of Pennsylvania, from the conference on the part of the House upon the disagreeing votes on the amendments to the bill (H. R. 290) to change the times for holding the district courts of the United States in the western district of Virginia, and for other purposes, made the following report:

> The committee of conference on the disagreement of the two Houses on the bill of the House of Representatives to change the times for holding the district courts of the United States in the western district of Virginia, and for other purposes, report that they have agreed to recommend that the amendment of the Senate be adopted with the following amendment: Strike out the words "two hundred and fifty," so as to read, "that there shall be allowed to the judge of the said district the yearly compensation of two thousand dollars, instead of the compensation now fixed by law."

This report was signed by Messrs. A. P. Butler, J. M. Mason, and John P. Hale, "committee on the part of the Senate," and Messrs. J. R. Ingersoll and B. B. Thurston, "committee on the part of the House."

Mr. G. W. Jones, the third House conferee, added this indorsement:

> I dissent from and protest against the above report.

The report was read, when Mr. Samuel F. Vinton, of Ohio, moved that it be laid upon the table; and the question being put, it was decided in the affirmative.

Mr. George W. Jones, of Tennessee, moved that the last vote be reconsidered, and that his motion to reconsider be laid upon the table, which was agreed to.

These were the last proceedings on the bill.

6539. On June 8, 1872,[2] Mr. William S. Holman, of Indiana, from the Committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. 827) to authorize the construction of bridges across the Ohio River, made a report.

The same having been read, Mr. George F. Hoar, of Massachusetts, moved that the report be laid on the table.

The Speaker[3] declined to entertain the motion, stating that he had uniformly declined to entertain a motion to lay a conference report on the table, for the reason that if such a report should be laid on the table the bill was laid on the table, and there was no opportunity left for the House and Senate to have a second conference

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[1] First session Thirtieth Congress, Journal. p. 1283; Globe, p. 1080.

[2] Second session Forty-second Congress, Journal, p. 1129; Globe, p. 4460.

[3] James G. Blaine, of Maine, Speaker.

Mr. Hoar appealed from the decision, stating that he did so in order that the House might settle the question whether a motion to lay a conference report on the table was in order.

On motion of Mr. Nathaniel P. Banks, of Massachusetts, the appeal was laid on the table.

6540. On August 10, 1876,[1] Mr. Frank Hereford, of West Virginia, presented the conference report on the river and harbor appropriation bill.

Mr. Benjamin A. Willis, of New York, moved to lay the report of the committee of conference upon the table.

Mr. George F. Hoar, of Massachusetts, made the point of order that it was not in order to move to lay the report of a committee of conference upon the table, and that the only parliamentary motion that could be made was to postpone the consideration of the report. In making this point of order Mr. Hoar said that in the Congress before the last a question arose over the statement in Barclay's Digest that a motion to lay a conference report on the table was in order.

The Speaker at that time (Mr. Blaine) believing the point to be very important and the statement in the Digest wrong, called the attention of the House to it and desired some Member to make a motion, so that the matter might be formally settled. It was then settled that the motion to lay a conference report on the table was not in order. The only parliamentary motion in such a case was a motion to postpone consideration of a conference report. One reason for this was that the order to lay on the table was never communicated to the other branch, and courtesy would require them to communicate to the other branch the disposal of the report of a conference committee.[2]

The Speaker pro tempore [3] in ruling said:

> The Chair is informed that the uniform usage of the House has been not to entertain a motion to lay on the table a report of a committee of conference, it being discourteous to the other House to dispose of it in that manner, and in pursuance to the usages of the House the Chair rules that the motion to lay upon the table is not in order. This point was settled by the House on appeal from the decision of the Chair on the 8th of June, 1872.

6541. The motion to lay a report of a committee of conference on the table was entertained on July I and August 3, 1854.[4]

6542. On February 14, 1857,[5] a motion to lay the Military Academy appropriation bill on the table was admitted at the time of the presentation of the conference report on the bill. Again, on March 2, 1857,[6] a motion was entertained to lay on the table the conference report on the tariff bill.

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[1] First session Forty-fourth Congress, Journal, p. 1423.

[2] The fact that a bill in which the other House is concerned is laid on the table is not communicated to the other body arises probably from the fact that under general parliamentary usage a matter laid on the table is not finally disposed of. But in the practice of the House as developed in later years a laying on the table is ordinarily as much a final adverse decision as a negative vote on the passage of a bill.

[3] William M. Springer, of Illinois, Speaker pro tempore.

[4] First session Thirty-third Congress, Journal, pp. 1085, 1279; Globe, pp. 1594, 2104.

[5] Third session Thirty-fourth Congress, Journal, p. 425; Globe, p. 700. The Globe indicates that the motion was in reality to lay the report on the table.

[6] Journal, p. 609.

6543. On June 29, 1864,[1] the House laid on the table the report of the committee of conference on the bill (H. R. 495) to amend the charter of the Washington and Georgetown Railroad Company. The motion to lay on the table was subjected to a motion to reconsider, and that motion was tabled.

6544. On July 20, 1868,[2] a conference report on the bill (H. R. 554) making a grant of land to the State of Minnesota was laid on the table. The House reconsidered this action later and asked a new conference, but no question was made as to the parliamentary procedure.

6545. It is in order for one body to recommit a conference report if the other body, by action on the report, have not discharged their managers.—On April 11, 1904,[3] in the Senate, Mr. William M. Stewart, of Nevada, moved to recommit to the conferees the conference report on the Indian appropriation bill, which had not yet been presented in the House of Representatives, and which had not been acted on by the Senate.

Mr. George F. Hoar, of Massachusetts, objected that the proposed procedure was not parliamentary, and that the recommittal should be by concurrent action of the two Houses.

The President pro tempore[4] said:

> The Chair has known it to be done several times. None of the papers are now in the hands of the House. The report has not been made in the House. It has only been made in the Senate. * * * There are twenty or thirty precedents for precisely this action. There is one precedent the Chair remembers, where the report on the naval appropriation bill was made and accepted by the Senate, and a motion was made in the Senate to reconsider the action accepting the report, and then a motion was made to recommit, and it was recommitted. The Chair has before him now twenty or thirty just such propositions of reference to committees of conference. * * * It would simply require that the House shall be notified of the action of the Senate.

On the same day the following resolution was transmitted to the House by message:

> *Resolved,* That the conference report on the bill (H. R. 12684) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1905, and for other purposes, be recommitted to the conference committee.

On April 12[5] in the House, Mr. Charles Curtis, of Kansas, presented the report of the conferees for printing under the rules. As the Senate had not yet acted on the report, and was still in possession of the papers, Mr. Curtis's possession of them was informal merely.

Mr. James M. Robinson, of Indiana, claiming the floor for a point of order, said:

> I make the point of order that it is not in order; that the conferees have no authority to present the conference report that is now presented.
>
> In further explanation of that allow me to say that on Friday the conference report was presented and was printed in the Record. It is now in the possession of the House, unacted upon by the House. Since that time a new conference has been held without the authority of the House and without action

[1] First session Thirty-eighth Congress, Journal, p. 948; Globe, pp. 3401, 3402.

[2] Second session Fortieth Congress, Journal, p. 1113; Globe, p. 4255.

[3] Second session Fifty-eighth Congress, Record, pp. 4610, 4664.

[4] William P. Frye, of Maine, President pro tempore.

[5] Record, pp. 4691–4693; Journal, p. 583.

upon the prior conference report. In further explanation, Mr. Speaker, let me say that on yesterday in the Senate a further conference was provided for, but the matter having been already presented to the House, this House took no action. This did not take the matter from the province of the House and re-refer it to the conferees. Now, I submit that the conferees, although appointed by an order of the Senate with no concurrent House action, have no authority in this House at this time to do anything else than take action on their former report presented in the Record and offered by them to the House.

After debate the Speaker [1] held:

Clause 2 of Rule XXIX is as follows:

"It shall not be in order to consider the report of a committee of conference until such report and the accompanying statement shall have been printed in the Record, except on either of the six days preceding the end of a session."

The Indian appropriation bill was committed to a committee of conference—three Members of the House and three of the Senate. This is considered to be, in one sense, a joint committee. The committee met and came to an agreement, and a report was made first to the Senate. The parliamentary condition of the bill between the two bodies was that the original papers—that is, the bill and report of the conferees—were with the Senate, the conference report being required under the practice to be first made there. The printing of the conference report in the Record of the House proceedings on the request of the gentleman from Kansas [Mr. Curtis], under the rule, on Saturday last, or on Monday last, it is immaterial which, was in a certain sense done informally, since technically the House was not in possession of the papers. There is no doubt that the printing of the report at that time complies substantially with the requirement of the rule just cited.

Printing, in the opinion of the Chair, is not consideration. The House has never considered, as the Chair understands it, this conference report. The committee on the part of the House has not been discharged. The House has never had power to discharge that committee under parliamentary usages and procedure, because the House has never had the papers in its possession since the conference committees of the two bodies agreed to their report.

The Senate under date of April 11 sent the House the following message.

After directing the reading of the message, as given above, the Speaker continued:

Now, then, the only question arising is this: Is there a conference committee in existence? Neither the House nor Senate conferees had been discharged at the time the Senate recommitted the report. If the House conferees had been discharged by the action of the House it would have been impossible for the House conferees then to participate in consideration of the matter. The Chair has no hesitancy in overruling the point of order, but will call attention, in doing so, to certain prior decisions found on page 412 of the Manual. The first given is that "it is not in order to recommit a conference report to a committee of conference when a report has already been acted on in the other House."

Now, then, this report had not been acted on in this House when it was recommitted in the Senate. It was then in the other House. If it had been acted on here at that time the committee of conference would not have been in existence in its entirety.

There is in the Manual and Digest a reference to a ruling by Mr. Speaker Carlisle, in which the power to recommit a conference report was denied; but an examination shows that in that case the facts differed from the facts in the present case, because in that case, which arose in this House, the Senate had acted upon the conference report, and the conferees upon the part of the Senate had been thereby discharged. So, when in the House it was proposed to recommit the conference report, Mr. Speaker Carlisle properly held that it could not be done, because the select committee was not in existence. But in this case the select committee is in existence, or was when the Senate recommitted the report.

Again, "a conference report made first in the Senate and there recommitted and again reported was acted on by the House after the Senate had agreed to it."

This is subsequent to the case on which Mr. Carlisle made the decision, and under a different state of facts, and the same principles were involved as in the matter now before the House. So far as precedent is concerned it is conclusive, and the Chair has no difficulty in overruling the point of order. The gentleman presents a conference report for printing under the rule.

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[1] Joseph G. Cannon, of Illinois, Speaker.

6546. On March 3, 1899,[1] the Senate was considering the conference report on the disagreeing votes of the two Houses on amendments of the Senate to the bill (H. R. 11795) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes. The House had disagreed to the Senate amendments, among which were provisions for the construction of a canal in Nicaragua and for irrigation of arid lands of the West. As the Senate had agreed to the conference asked by the House, the report of the conferees was made first in the Senate.

Mr. Lee Mantle, of Montana, moved to recommit the report to the committee of conference.

Mr. William P. Frye, of Maine, made the point of order that the motion to recommit a conference report was not in order.

The Vice-President[2] said:

> The Chair believes that the motion is entirely in order. The Chair understands that there are but three actions which may be taken, either to agree to the report, to disagree to it, or to recommit it. The Chair finds the precedents to be many of the recommittal of reports of committees of conference. That has been the practice in both Houses.

After debate, the motion was decided in the negative; but after further debate was renewed and decided in the affirmative.[3] So the Conference report was recommitted to the conferees. A message announcing this action was sent to the House.

On the same day the conferees again reported to the Senate, and the report was agreed to.[4]

A message was thereupon sent to the House informing that body that the Senate had agreed to the conference report.

The report was thereupon taken up, considered, and agreed to in the House, no question being made as to the proceedings of the Senate relative to the report.[5]

6547. On June 21, 1860,[6] the House, on motion of Mr. John Sherman, of Ohio, voted to recommit the conference report on the naval appropriation bill. Mr. Sherman, in making his motion, said that the Senate had not yet acted on the report, and he made the motion in order that the House conferees might take the report to the Senate conferees and amend it. No objection to the procedure seems to have been made on the ground of propriety.

6548. On July 10, 1862,[7] the report of the committee of conference on the naval appropriation bill was recommitted by the House to the conferees, in order that a clerical error might be corrected. It appears that the report was made first in the House, and had not been made in the Senate at the time of this recommittal.

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[1] Third session Fifty-fifth Congress, Record, p. 2823.

[2] Garret A. Hobart, of New Jersey, Vice-President.

[3] Record, pp. 2842, 2923.

[4] Record, p. 2843.

[5] Record, pp. 2923–2925. The parliamentary situation involved in this case is somewhat different from that involved in section 6551. In that case the report had been acted on in one House, and the conferees of that House were therefore discharged, so the conference committee had ceased to exist in its entirety. In this case the other House had not acted, so the committee was entire when the Senate voted to recommit.

[6] First session Thirty-sixth Congress, Journal. p. 1177; Globe, p. 3215.

[7] Second session Thirty-seventh Congress, Journal, p. 1027; Globe p. 3237.

6549. On April 27, 1872.[1] the report of the committee of conference on the legislative appropriation bill was ordered printed and recommitted to the conference committee. There was no question as to this proceeding, it differing materially from an ordinary recommittal.

6550. On February 17, 1876,[2] the Senate disagreed to the report of the committee of conference on the joint resolution (H. Res. 52) relating to the payment of interest on certain bonds of the District of Columbia, and recommitted the report to the committee of conference. The House was notified by message of this recommittal, but does not seem to have taken action on it. The report of the conferees was made first in the Senate, so the subject had not been acted on by the House.

6551. Where a conference report has been made and acted on in one House, and the managers of that House have thereby been discharged, the other House is precluded thereby from recommitting the report to the managers.—On January 21, 1887,[3] the House was considering the conference report on the interstate-commerce bill. Mr. Ransom W. Dunham, of Illinois, moved that the report be recommitted.

Mr. Nathaniel J. Hammond, of Georgia, made a point of order against the motion.

After debate the Speaker held:[4]

At the last session of Congress a committee of conference was appointed on the disagreeing votes of the two Houses on the bill known as the interstate-commerce bill. That committee, as the House has been officially notified, has reported to the Senate, and its report has been agreed to by that body. After that action of the Senate, the report of the committee of conference was made to this body, and is now before the House for consideration, and the previous question has been ordered upon it.

In the first place, a motion to recommit is a motion to recommit to the entire committee of conference, as a matter of course, and not merely to the managers on the part of the House. But there is, in fact, no committee of conference on this bill now in existence—the whole committee having reported to the Senate, and the Senate having disposed of the report, the committee was dissolved, so far as the Senate is concerned, the general rule being that a select committee is dissolved by its report. Otherwise a select committee once created would become of necessity a standing committee, and matters could be constantly referred to it, notwithstanding it had fully reported upon the particular matter which it was originally formed to consider.

In addition to that the Chair is not aware of any parliamentary law or practice which authorizes the recommitment of a conference report. The consideration of conference reports is governed by different rules, in many respects, from all other legislative proceedings in the House. Such reports can not be laid on the table, as has been frequently decided, nor can they be amended, as has also been frequently decided; and the only question which can be taken upon them is to agree to them as an entirety or to postpone their consideration, for the obvious reason that a refusal to agree is of itself substantially equivalent to a commitment to another conference committee, the old one being dissolved by its report to the two Houses. The motion to recommit, therefore, the Chair thinks is out of order.[5]

6552. On June 28, 1902,[6] the House was considering a final conference report on the District of Columbia appropriation bill, when Mr. George A. Pearre, of

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[1] Second session Forty-second Congress, Journal, p. 761; Globe, pp. 2829, 2830.

[2] First session Forty-fourth Congress, Journal, p. 416; Record, pp. 1141–1142.

[3] Second session Forty-ninth Congress, Record, p. 880; Journal, pp. 333, 334.

[4] John G. Carlisle, of Kentucky, Speaker.

[5] On April 19, 1871 (first session Forty-second Congress, Globe, p. 808), Mr. Speaker Blaine expressed doubts about the propriety of entertaining a motion to recommit a conference report.

[6] First session Fifty-seventh Congress, Record, p. 7599.

Maryland, rising to a parliamentary inquiry, asked if the report might be recommitted.

The Speaker [1] said:

That would be in this case impossible, since the Senate has agreed to the report and their conferees are thereby discharged. The remedy is to vote the conference report up or down. If the report is voted down, consideration of the amendments will be in order.

6553. On June 17, 1862,[2] in the Senate, Mr. Lafayette S. Foster, of Connecticut, objected to a proposition to recommit the conference report on the bill (H. R. 415) for the payment of bounties to volunteers, for the reason that the House of Representatives had already agreed to the report, and therefore the conference committee of the House was functus officio. The motion to recommit was not pressed.

6554. A conference report that has been acted on by either House is sometimes recommitted by concurrent action of the two Houses taken by unanimous consent.—On April 29, 1872,[3] the House disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the legislative appropriation bill (H. R. 1060).

Thereupon Mr. William S. Holman, of Indiana, moved that the report be recommitted to the committee of conference.

Mr. James A. Garfield, of Ohio, made the point of order that this could not be done as the Senate had already acted on the report.

The Speaker [4] replied that there was nothing in the rules to prevent the recommittal of the report, although the Senate had acted on it. Such action was frequently taken.

The report was thereupon recommitted, and soon after a message was received from the Senate announcing that they had concurred in the action of the House recommitting the bill.[5]

6555. On February 21, 1862,[6] the bill (H. R. 240) to authorize the issue of United States notes, etc., was sent to conference, and on February 24 the report of the committee of conference was agreed to in both House and Senate, and messages announcing this were interchanged.

On February 25 a message was received from the Senate announcing that they had adopted a resolution that the disagreeing votes of the two Houses on the bill be again referred to the committee of conference heretofore appointed on the bill. The record of debate shows that Mr. William Pitt Fessenden, of Maine, had moved the reconsideration of the vote by which the conference report had been agreed to in the Senate, and the vote being reconsidered, had moved that the report be recommitted in order that an error be corrected.

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[1] David B. Henderson, of Iowa, Speaker.

[2] Second session Thirty-seventh Congress, Globe, pp. 2746, 2747.

[3] Second session Forty-second Congress, Journal, pp. 772, 774; Globe, pp. 2883, 2896.

[4] James G. Blaine, of Maine, Speaker.

[5] On June 8 (Journal, p. 1108; Globe, pp. 4442, 4443) the conference report on the sundry civil appropriation bill was recommitted.

[6] Second session Thirty-seventh Congress, Journal, pp. 337, 443, 349; Globe, pp. 929, 938, 940, 948.

In the House, on motion of Mr. Thaddeus Stevens, of Pennsylvania, and by unanimous consent:

Ordered, That the House agree to the proposed recommitment of the said disagreeing votes of the two Houses on the bill of the House No. 240 to the committee of conference heretofore appointed on that bill.

The committee subsequently reported, and the report was agreed to in both Houses.

6556. On July 9, 1866,[1] the bill (S. 222) further to prevent smuggling was found by the chairman of the Committee on Enrolled Bills in the Senate to have come to his committee with several of the amendments unacted on, the error seeming to have been made in the making up of the report of the committee of conference. So the Senate recommitted the bill to the committee of conference, and sent a message to the House informing them of its action. The House, by suspension of the rules, concurred in recommitting the bill to the conferees.

6557. On May 13, 1870,[2] after the report of the committee of conference on the bill (S. 95) in relation to the Hot Springs reservation in Arkansas, had been agreed to in both branches, a motion was made in the Senate by unanimous consent (the Chair ruling that such consent was necessary) that the vote whereby the report had been agreed to be reconsidered, and this having been done, the report was recommitted. A message notifying the House of this action was received in the House on the same day. On May 16, the House, by unanimous consent, recommitted the report in concurrence. The object of this action was to correct an error in enrollment.

6558. A motion to refer a conference report to a standing committee has been held out of order.—On May 5, 1898,[3] the House was considering a conference report on a bill (H. R. 597) extending the homestead laws and providing for the right of way for railroads in the District of Alaska.

Mr. Mahlon Pitney, of New Jersey, rising to a parliamentary inquiry, asked if it was in order to move that the conference report be referred to the Committee on Public Lands for further report to the House, or must the report be first voted down?

The Speaker[4] said:

The Chair thinks that a conference report cannot be referred—that it must be accepted or rejected.[5]

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[1] First session Thirty-ninth Congress, Journal, p. 988; Globe, p. 3664.

[2] Second session Forty-first Congress, Journal, pp. 785, 797; Globe, pp. 3447, 3503.

[3] Second session Fifty-fifth Congress, Record, p. 4636.

[4] Thomas B. Reed, of Maine, Speaker.

[5] Under the modern usage of the House, in accordance with which a motion to discharge a committee is not in order under the regular order of business, a matter referred to a standing committee passes in a sense out of the control of the House if the committee refuse or neglect to report. Courtesy to the Senate undoubtedly requires the House to act on a conference report with a fair degree of promptness, hence the motion to refer should not be entertained. But if the House should feel the need of having a conference report examined by a committee, and a special order should provide for its reference and for a report at a specified time, the situation would evidently be different from that involved in this ruling.

6559. While conference reports were formerly considered in Committee of the Whole, they may not be sent there on suggestion of the point of order that they contain matter ordinarily requiring consideration therein.—On August 9, 1842,[1] the House resolved itself into the Committee of the Whole House on the state of the Union; and after some time spent therein the Speaker resumed the chair, and Mr. George N. Briggs, of Massachusetts, reported that the committee had, according to the order, had the state of the Union generally under consideration, and particularly the report[2] of the managers appointed to conduct the conference on the disagreeing votes of the two Houses on the amendments of this House to the bill from the Senate (No. 283) entitled "An act respecting the organization of the Army, and for other purposes," and that he was directed by the committee to report its disagreement to the said report of the managers, and to recommend to the House to ask a further conference with the Senate on the subject-matter of the amendments depending to said bill.

The House proceeded to the consideration of the report of the Committee of the Whole House on the state of the Union; when it was—

Resolved, That this House disagree to the report of the managers at the conference on the disagreeing votes of the two Houses on the amendments pending to the bill from the Senate (No. 283), entitled, etc., and ask a further conference with the Senate on the subject-matter of the said amendments.

Mr. Edward Stanly, of North Carolina; Mr. William B. Calhoun, of Massachusetts, and Mr. William O. Butler, of Kentucky, were appointed managers to conduct the further conference on the part of this House.

6560. On August 3, 1886,[3] the House was considering the report of the managers on the part of the House of the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7480) known as the "river and harbor bill."

The point of order was made by Mr. William P. Hepburn, of Iowa, that there were in the conference report entirely new propositions, including new items of appropriations, since the Senate had struck out all of the House bill after the enacting clause, and the conference report related to modifications of this Senate substitute. Therefore the new appropriations should be considered in Committee of the Whole.

The Speaker[4] ruled:

The second point of order is submitted by the gentleman from Iowa that these proposed modifications must have their first consideration in Committee of the Whole House on the state of the Union under the rule of the House. The Chair is not aware of any case in the history of the House where a conference report has been sent to the Committee of the Whole on the state of the Union, and it could not well be done for the obvious reason that measures sent to the Committee of the Whole on the state of the Union are sent there for the purpose of being amended and debated under the five-minute rule.[5] A conference report can not be amended, for it is one entire proposition which must

[1] Second session Twenty-seventh Congress, Journal, p. 1248; Globe, p. 868.

[2] See also instance on January 28, 1834. (First session Twenty-third Congress, Journal, p. 256; Debates, p. 2543.)

[3] First session Forty-ninth Congress, Record, p. 7932; Journal, p. 2515.

[4] John G. Carlisle, of Kentucky, Speaker.

[5] The instance recorded in section 6559 was before the development of the five-minute rule. (See sec. 5221 of this volume.)

be agreed to in its entirety or rejected by the House upon a single vote. The Chair, therefore, overrules the point of order.[1]

6561. On March 3, 1871,[2] the House was considering the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House, No. 2816, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1872, and for other purposes."

In this report was a measure for the establishment of a commission to consider and act on claims arising out of the operations of the war.

Mr. Fernando Wood, of New York, asked whether the report, as it proposed an appropriation of money, would not go to the Committee of the Whole.

The Speaker[3] said:

It does not. A conference report, as the gentleman knows, is privileged in the highest degree. The question is on accepting or rejecting the report. The only motion that can be entertained is to lay the report on the table.[4] It can not be amended, but must be accepted or rejected as a whole.

6562. When conferees report that they have been unable to agree, the report is not acted on by the House.—On February 21, 1899,[5] Mr. Theodore Otjen, of Wisconsin, submitted a report signed by the conferees on the bill (H. R. 4936) for the allowance of certain Bowman Act claims, etc., and stating that after full and free conference they had been unable to agree.

The report having been read, Mr. Otjen moved that the House further insist on its disagreement to the Senate amendments and agree to the conference asked by the Senate.

Mr. James D. Richardson, of Tennessee, made the point of order that the report of the committee should be adopted first.

The Speaker[6] said:

The Chair hardly sees how the House can agree to a report in which nothing is done. * * * The Chair will have the precedents examined, but his impression is that there is nothing to agree to. * * * There is no legislation in it. The Chair will see that the Journal is put in the proper form. The question is on the motion of the gentleman from Wisconsin that the House further insist and agree to the conference asked by the Senate.

6563. In the earlier practice managers reported their inability to agree either verbally or in writing, but the reports were not signed as at present.—On December 11, 1811,[7] Mr. John Randolph, of Virginia, from the committee appointed managers on the part of the House of the conference on the subject of the disagreeing votes of the two Houses of Congress on the Senate's amendments

[1] There is nothing in this decision to prevent the House from referring a conference report to the Committee of the Whole on motion; but there would be little object in so doing, since it could not be amended and debated under the five-minute rule, wherein the great advantage of consideration is found in the modern practice.

[2] Third session Forty-first Congress, Globe, p. 1916.

[3] James G. Blaine, of Maine, Speaker.

[4] This was before the House had discarded the old practice. (See secs. 6538–6544.)

[5] Third session Fifty-fifth Congress, Record, p. 2144.

[6] Thomas B. Reed, of Maine, Speaker.

[7] First session Twelfth Congress, Journal, pp. 63, 76 (Gales & Seton ed.); Annals, pp. 31, 455, 558.

to the bill "for the apportionment of Representatives among the several States, according to the third enumeration," reported:

That the committee had held a conference with the managers appointed on the part of the Senate. That the following propositions were submitted by the committee to the managers of the Senate: To fix the ratio at 34,000, 33,000, 40,000. All of which being promptly rejected by the committee of the Senate, your committee, as a last effort at accommodation, proposed 36,000 as the medium between the two numbers adopted by the two Houses respectively; which was also rejected, as the others had been, without any discussion whatever on the part of the managers of the Senate. No proposition being submitted on the other side to your committee, the conference was broken up, and the joint committee of the two Houses finally separated without coming to any agreement.

The Senate managers had already, on December 10, reported to the Senate as follows:

That the committee had held a conference with the managers appointed on behalf of the House of Representatives, and that the joint committee of the two Houses, upon the close of the conference, finally separated without coming to any agreement. That the committee heard nothing on the conference sufficient to induce them to depart from the amendments made by the Senate to the bill from the House of Representatives. They therefore recommend to the Senate to adhere to the said amendments.

Neither of these reports bears the signatures of the conferees.

On December 18, a message having been received from the Senate that they had adhered to their amendment,[1] the House voted to recede, yeas 72, nays 62. As the bill was shortly after enrolled and signed by the President, it is evident that the House must have concurred in the Senate amendment, although the Journal does not so state.

6564. On March 3, 1849,[2] disagreements on the part of conferees were reported to the House by one of the conferees, and not in the form of a written report signed by the conferees. This is in accordance with the practice previous to this time.

6565. On August 18, 1856,[3] Mr. Lewis D. Campbell, of Ohio, from the last committee of conference on the disagreeing votes of the two Houses on the Army appropriation bill, made a report that the conferees had been unable to agree, and asked to be discharged. The report, which is signed by all the managers on the part of both Houses, three for each House, gives in full the text of the amendment on which they have been unable to agree—the amendment relating to the use of troops in Kansas. This is one of the first, apparently the very first, instances where a report of inability to agree appears in the Journal in full and signed by the conferees.

6566. On June 20, 1862,[4] apparently for the first time, a committee of conference made a formal report, signed by both committees of managers, that they had been unable to agree. This was not an ordinary case, however. The first report of the conferees on the bill (H. R. 413, making appropriation for the payment

[1] In this case the House had asked for the conference, and consequently the papers remained with the Senate conferees, and would be presented first to the Senate for action. (Journal, p. 57.) The message announcing the action of the Senate came the day the House conferees reported.

[2] Second session Thirtieth Congress, Journal, p. 636.

[3] First session Thirty-fourth Congress, Journal, pp. 1531, 1532.

[4] Second session Thirty-seventh Congress, Journal, p. 906; Globe pp. 2832, 2847.

of bounties) had been defeated in the Senate because the conferees had in their report changed the original text of the bill which had been agreed to by both Houses. At the second conference the conferees were agreed as to what should be done, but the purpose could not be effected without an unpermissible change of the text. So they agreed to report a disagreement, and in the House the report was laid on the table.

6567. In 1864,[1] the conferees on the bill (H. R. 122) to increase the internal revenue, reported twice that they were unable to agree. In each case they made a formal report, signed by all the conferees. No action was taken on these reports in either body, they being regarded as mere notifications.

6568. Instance wherein the House conferees declined to sign a report that the conferees had been unable to agree.

Form of written statement that managers of a conference have failed to agree.

Instance wherein a bill failed in conference.

On March 2, 1905,[2] Mr. James R. Mann, of Illinois, presented the following:

The committee of conference[3] on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16986) "to provide for the government of the Canal Zone, for the construction of the Panama Canal, and for other purposes," having met, after full and free conference have been unable to agree.

W. P. HEPBURN,
JAMES R. MANN,
W. C. ADAMSON,0
Managers on the part of the House of Representatives.
A. B. KITTREDGE,
J. H. MILLARD,
A. P. GORMAN,
Managers on the part of the Senate.

Mr. Mann moved that the House insist upon its disagreement to the Senate amendments and ask for a further conference, and that motion was agreed to, and the same conferees for the House were reappointed.

On the same day[4] the Senate agreed to the conference and reappointed its conferees.

On March 3,[5] in the Senate, Mr. Kittredge said:

Yesterday a disagreement between the conferees was reported to the Senate, and the amendments of the Senate were further insisted upon and a second conference ordered. Nothing was accomplished at this conference, and at 5 o'clock yesterday afternoon your conferees signed a report to the effect that they had been unable to agree, and handed the same to the managers of the conference on the part of the House. At half past 10 last night the House managers had not signed this report, and two of its Members stated that they were not certain that it would be signed.

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[1] First session Thirty-eighth Congress, Journal, pp. 327, 338; Globe, p. 886.

[2] Third session Fifty-eighth Congress, Record, p. 3876.

[3] The House had asked this conference, and the statement of the failure to agree was made first in the House.

[4] Record, pp. 3840–3842.

[5] Record, pp. 3929–3937.

Mr. Joseph B. Foraker, of Ohio, said:

Upon the proposition, as I understand it, this conference has come into a deadlock, the House refusing to agree to any proposition, even to sign a disagreeing report, a most unusual and extraordinary thing to happen.

The first inquiry I wanted to address to the conferees was, What is the difficulty which induces the House to take such an unusual position? I understand they assign as a condition to signing the report that there shall be an abolition of the Commission. I do not know of anything the Commission has done that would justify any such action as that on the part of our coordinate branch of legislation; but perhaps they do.

Mr. Henry M. Teller, of Colorado, said:

This is not the first instance even in this Congress where the House has simply laid down an ultimatum to the Senate. When the House passed the bill and we put the amendments on they had a right to disagree to the amendments and to let the matter there drop or to send it back to us. When they appointed conferees to meet the Senate conferees the common rule of parliamentary bodies and common courtesy and common decency required that they should meet upon the theory that there was to be some concession upon one side and the other, some agreement as to what was to take the place of what was then before the committee and which was the subject of disagreement between the two Houses.

No agreement as to the differences over this bill was reached, and the bill failed in conference.

6569. On the calendar day of March 3, 1901,[1] but the legislative day of March 2, in the Senate, Mr. Eugene Hale, of Maine, presented the following:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate numbered 3, 7, 8, 9, 10, 24, 25, 26, 39, 40, 42, 60, 61, 65, 67, 79, 80, 81, 82, 84, 85, 86, and 89 to the bill (H. R. 13705) making appropriations for the naval service for the fiscal year ending June 30, 1902, and for other purposes, having met, after full and free conference have been unable to agree.

EUGENE HALE,
WILLIAM E. CHANDLER,
B. R. TILLMAN,
Managers on the part of the Senate.

AMOS J. CUMMINGS,
Manager on the part of the House.

Mr. Hale stated that the conferees had in the last conference been able to come to an understanding on all but two amendments; and on these the House conferees had insisted that the Senate should recede. The Senate conferees had proposed that a disagreement be reported on the unadjustable points of difference so that the two Houses might express their opinions, but the House conferees had refused to do that, and two of them had even refused to sign the statement of disagreement which he had presented.

Mr. Henry Cabot Lodge, of Massachusetts, having objected that the paper presented was not a regular report, Mr. Hale stated that he did not present it technically as a conference report.

Mr. Henry M. Teller, of Colorado, called attention to the fact that the Senate was in possession of the papers,[2] and was not hampered by the refusal of the House conferees to act. The Senate could recede, insist, or instruct its conferees.

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[1] Second session Fifty-sixth Congress, Record, pp. 3490–3492, 3496, 3508.

[2] The Senate, being the body agreeing to the conference asked by the House, would be in possession of the papers if the managers should come to an agreement. But in the absence of an agreement it seems the better rule that the papers should remain with the House which asked the conference. See sec. 6571 of this chapter.

After debate the matter was withdrawn, and Mr. Hale presented this resolution, which was agreed to:

Resolved, That the present conferees of the Senate upon the disagreeing votes of the two Houses upon the naval appropriation bill be discharged from further duty, and that the House of Representatives is hereby requested to grant a conference with the Senate upon the disagreeing votes upon said bill.

Later, on motion by Mr. Hale, and by unanimous consent, a message was sent to the House recalling this resolution.

Later Mr. Hale presented a report signed by all the conferees of both Houses, and embodying an entire agreement except upon one proposition—relating to submarine torpedo boats.

The report was agreed to by the Senate, and then the Senate voted to recede from the remaining amendment.

Later the conference report was agreed to by the House.

6570. Form of report when managers of a conference report that they have been unable to agree.—On March 2, 1907,[1] Mr. Washington Gardner, of Michigan, presented the following:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 24640) "An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1908, and for other purposes," having met, after full and free conference have been unable to agree.

WASHINGTON GARDNER,
W. P. BROWNLOW,
JOHN A. SULLIVAN,
Conferees on the part of the House.

P. J. MCCUMBER,
N. B. SCOW,
Conferees on the part of the Senate.

The House then considered the Senate amendments, insisted on its disagreement thereto, and agreed to a conference which had been asked by the Senate.

6571. When a conference breaks up without reaching any agreement the managers of the House asking the conference do not necessarily surrender the papers to the managers of the other House, as in the case where a report is agreed to.—On May 4, 1864,[2] the Senate asked a conference with the House on the disagreeing votes of the two Houses on the army appropriation bill. The House agreed to this conference. This conference was a failure, the conferees being unable to agree on a report. Not even a signed report of the inability to agree was made; and it appears also that the only announcement of the failure made in the House was that of the message from the Senate asking a new conference. The failure to agree was announced in the Senate, where the papers were taken first for action, the Senate being the asking body. The Senate asked for a new conference, which was agreed to by the House.

6572. On February 6, 1861,[3] a message from the Senate announced that that body had insisted on its amendments disagreed to by the House on the deficiency appropriation bill (H. R. 866) and asked a conference with the House on the disagreeing votes. The House agreed to this conference. On February 9 some of

[1] Second session Fifty-ninth Congress, Record, p. 4503.

[2] First session Thirty-eighth Congress, Journal, pp. 621, 622, 678, 681; Globe, p. 2351.

[3] Second session Thirty-sixth Congress, Journal, pp. 281, 293, 294, 302, 303.

the House conferees reported to the House that the conferees had been unable to agree. This report was apparently verbal. No action was taken by the House at this time, as the papers were evidently not in possession of the House conferees. But on February 11 a message was received from the Senate announcing that that body further insisted and asked a further conference. Thereupon the House further insisted on its disagreement to the amendments and agreed to the conference. Thus, in this case, it is evident that when the conferees were unable to agree the papers were retained by the conferees of the asking body, and not turned over to the conferees of the House agreeing to the conference, as in the case where a report is agreed to.

6573. In 1864[1] the first conference report on the bill (H. R. 122) to increase the internal revenue was disagreed to by the Senate. The House thereupon asked a new conference, which the Senate agreed to. The conferees, finding themselves unable to agree, drew up a report that they had been unable to agree, and signed it in due form. The papers were evidently delivered to the Senate conferees, as would have been the procedure in case an agreement had been reached, and were taken to the Senate first. But when there Mr. John Sherman, of Ohio, one of the Senate conferees, said that after consultation it had been determined that it would be best for the Senate to send the papers to the House in order that that body might first take action on the papers. So the papers were sent to the House, where it was voted to insist on the disagreement, and ask a new conference, and instruct the House conferees.

6574. On July 2, 1864,[2] Mr. Kellian V. Whaley, of West Virginia, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 406) supplementary to the act to grant pensions approved July 14, 1863, reported that the conferees had been unable to agree. This report was made verbally. It was moved and ordered that the House further insist and ask a further conference. In this case the House had originally asked the conference, and when the conferees could not agree the House conferees retained possession of the papers, and returned them to the House for the first action.

On July 2, 1864,[3] the conferees on the bill (H. Res. 11) in relation to the claim of Carmack & Ramsay made in formal style a report to the House stating that they had been unable to agree and asking to be discharged. All the conferees signed this report. The House acted on this report, agreeing to it. The House then further insisted and asked a further conference with the Senate. This was a case where the House had asked the first conference, and the House conferees had retained the papers and returned them to the House for first action, when it was found that the conference could not agree.

6575. In 1865,[4] the conferees on the deficiency appropriation bill (H. R. 620) reported formally, over their signatures, their inability to agree. This report was made first in the Senate, which was the House agreeing to this conference. For the next conference new conferees were appointed, and they also reported an inability to agree. This report was made first in the House, which was the body asking the

[1] First session Thirty-eighth Congress, Journal, pp. 303, 327; Globe, p. 886.

[2] First session Thirty-eighth Congress, Journal, pp. 970, 1005.

[3] First session Thirty-eighth Congress, Journal, pp. 968, 1001.

[4] Second session Thirty-eighth Congress, Journal, pp. 110, 136, 146.

conference, and the House acted by receding from its disagreements to all the amendments but the fourth amendment, and voting to adhere to its disagreement to that amendment.

6576. On March 3, 1865,[1] the conferees on the army appropriation bill were unable to agree, and so reported informally to the House. The papers went first to the Senate, which was the asking body.

6577. On February 28, 1867,[2] the conferees on the legislative appropriation bill reported an inability to agree. The papers were sent first to the Senate, which had agreed to the conference. No formal signed report of the failure to agree was made. Mr. Thaddeus Stevens, of Pennsylvania, reported in the House.

6578. On March 2, 1867,[3] there were two conferences on the legislative appropriation bill which were unable to agree. After each report of failure to agree, the papers went first to the Senate, which had been the body agreeing to the conference in each case. In each case the Senate, when possessed of the papers, voted to adhere.

6579. On January 21, 1868,[4] Mr. John A. Logan, of Illinois, from the committee of conference on the disagreeing vote of the two Houses on the bill (H. R. 207) for the exemption of cotton from internal tax, reported that the conferees had been unable to agree. The papers and report were made in the House first, the House having agreed to the conference asked by the Senate.

6580. On May 12, 1870,[5] the House asked a conference with the Senate on the bill (H. R. 781) making appropriations for the payment of pensions, and on the succeeding day the Senate agreed to the conference. The conferees were unable to agree, and made a formal report to that effect. This report was made first in the Senate, the agreeing body.

6581. On February 28, 1871,[6] the committee of conference on the bill (H. R. 2509) to abolish the office of admiral and vice admiral of the Navy, reported in the House that the conferees had been unable to agree. The report and papers were in this case brought first into the House, which was the body asking the conference.

6582. On June 19, 1878,[7] the conferees on the sundry civil appropriation bill reported inability to agree first in the House, which had asked the conference.

6583. In 1879,[8] there were two ineffectual conferences on the army appropriation bill, which ultimately failed to become a law. After each of the two failures to agree the report and papers were brought first to the House agreeing to the conference.

6584. On April 18, 1902,[9] the bill (H. R. 13031) "to prohibit the coming into and to regulate the residence within the United States, its Territories, and

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[1] Second session Thirty-eighth Congress, Journal, pp. 431, 432, 438, 440.

[2] Second session Thirty-ninth Congress, Journal, pp. 468, 522, 523.

[3] Second session Thirty-ninth Congress, Journal, pp. 560, 583, 585, 587, 590.

[4] Second session Fortieth Congress, Journal, pp. 214, 225; Globe, p. 673.

[5] Second session Forty-first Congress, Journal, pp. 774, 777, 987, 1014.

[6] Third session Forty-first Congress, Journal, pp. 262, 446.

[7] Second session Forty-fifth Congress, Journal, pp. 1418, 1433.

[8] Third session Forty-fifth Congress, Journal, pp. 533, 615, 616, 663.

[9] First session Fifty-seventh Congress, Journal, p. 615; Record, p. 4419.

all territory under its jurisdiction and the District of Columbia of Chinese and persons of Chinese descent," which had been returned from the Senate with amendments, was taken up, the amendments were disagreed to, and a conference was asked with the Senate.

The Senate subsequently agreed to this conference.

The conferees were unable to agree, and on April 25[1] Mr. Robert R. Hitt, of Illinois, chairman of the board of managers on the part of the House, submitted a report of the disagreement to the House.

Thereupon the House voted to insist further on its disagreement to the Senate amendment and to ask a further conference.

Thus, in case where a conference had failed, the papers were brought back to the House asking the conference.

6585. An instance where, after a conference asked before a disagreement, the report was made first in the House agreeing to the conference.— On June 26, 1902,[2] the conferees on the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans, presented the final report in the House. In this case the Senate had amended the House bill and had at once asked a conference before the disagreement. The House had disagreed to the Senate amendment and agreed to the conference.

The conferees having agreed, the report was made first in the House.

It was then messaged to the Senate, and later agreed to there.

6586. Where a conference results in disagreement, a motion for a new conference is privileged.

A report from a conference committee may not be presented for action or a request for another conference be made unless the House be in possession of the papers, i. e., the original bill and Senate amendments.[3]

On June 17, 1892,[4] Mr. Newton C. Blanchard, of Louisiana, reported that the conference on the amendments of the Senate to the bill (H. R. 7820) for the improvement of rivers and harbors had resulted in disagreement, and thereupon submitted this resolution:

Resolved, That the House insist on its disagreement to the Senate amendments 64 and 173 on the bill (H. R. 7820) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and agree to a further conference with the Senate.

Mr. W. C. P. Breckinridge, of Kentucky, submitted the question of order whether it was in order for the chairman of the Committee on Rivers and Harbors to move as a privileged question for a committee of conference.

The Speaker held that there having been an actual disagreement between the Houses, the motion was privileged.

Air. James D. Richardson, of Tennessee, made the point of order that the request for a further conference must come from the House having possession of the papers.

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[1] Journal, p. 647; Record, p. 4690.

[2] First session Fifty-seventh Congress, Record, pp. 7433, 7436, 7428.

[3] See also secs. 6518–6522 of this section.

[4] First session Fifty-second Congress, Journal, p. 229; Record, p. 5369.

The Speaker [1] held that in case of an original request for conference the request must be made by the House having the papers; but upon a disagreement by the conference committee, the papers being with that committee, the request might be made by either House for a further conference.[2]

The Speaker suggested that there being no information officially that the Senate had asked for a further conference, the motion that the House agree to such conference was not now in order.

Mr. Blanchard thereupon modified his resolution by substituting *request* for "agree to."

Mr. Breckinridge, of Kentucky, and Mr. William S. Holman, of Indiana, thereupon demanded that the bill and amendments be produced.

The Speaker announced that the bill was not in possession of the House, and held that the gentleman from Louisiana [Mr. Blanchard] could not present a report from his committee when the House was not in possession of the papers. It stood like any other matter that comes before the House. The bill must be here, because it was in the province of any gentleman on either side of the House to move to concur in the Senate amendments. That motion, of course, necessitated the reading of the amendments and the reading of the bill. Any gentleman, instead of moving to nonconcur, might move that the House concur, which motion would have priority; and of course it would be necessary to read the amendment in order that the House might understand it, and it could only be read from the original bill; so that the Chair thought that the gentleman could not proceed without the papers being present.

Mr. Blanchard thereupon withdrew the report and resolution.

6687. A final conference report providing that the House recede from the only disagreement was agreed to by the House, and the presiding officers of the two Houses signed the bill, although the Senate had not acted on the report.—On March 3, 1875,[3] the House agreed to the following report of the committee of conference:

> The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 3341) to equalize the bounties of soldiers who served in the late war for the Union having met, after full and free conference agreed to recommend and do recommend to their respective Houses as follows:
>
> That the House recede from its vote nonconcurring in the amendments of the Senate and agree to the same.

In the Senate, on the same day, Mr. John A. Logan, of Illinois, chairman of the Senate conferees, presented the report and asked its adoption, although he said he understood that the action of the House in agreeing to the Senate amendments had thereby passed the bill.

Mr. William Sprague, of Rhode Island, moved that the report be laid on the table, and by a vote of yeas 30, nays 24, the report was laid on the table. Mr. Logan asserted that nevertheless the bill was passed.

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[1] Charles F. Crisp, of Georgia, Speaker.

[2] The latter portion of the ruling seems to reverse this portion, for if possession of the papers is necessary for action by the House it is evident that a conference may not be requested in the absence of the papers.

[3] Second session Forty-third Congress, Journal, pp. 660, 669, 834; Record, pp. 2205, 2208, 2264, 2269.

On the same day the Speaker[1] affixed his signature to the bill, which was enrolled and presented to him by a member of the Committee on Enrolled Bills. No question was raised in the House. But in the Senate, after the Vice-President[2] had signed the bill, and while Mr. John J. Ingalls, of Kansas, was occupying the chair, Mr. Justin S. Morrill, of Vermont, raised the question of order that under the circumstances the Vice-President could not legally sign the bill.

The presiding officer held that the subject was no longer before the Senate, and therefore declined to entertain the point of order.

The bill did not become a law, as it was not presented to the President until the last hours of the session, being one of the last of the bills passed by the Congress.

6588. Instance wherein the House, after disagreeing to a conference report already agreed to by the Senate, laid on the table a House bill with Senate amendments.—On May 19, 1906,[3] the House considered the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10129) to amend section 5501 of the Revised Statutes of the United States, which was brought up in the House, having already been agreed to in the Senate.

The conference report was disagreed to.

Thereupon Mr. Samuel W. McCall, of Massachusetts, moved to lay the bill and Senate amendment on the table.

Mr. Albert S. Burleson, of Texas, rising to a parliamentary inquiry, asked if it would be in order to take action to procure another conference.

The Speaker[4] said:

> The motion to lay on the table would dispose of the bill, and has precedence under the rule.

Thereupon, by vote of yeas 107, nays 66, the bill and amendment were laid on the table.

6589. Amendments between the Houses once disagreed to do not, on the rejection of a conference report, return to their former state so that they may be required to go to Committee of the Whole.—On May 21, 1896,[5] a message having been received from the Senate that the report of the committee of conference on the river and harbor bill had been disagreed to, Mr. William P. Hepburn, of Iowa, made the point of order that the conference was thereby dissolved, and that the amendments of the Senate to the bill were in the same condition as when first sent to the House; and therefore that these amendments, being appropriations of money, must under Rule XX[6] be considered in Committee of the Whole House on the state of the Union.

The Speaker,[7] having called attention to the fact that the House had nonconcurred in the amendments, said that that was the action of the House of Representatives and could not be overruled by the Speaker.

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[1] James G. Blaine, of Maine, Speaker.

[2] Henry Wilson, of Massachusetts, Vice-President.

[3] First session Fifty-ninth Congress, Record, p. 7119.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] First session Fifty-fourth Congress, Record, pp. 5532, 5533.

[6] See section 4797 of Volume IV of this work.

[7] Thomas B. Reed, of Maine, Speaker.