D. CONFERENCE REPORTS

§ 15. In General

When the House is in session the filing of a conference report is a matter of high privilege.[1] The rules provide that a conference report may always be presented (filed) in the House except when the Journal is being read, while the roll is being called, or when the House is voting on any proposition.[2] These reports may sometimes be filed when the House is not in session. The House may grant its consent that a conference report might be filed until midnight on a particular date,[3] during an adjournment of the House,[4] or during a recess of the House.[5]

A conference report must be accompanied by a joint statement explaining the effect that the agreement contained therein will have upon the measure to which it relates. In the past separate explanatory statements were prepared and signed by each set of managers for their respective Houses. However, the rules now require that these statements be prepared and signed jointly by the conferees on the part of both Houses.[6] A point of order will not lie against the report on the ground that the explanatory statement is insufficient. This is a matter for the House to determine in its vote on the conference report itself.[7] These statements may include proposed action on amendments reported from the conference still in disagreement.[8] On one occasion, the statement incorporated by reference legislative history contained in committee reports.[9] The statement of the managers is not read if the report itself is read[10] but may by

1. § 16.1, infra.
   Precedents included below that relate to limitations on the scope of reports are further analyzed at the beginning of § 7, supra.
2. Rule XXVIII clause 1(a), *House Rules and Manual* § 909 (1997).
3. § 16.7, infra.
4. §§ 16.9, 16.10, infra.
5. §§ 16.10, 16.13, infra.
6. Rule XXVIII clause 1(d), *House Rules and Manual* § 911 (1997). This clause was amended by H. Res. 5, 92d Cong. 1st Sess., pursuant to the Legislative Reorganization Act of 1970, 84 Stat. 1140, Pub. L. No. 91–510, § 125(b)(1) Oct. 26, 1970).
7. § 20, generally, infra.
8. § 20.1, infra.
9. See § 20.2, infra.
10. § 20.7, infra.

unanimous consent be read in lieu of the report.[11]

Minority views are not included in a conference report,[12] nor may separate minority statements accompany a report in addition to or in lieu of the joint explanatory statement.[13] However, exceptions taken by certain managers may be indicated in the explanatory statement (with the approval of the majority of the conferees),[14] or in the manner in which the conferees sign the report and statement.[15]

Conference reports are printed as reports of the House[16] and both the report and explanatory statement must be printed in the daily edition of the *Congressional Record* for the day on which they are filed.[17] This requirement does not apply during the last six days of a session,[18] and may be waived at other times by unanimous consent.[19]

Conference reports must be signed by a majority of the managers on the part of each House,[20] and the Speaker does not look behind these signatures to determine whether the report accurately reflects the conduct and results of a conference.[1]

Minority Views

§ 15.1 There is no provision in the rules whereby a minority member of a conference committee may file minority views on a conference report, although a Member may present such views unofficially by extending his remarks in the *Congressional Record.*

On May 31, 1938,[2] after Mr. Wilburn Cartwright, of Oklahoma, asked unanimous consent to file a conference report and statement on H.R. 10140, a bill amending the Federal Aid Road Act, the following proceedings occurred:

> MR. [JESSE P.] WOLCOTT [of Michigan]: I understand that one of the House conferees refused to sign the conference report and expected to file a

11. § 20.8, infra.
12. §§ 15.1, 20.3, infra.
13. §§ 20.3, 20.4, infra.
14. § 20.4, infra.
15. §§ 18.6–18.8, infra.
16. Rule XXVIII clause 1(d), *House Rules and Manual* § 911 (1997).
17. Rule XXVIII clause 2(a), *House Rules and Manual* § 912 (1997).
18. *Id.* See § 22.5, infra.
19. § 16.3, infra.
20. §§ 18.1, 18.2, infra.
1. §§ 18.2–18.4, infra.
2. 83 CONG. REC. 7759, 75th Cong. 3d Sess.

minority report. My parliamentary inquiry is whether a member of the conference committee may file a minority report, or whether there is any provision in the rules covering that matter.

THE SPEAKER:[3] In answer to the parliamentary inquiry of the gentleman from Michigan, the Chair will state that under the rules there is no provision whereby a minority member of a conference committee may file minority views on a conference report.

MR. WOLCOTT: A further parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state it.

MR. WOLCOTT: May a member file a minority report as a part of the proceedings without having it printed as a part of the conference report?

THE SPEAKER: The member can extend his remarks in the Record and present his views, but not officially as a part of the conference report.[4]

Form of Signature Sheets Showing "Exceptions" From Conference Amendment in Nature of Substitute

§ 15.2 Form of signatures on a conference report where managers inappropriately expressed their opposition to or exception from certain parts of the conference agreement in the nature of a substitute.

The signature sheets on this conference report, excerpted from the Record of Oct. 1, 1992,[5] made it clear that the three exceptions shown were attributed only to the name which immediately preceded the parenthetical comment. Since the Senate amendment to which the House disagreed and sent to conference was an amendment in the nature of a substitute, exceptions were clearly inappropriate. Managers at a conference must act on the conference report as a whole, either by signing to indicate their support or declining to sign to show opposition to any part thereof. Under precedent (see 8 Cannon's Precedents § 3302), members of a conference committee may not file separate views.

From the Committee on Armed Services, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

LES ASPIN,
CHARLES E. BENNETT,
G. V. MONTGOMERY. . .
LARRY J. HOPKINS
(except for Sec. 807 on Mentor-Protege and Sec. 1364 on the Landmine Moratorium),

3. William B. Bankhead (Ala.).
4. See also 95 CONG. REC. 7096, 81st Cong. 1st Sess., June 1, 1949.
5. 138 CONG. REC. 29891, 102d Cong. 2d Sess.

BOB DAVIS,
DUNCAN HUNTER
(except for Secs. 232 and 234 related to SDI),
DAVID O'B. MARTIN. . .
ARTHUR RAVENEL, Jr.,
ROBERT K. DORNAN
(except for Secs. 232 and 234 related to SDI).

Conference Reports Not Printed in Senate

§ 15.3 In the Senate, the requirement of the Legislative Reorganization Act of 1970 that conference reports be printed in both Houses is waived by unanimous consent; consequently, the Senate works from the House printing of such a report.

In the House, the requirement of the Legislative Reorganization Act of 1970 that conference reports be printed "as a report of the House" is incorporated in Rule XXVIII clause 1(d).[6] The official papers on a conference report still, of course, reflect the joint action and signatures of managers from both Houses.[7]

PRINTING OF CONFERENCE REPORTS

MR. BAKER: Mr. President, I ask unanimous consent that, notwithstanding the provisions of the Legislative Reorganization Act, conference reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report, unless specific request is made in the Senate in each instance to have such a report printed.

THE PRESIDENT PRO TEMPORE: Without objection, it is so ordered.

§ 15.4 Although the Senate rules require the printing of conference reports and the accompanying statements, this requirement is routinely waived, in each Congress, by a unanimous-consent request which aborts the printing requirement for the Congress in question whenever the House has printed the report.

The request, as stated and agreed to in the Senate on Jan. 5, 1993,[8] is carried here.

PROVISIONS REGARDING CONFERENCE REPORTS AND STATEMENTS

MR. [GEORGE J.] MITCHELL [of Maine]: Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXVIII, confer-

6. *House Rules and Manual* § 911 (1997).
7. 127 CONG. REC. 11, 12, 97th Cong. 1st Sess., Jan. 5, 1981.
8. 139 CONG. REC. 9, 103d Cong. 1st Sess.

ence reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report unless specific request is made in the Senate in each instance to have such a report printed.

Unusual Form of Conference Report To Simplify House Floor Procedure

§ 15.5 Form of conference report on a general appropriation bill where there were 132 Senate amendments, all wrapped inside the report as one motion to recede and concur with one nongermane amendment.

This rather artificially constructed conference report would have been susceptible to points of order under several House rules, since it included in the agreed upon text legislative and unauthorized provisions. The motion to recede and concur in the final Senate amendment in disagreement would have been subject to attack under Rule XXVIII clause 4.[9] The procedure did have the advantage of reducing the number of debatable motions and the time required to conclude consideration of the conference agreement.

The pertinent proceedings as excerpted from the Record of June 30, 1993,[10] are set out below.

CONFERENCE REPORT ON H.R. 2118, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1993

Mr. [William H.] Natcher [of Kentucky] submitted the following conference report and statement on the bill (H.R. 2118) making supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–165)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2118) "making supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes," having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 through 131.

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated,

9. See *House Rules and Manual* § 913b (1997).

10. 139 CONG. REC. 14935, 14936, 14942, 103d Cong. 1st Sess.

to provide supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes, namely:

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOOD SAFETY AND INSPECTION SERVICE

Salaries and Expenses

For an additional amount for "Salaries and Expenses", $4,000,000. . . .

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE . . .

Report language included by the House in the report accompanying H.R. 2118 (H. Rept. 103–91) and the report accompanying H.R. 2244 (H. Rept. 103–105) which is not changed by the report of the Senate (S. Rept. 103–54), and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

Amendment Nos. 1–131: The Senate receded on amendments 1 through 131. Material in these amendments is addressed in Amendment 132.

Amendment No. 132: Deletes language proposed by the Senate and strikes all after the enacting clause and inserts substitute bill text described as follows: . . .

A Conference Report Is Not Amendable

§ 15.6 A conference report under consideration is not subject to amendment; and the Chair has refused to recognize for a unanimous-consent request to strike a provision carried in such a report.

A conference report is in the nature of a contract or agreement between the managers from the two Houses, and neither House can unilaterally alter the content where the report has been filed and is under consideration. The proceedings of Oct. 27, 1990,[11] touch on this principle.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE:[12] Pursuant to House Resolution 542, the conference report is considered as having been read.

The gentleman from Illinois [Mr. Yates] will be recognized for 30 min-

11. 136 CONG. REC. 36891, 36901, 101st Cong. 2d Sess.
12. G. V. (Sonny) Montgomery (Miss.).

utes, and the gentleman from Ohio [Mr. Regula] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Yates]. . . .

MR. [STEVE] BARTLETT [of Texas]: Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I ask unanimous consent to strike from the bill the two unauthorized specially designated metal casting centers referred to in amendment No. 158 previously noted.

MR. [LES] AUCOIN [of Oregon]: Mr. Speaker, I object.

MR. YATES: Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: The Chair does not entertain that request. The Chair does not recognize for that purpose anyway.

The gentleman is out of order.

Form of Conference Report Where House Recedes From Its Amendments

§ 15.7 Example of a conference report and statement where the House receded from its amendments to a Senate bill.

Where the House recedes from its amendments to a Senate bill, the measure is passed. However, the conference report cited here, on S. 429, the Consumer Protection Against Price Fixing Act, was rejected when called up on June 22, 1992.(13)

CONFERENCE REPORT ON S. 429, CONSUMER PROTECTION AGAINST PRICE FIXING ACT OF 1991

Mr. [Jack] Brooks [of Texas] submitted the following conference report and statement on the Senate bill (S. 429) to amend the Sherman Act regarding retail competition:

CONFERENCE REPORT (H. REPT. 102–605)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 429), to amend the Sherman Act regarding retail competition, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses that the House recede from its amendments . . .

JACK BROOKS,
DON EDWARDS,
MIKE SYNAR,
Managers on the Part of the House.

JOE BIDEN,
TED KENNEDY,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE . . .

For the text of S. 429 as it passed the Senate, see *Congressional Record* of October 10, 1991, page H7756.

JACK BROOKS,

13. 138 CONG. REC. 15659, 102d Cong. 2d Sess.

DON EDWARDS,
MIKE SYNAR,
Managers on the Part of the House.

§ 16. Privilege of Filing; When in Order

Filing of Report as Privileged

§ 16.1 The filing of a conference report while the House is in session is a privileged matter and the presentation of such a report does not require unanimous consent.

On Aug. 1, 1968,[14] after Mr. Graham B. Purcell, of Texas, submitted a conference report and statement on H.R. 16363, a bill to clarify and amend the Poultry Products Inspection Act, Mr. Wiley Mayne, of Iowa, raised the following objection:

> Mr. Speaker, I wish to object to the filing of the conference report on the ground that it is not in proper form. I am a conferee and I have not had an opportunity to see the report.
>
> THE SPEAKER PRO TEMPORE:[15] That is a matter that the gentleman should take up with the gentleman from Texas.
>
> The Chair has no knowledge of the conference report except that it is being filed.
>
> MR. MAYNE: Mr. Speaker, I wish to have the record made clear that I do object to its filing for the reason that it is not in the proper form.
>
> THE SPEAKER PRO TEMPORE: The gentleman's statement will appear in the Record.

§ 16.2 Notwithstanding the recommittal of a conference report to a committee of conference with instructions, the subsequent conference report is filed as privileged, given a new number and otherwise treated as a new and separate report.

On May 8, 1963,[16] the House voted to recommit the conference report, House Report No. 275, on H.R. 5517, a supplemental appropriations bill. On May 14, 1963,[17] Speaker John W. McCormack, of Massachusetts, recognized Mr. Albert Thomas, of Texas, to call up House Report No. 290.

> MR. THOMAS: Mr. Speaker, I call up the conference report on the bill (H.R. 5517) making supplemental appropriations for the fiscal year ending June 30, 1963, and for other purposes, and ask unanimous consent that the statement

14. 114 CONG. REC. 24806, 90th Cong. 2d Sess.
15. Chet Holifield (Calif.).
16. 109 CONG. REC. 8043, 88th Cong. 1st Sess.
17. *Id.* at p. 8502.