The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE:[7] Pursuant to House Resolution 240, the conference report is considered as having been read. . . .

Pursuant to the rule, the Committee on Ways and Means and the Committee on the Budget will each control 1 hour of debate, equally divided and controlled by the chairman and ranking minority member; and the following committees will each control 20 minutes of debate, equally divided and controlled by the chairman and ranking minority member: The Committee on Agriculture; the Committee on Armed Services; the Committee on Banking, Finance and Urban Affairs; the Committee on Education and Labor; the Committee on Energy and Commerce; the Committee on Foreign Affairs; the Committee on the Judiciary; the Committee on Merchant Marine and Fisheries; the Committee on Natural Resources; the Committee on Post Office and Civil Service; the Committee on Public Works and Transportation; and the Committee on Veterans' Affairs.

At this time, the gentleman from Minnesota [Mr. Sabo], will be recognized for 30 minutes and the gentleman from Ohio [Mr. Kasich] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Sabo]. . . .

MR. SABO: Mr. Speaker, I yield the balance of my time to the distinguished Speaker of the House, the gentleman from Washington [Mr. Foley].

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Speaker, one important thing has happened today, and important as it was, a more important thing is about to happen.

The important thing that has already happened was not a reconciliation but an engagement, and all of us wish our two colleagues on the Republican side, Susan Molinari and Bill Paxon, the best of futures and the warmest of best wishes. . . .

Whether we decide at long last, after many years of indulgence and avoidance and delay and excuse, take a hard road back to fiscal responsibility and a sound economic future for all of our people. . . .

THE SPEAKER PRO TEMPORE: Pursuant to House Resolution 240, the previous question is ordered on the conference report.

The question is on the conference report.

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

RECORDED VOTE

MR. [JOHN R.] KASICH [of Ohio]: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 218, noes 216, not voting 0.

§ 22. Calling Up as Privileged

Prior to 1902, a conference report could be considered as soon as it was filed in the House. Therefore, no distinction was then made

7. John P. Murtha (Pa.).

between the privilege of filing and the privilege of considering such a report. However, the rules of the House were amended in that year to interpose the requirement that, except during the last six days of a session, the report and accompanying statement must have been printed in the *Congressional Record* before the report would be privileged for consideration.[8] This qualified but did not diminish the high privilege accorded the consideration of a conference report. Subject to this qualification, as amended by the "three-day rule"[9] (which originated in the Legislative Reorganization Act of 1970[10] and which was incorporated into the standing rules of the House pursuant to House Resolution 5, 92d Cong. 1st Sess., Jan. 22, 1971), the consideration of a conference report continues to enjoy the same privilege as does the filing of the report.[11] It may be presented for consideration at any time in the House except during the reading of the Journal, during a roll call, or when the House is voting on any proposition.[12]

This section includes precedents which predate the "three-day rule," but which nonetheless reflect valid principles pertaining to the privilege of considering conference reports. For the effect of the "three-day rule" on this privilege, see § 27, infra.

The time requirements of Rule XXVIII clause 2(a) may be waived whenever the House by resolution, unanimous consent, or a suspension of the rules agrees to its waiver.[13]

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8. See 5 Hinds' Precedents § 6516. This provision, as amended, now appears as Rule XXVIII clause 2(a), *House Rules and Manual* § 912 (1997).

9. The "three-day rule" dictates that, except during the last six days of a session, a conference report shall not be considered until the third day after the report and accompanying statement shall have been filed in the House, and that the report and statement shall have been printed in the daily edition of the *Congressional Record* for the day on which they shall have been filed before such consideration shall be in order. In addition, the rule requires that copies of both the report and statement be available on the floor before consideration shall be in order. Rule XXVIII clause 2(a), *House Rules and Manual* § 912 (1997). See, generally, § 27, infra.

10. 84 Stat. 1140, Pub. L. 91–510 § 125(b)(1) (Oct. 26, 1970).

11. See § 16.1, supra.

12. Rule XXVIII clause 1(a), *House Rules and Manual* § 909 (1997).

13. See §§ 22.6–22.8, 27.3–27.9, infra.

Privileged Status of Conference Report

§ 22.1 A conference report which has been properly filed and available for the three days required under the rule may be called up as privileged; and objection to a unanimous-consent request to read the statement in lieu of the report does not prevent consideration.

The proceedings of June 28, 1974,[14] relating to calling up the conference report on H.R. 7724, the Biomedical Research Act, demonstrate the privileged status accorded a conference report.

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I call up the conference report on the bill (H.R. 7724) to amend the Public Health Service Act to establish a national program of biomedical research fellowships, traineeships, and training to assure the continued excellence of biomedical research in the United States, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER:[15] Is there objection to the request of the gentleman from West Virginia?

MRS. [MARGARET M.] HECKLER of Massachusetts: Mr. Speaker, reserving the right to object, I would like to address a question to our distinguished chairman of the Committee on Interstate and Foreign Commerce (Mr. Staggers).

Therefore, Mr. Speaker, I object.

THE SPEAKER: The Clerk will read the report.

The Clerk proceeded to read the conference report.

PARLIAMENTARY INQUIRY

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BAUMAN: Mr. Speaker, I understood the gentlewoman from Massachusetts to object to the consideration of the conference report.

THE SPEAKER: The gentlewoman did not make any such objection. The request was that the statement be read in lieu of the conference report and there was objection, so we are reading the report.

MR. BAUMAN: Mr. Speaker, I distinctly heard the gentlewoman's statement, and she just reaffirmed to me that she objected to the consideration.

THE SPEAKER: The gentlewoman has no right to object to the consideration. It is a privileged conference report. It has been on file the requisite time.

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14. 120 CONG. REC. 21734, 21735, 93d Cong. 2d Sess.

15. Carl Albert (Okla.).

The Clerk will continue to read the report.

The Clerk proceeded to read the conference report.

MRS. HECKLER of Massachusetts: Mr. Speaker, in view of the pressing business of this House, I withdraw my objection.

THE SPEAKER: Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

Requirement of Printing in Congressional Record

§ 22.2 The consideration of a conference report is privileged business, and (in 1959) the calling up of such a report did not require unanimous consent after the report had been printed in the *Congressional Record* in accordance with the then-current provisions of Rule XXVIII clause 2.[16]

On Sept. 2, 1959,[17] Mr. Emanuel Celler, of New York, called up the conference report on S. 2524, relating to the power of the states to impose taxes on income derived from interstate commerce, and asked unanimous consent that the statement of the managers on the part of the House be read in lieu of the report. Mr. Wright Patman, of Texas, reserved the right to object, and questioned both the propriety of such a measure originating in the Senate, and the wisdom of the merits of the bill. The following then occurred:

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I demand the regular order.

THE SPEAKER:[18] The regular order has been demanded.

Is there objection to the request of the gentleman from New York [Mr. Celler] that the statement of the managers on the part of the House be read in lieu of the report?

MR. PATMAN: Well, I reserved the right to object.

THE SPEAKER: The regular order has been demanded.

MR. PATMAN: Well, I will be compelled to object, Mr. Speaker, if the regular order is demanded.

THE SPEAKER: Then, the Clerk will read the conference report.

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

THE SPEAKER: The gentleman will state it.

MR. PATMAN: If I do not object to the reading, that does not foreclose me from objecting to the consideration of the conference report?

THE SPEAKER: This is a privileged matter. No objection lies.

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16. *House Rules and Manual* § 912 (1997).

17. 105 CONG. REC. 17769, 86th Cong. 1st Sess.

18. Sam Rayburn (Tex.).

MR. PATMAN: No objection lies on this? The Speaker is talking about the reading?

THE SPEAKER: The Chair is talking about the conference report, which is a privileged matter.[19]

MR. PATMAN: And one objection would not lie to it?

THE SPEAKER: No objection would.

Parliamentarian's Note: At the time this precedent occurred, Rule XXVIII clause 2 required only that a conference report and accompanying statement be printed in the Record prior to the consideration of the report (except during the last six days of a session). In this case, the report had been filed and ordered printed on Sept. 1, 1959, and was therefore privileged for consideration when called up by Mr. Celler. Subsequent amendments to clause 2 are noted elsewhere in this section.

Privileged Status of a Conference Report—Rescission Bill

§ 22.3 Consideration of a conference report on a measure that began its passage through the Congress as a rescission bill under section 1017 of the Impoundment Control Act is pursuant to the normal provisions of Rule XXVIII involving conference reports and does not lose its status as privileged thereunder because it reaches the floor after the 45-day period delineated in the Act.

Under the Impoundment Control Act of 1974, a rescission bill must be considered in the House before 45 days have elapsed after the receipt of the President's rescission proposals. In the instance cited below, which was a case of first impression under the Act, a point of order was raised when the conference report was called up after the expiration of the 45-day period. The detailed argument on the point of order brought by Mr. James C. Wright, Jr., of Texas, and the response by George H. Mahon, of Texas, Chairman of the Committee on Appropriations, are carried herein.[20]

MR. MAHON: Mr. Speaker, pursuant to the order of the House of Thursday last, I call up the conference report on the bill (H.R. 3260) to rescind certain budget authority recommended in the message of the President of November 26, 1974 (H. Doc. 93–398) and as those rescissions are modified by the message of the President of January 30, 1975

19. Rule XXVIII clause 1(a), *House Rules and Manual* § 909 (1997).

20. 121 CONG. REC. 8484, 8485, 94th Cong. 1st Sess., Mar. 25, 1975.

(H. Doc. 94–39) and in the communication of the Comptroller General of November 6, 1974 (H. Doc. 94–391), transmitted pursuant to the Impoundment Control Act of 1974, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER:[1] Is there objection to the request of the gentleman from Texas?

POINT OF ORDER

MR. WRIGHT: Mr. Speaker, I make a point of order against the conference report.

THE SPEAKER: The gentleman will state his point of order.

MR. WRIGHT: Mr. Speaker, I make a point of order against the conference report. Approval of this conference report at this time would constitute a violation of the Congressional Budget and Impoundment Control Act of 1974 in that more than 45 days prescribed in that act have expired.

The rescissions that are the subject of this conference report were proposed by the President in House Document 93–398, November 26, 1974, and as amended by House Document 94–39, January 30, 1975.

Mr. Speaker, it is essential that we follow proper procedures as we implement the provisions of title X of the Congressional Budget and Impoundment Control Act of 1974.

These rescissions were originally proposed on November 26 by the President. The 93d Congress adjourned before the expiration of the 45-day period as prescribed in title X, part B, section 1011, paragraph (5), and these rescissions were automatically retransmitted at the beginning of the 94th Congress, and thus the 45-day period which Congress is allowed in which to complete its action began running again, this time expiring on February 28, 1975. And even though the President later revised these rescissions, the time period upon which the 45-day period is based is determined by the date of the original rescission message.

In House Document 93–410, December 13, 1974, as submitted by the Comptroller General of the United States, the Comptroller General held that the time frames for congressional and General Accounting Office action on rescissions are not altered by the supplemental messages of the President. I quote this sentence:

> They start from the date of the President's original message.

And Mr. Speaker, the opinion of the Comptroller General is even more important than usual because of the special responsibilities conferred upon him under sections 1015 and 1016 of title X.

Thus, Mr. Speaker, it is clearly established that the 45-day period has elapsed in regard to rescissions 75–28 and 75–28A.

And it is essential that such an opinion be sustained, because if it were not, then the President could send a revision of a rescission to the Congress whenever he desired in order to keep the 45-day period from ever expiring. Such a procedure would clearly violate the very heart and purpose of title X.

1. Carl Albert (Okla.).

Mr. Speaker, once the 45-day period elapses, a rescission cannot be part of a rescission bill under the definitions of title X of the Congressional Budget and Impoundment Control Act of 1974.

This is clearly spelled out in title X, part B, section 1011, paragraph (3) which defines what a "rescission bill" is, and I quote:

> (3) "rescission bill" means a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress.

This is further reinforced by section 1012(b) of title X which reads as follows:

> (b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded or that is to be rescinded as set forth in such special message shall be made available for obligation unless, within the prescribed 45 day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved.

Mr. Speaker, clearly 45 days of continuous session have elapsed and a rescission bill containing rescission 75–28 as amended by rescission 75–28A would not be in order. The executive branch, recognizing that the 45-day period has expired, has proceeded to make the funds in question available for obligation.

The Comptroller of the Department of Defense in a letter to the chairman of the House Appropriations Committee recognizes that the period provided by law for approving this rescission has legally expired. He states that he and the Director of the Office of Management and Budget have proceeded to implement the obligation of the defense funds after the expiration of the 45-day period of February 28.

Mr. Speaker, I insist on my point of order.

THE SPEAKER: Does the gentleman from Texas wish to be heard on the point of order?

MR. MAHON: Mr. Speaker, I ask to be heard on the point of order.

Mr. Speaker, we are breaking new ground in the House of Representatives today. For the first time in the life of the House of Representatives, we have a conference report on a rescission bill under the new law. I wish to be heard against the point of order.

I would say that the thrust of the point of order of the gentleman from Texas (Mr. Wright) is that the Impoundment Control Act defines a rescission bill as a bill or joint resolution which rescinds budget authority, and upon which Congress completes action before the end of the first period of 45 days of continuous session after the time on which the President's message is received by the Congress.

The gentleman from Texas argues that this period has now elapsed and that further consideration is not in order. . . .

Mr. Speaker, when the House considered the bill before us 1 month ago today, on February 25, we were within the 45-day period specified by the act

for the consideration of a rescission. If the House were considering the item contained in this rescission bill for the first time today, the point of order made by the gentleman would, of course, lie. But this is a conference report. The House passed this bill a month ago under the rules and under the requirements of the Budget Control and Impoundment Act, and the other body passed the bill. There is nothing in the law prohibiting the consideration of conference reports after the 45-day period on a bill that has been considered and passed, as this one has within the 45-day period. There are no grounds not to consider the conference report today, as I see it.

Further, Mr. Speaker, section 1017(c)(5) of the act entitled "Floor Consideration in the House," says that except to the extent specifically provided in this subsection—and there is no such reference in the subsection—consideration of any conference report on rescission bills shall be governed by the Rules of the House of Representatives applicable to other conference reports in similar circumstances.

There is nothing in this conference report that would have been subject to a point of order when the bill was originally considered in the House and the bill itself was considered within the 45-day period referred to in the act.

Mr. Speaker, as I indicated, if we are considering these particular rescissions today for the first time in a bill just reported to the House, the gentleman's point of order might lie. But at this stage in the legislative process, when we have before us this conference report, that is, a consideration of a proper conference report, the point of order does not lie, in my judgment, and should be overruled.

Mr. Speaker, I ask that the point of order be overruled. . . .

THE SPEAKER: The Chair is ready to rule.

The gentleman from Texas (Mr. Wright) has made a point of order against the consideration of the conference report on the basis that it would violate provisions of the Congressional Budget and Impoundment Control Act of 1974. Specifically, it is alleged that since the 45-day period provided for in section 1011 of the act has expired, the report may not be considered.

The section referred to by the gentleman defines a rescission bill for the purposes of title X of the act. Technically speaking, after the expiration of the 45-day period a bill does not meet the definition of a "rescission bill" under the terms of the act. The effect of this, however, is simply to deny to the bill the privilege for initial consideration in the House afforded under section 1017. This is not tantamount to the proposition that the Congress cannot pass a bill the effect of which is to rescind certain budget authority irrespective of any particular time frame. The act itself recognizes the power of Congress to pass such a bill by providing in section 1001 that nothing contained in the act shall be construed as conceding the constitutional powers of the Congress.

The House passed this bill within the time period specified in the act. The other body then acted on the bill, and the differences were resolved in conference. The conference report is now before the House. All rules of the House relative to consideration of conference

reports having been complied with, the Chair finds no reason to prohibit the consideration of this report. The point of order is therefore overruled.

Requirement for Printing Conference Report in Record

§ 22.4 The consideration of a conference report is not in order until the third day after the report and statement have been filed in the House; and then only if they were printed in the Record for the day on which filed; and because of this requirement, a Part II of the Daily Record has sometimes been printed to accommodate the report so the consideration of the report will not be delayed.

On Sept. 13, 1976,[2] the rather voluminous conference report and statement of the managers on the bill H.R. 10612, the Tax Reform Act of 1976, were filed in the House. The text of the conference report was printed in the *Congressional Record* but a special Part II of the Daily Record was authorized to carry the statement so the filing would meet the mandate of Rule XXVIII clause 2(a)[3] which specifies that the printing must be in the Record of the day filed.

Calling Up During Last Six Days of a Session

§ 22.5 The requirement of Rule XXVIII clause 2[4] that a conference report and accompanying statement be printed in the Record does not apply during the last six days of a session.

On Dec. 29, 1970,[5] Mr. George H. Mahon, of Texas, submitted the conference report and the statement of the managers on the part of the House on H.R. 19590, defense appropriations, fiscal 1971. Immediately thereafter, the following occurred:

MR. MAHON: Mr. Speaker, I call up the conference report on the bill (H.R. 19590) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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2. 122 CONG. REC. 30103, 94th Cong. 2d Sess.

3. *House Rules and Manual* § 912a (1997).

4. *Id.*

5. 116 CONG. REC. 43804–08, 43813–15, 91st Cong. 2d Sess.

THE SPEAKER:[6] Is there objection to the request of the gentleman from Texas?

There was no objection.

The second session of the 91st Congress adjourned *sine die* on Jan. 2, 1971.

Waiver of Printing Requirement

§ 22.6 The House has consented unanimously to the consideration of a conference report notwithstanding the rule requiring the printing of such reports in the Record.

On Oct. 3, 1940,[7] Speaker Sam Rayburn, of Texas, recognized Mr. Clarence Cannon, of Missouri:

> Mr. Speaker, I understand it is probable that the Senate will pass the bill (H.R. 10539) making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes, and return it to the House with amendments before adjournment tonight.
>
> I therefore ask unanimous consent that notwithstanding any adjournment of the House, the Clerk of the House be authorized to receive any message on that bill; and that the House disagree to any amendments of the Senate to the bill and agree to a conference thereon, and that the Speaker appoint managers on the part of the House to attend such conference.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Missouri?
>
> There was no objection. . . .
>
> MR. CANNON of Missouri: Mr. Speaker, in view of the action just taken by the House on the bill H.R. 10539, I ask unanimous consent that it be in order tomorrow to consider the conference report on that bill, the rule requiring the printing of conference reports in the Record to the contrary notwithstanding.
>
> THE SPEAKER: Without objection, it is so ordered.
>
> There was no objection.

Immediate Consideration

§ 22.7 Consideration of a conference report was, by unanimous consent, made in order on the day presented, notwithstanding that the report had not been printed in the Record pursuant to Rule XXVIII clause 2.[8]

On Oct. 21, 1963,[9] Mr. Oren Harris, of Arkansas, submitted the conference report on S. 1576, to provide assistance in combating

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6. John W. McCormack (Mass.).
7. 86 CONG. REC. 13138, 76th Cong. 3d Sess.
8. *House Rules and Manual* § 912a (1997).
9. 109 CONG. REC. 19942, 19954, 88th Cong. 1st Sess.

mental retardation. He then made the following request:

> Mr. Speaker, I ask unanimous consent that it may be in order, notwithstanding that the privileged report has just been presented to call up the conference report this afternoon.
>
> THE SPEAKER:[10] Is there objection to the request of the gentleman from Arkansas? . . .
>
> There was no objection.[11]

§ 22.8 The House may adopt a resolution which provides, *inter alia,* for the consideration of a conference report notwithstanding the rule requiring printing in the Record.

On June 30, 1951,[12] Speaker Sam Rayburn, of Texas, recognized Mr. Adolph J. Sabath, of Illinois, who submitted House Resolution 309, taking from the Speaker's table House Joint Resolution 277, making temporary appropriations for fiscal 1952, disagreeing to the Senate amendments thereto, agreeing to a conference requested by the Senate, and authorizing the Speaker to appoint conferees without intervening motion. Section 2 of House Resolution 309 read as follows:

> It shall be in order to consider the conference report on the said joint resolution when reported notwithstanding the provisions of clause 2, rule XXVIII.

The resolution was agreed to.

Privilege of Conference Report

§ 22.9 The consideration of a conference report is a matter of high privilege and takes precedence over unfinished business.

While unfinished business is considered pursuant to the Order of Business rule (Rule XXIV clause 1), the privilege of a conference report is specifically bestowed in Rule XXVIII clause 1. See *House Rules and Manual* § 880, 105th Congress, for the privileged matters which may interrupt the order of business.

The parliamentary inquiry of Mr. Robert E. Bauman, of Maryland, and the Chair's response on Oct. 4, 1978,[13] are carried here.

> CONFERENCE REPORT ON H.R. 12930, TREASURY-POSTAL SERVICE APPROPRIATIONS, 1979

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10. John W. McCormack (Mass.).
11. See also 84 CONG. REC. 11105, 76th Cong. 1st Sess., Aug. 4, 1939.
12. 97 CONG. REC. 7538, 82d Cong. 1st Sess.
13. 124 CONG. REC. 33473, 95th Cong. 2d Sess.

MR. [TOM] STEED [of Oklahoma]: Mr. Speaker, I call up the conference report on the bill (H.R. 12930) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER:[14] Is there objection to the request of the gentleman from Oklahoma?

MR. BAUMAN: Mr. Speaker, reserving the right to object, I do so only to ask the Chair about the order of business. It was the impression of the gentleman from Maryland that the unfinished business before the House was the votes that were put off on yesterday.

THE SPEAKER: Conference reports are privileged and can take precedent [sic] over unfinished business. The House will consider the Treasury-Postal Service appropriations conference report, managed by the gentleman from Oklahoma (Mr. Steed); the Older American Act amendments conference report; Environmental Protection Agency research and development amendments conference report; additional Federal judgeships conference report; and Small Business Administration authorizations conference report. These are all conference reports. Following the consideration of these conference reports, the unfinished business, the votes on suspensions from yesterday, will take place.

MR. BAUMAN: I thank the Chair.

Considering Conference Reports En Bloc Pursuant to Special Rule

§ 22.10 Where the House had passed one bill dealing with energy policy, and the Senate had amended five unrelated House bills with different aspects of its version of energy policy, and five conference reports had eventually been filed, the Committee on Rules reported, and the House adopted, a special order permitting concurrent consideration of the five reports and permitting one indivisible vote on their final adoption.

The resolution reported from the Committee on Rules and a portion of the debate, as excerpted from the proceedings of Oct. 13, 1978,[15] are carried here.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORTS ON H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289 (AND H.R. 5263 IF FIRST ADOPTED BY THE SENATE)

MR. [RICHARD] BOLLING [of Missouri]: By the direction of the Committee on Rules I call up House Resolution

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

15. 124 CONG. REC. 36966, 36975, 95th Cong. 2d Sess.

1434 and ask for its immediate consideration.

H. RES. 1434

Resolved, That upon the adoption of this resolution, any rule of the House to the contrary notwithstanding, it shall be in order in the House to consider en bloc the conference reports on the bills H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289 (and H.R. 5263 if first adopted by the Senate), and all points of order against said conference reports are hereby waived. After debate in the House on said conference reports, which shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Ad Hoc Committee on Energy, the first hour of which shall be confined solely to the conference report on the bill H.R. 5289, the previous question shall be considered as ordered on said conference reports to one vote on their final adoption, and the vote on said conference reports shall not be subject to a demand for a division of the question or to a motion to reconsider.

THE SPEAKER PRO TEMPORE:[16] The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

MR. BOLLING: . . . We reported out a rule that would put together all of the work of the House on energy, and which follows exactly what we did in the beginning when we had the ad hoc committee's bill on the floor of the House.

We are finishing as we began, dealing with the matter in whole as the various parts survive.

Mr. Speaker, I know there is great controversy over this rule; and having presented what I believe to be the salient point of the rule, that all the available conference reports will be dealt with in one vote, I am going to reserve the balance of my time in order to be able to continue in the debate at a later time. . . .

THE SPEAKER:[17] The question is on ordering the previous question.

MR. [JOHN B.] ANDERSON of Illinois: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 207, nays 206, answered "present" 1, not voting 16 . . . .

So the previous question was ordered.

The result of the vote was announced as above recorded.

THE SPEAKER: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Calling Up Conference Reports En Bloc

§ 22.11 The Chairman of the Ad Hoc Committee on Energy called up en bloc the conference reports on five bills, where such consideration had been provided for by a previously adopted special order which waived all

16. Abraham Kazen, Jr. (Tex.).

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

points of order and specified four hours of debate time.

House Resolution 1434, which provided for this unusual procedure, had been adopted by the House[18] when only four of the conference reports had been passed by the Senate and messaged to the House. The fifth was also in order for this en bloc procedure if its adoption by the Senate had been accomplished before House consideration of the five began. The action of the chairman of the Ad Hoc Committee, the Speaker's response to an inquiry about the availability of all five reports, and the Chair's statement about the division of debate time, taken from the proceedings of Oct. 14, 1978,[19] are carried here.

CONFERENCE REPORTS ON NATIONAL ENERGY ACT

MR. [THOMAS L.] ASHLEY [of Ohio]: Mr. Speaker, pursuant to House Resolution 1434, I call up the conference reports on the bills (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics, (H.R. 5037) for the relief of Jack R. Misner, (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla., and (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The Clerk read the titles of the bills.

THE SPEAKER PRO TEMPORE:[20] Pursuant to House Resolution 1434, the gentleman from Ohio (Mr. Ashley) will be recognized for 2 hours and the gentleman from Illinois (Mr. Anderson) will be recognized for 2 hours.

The Chair will recognize the gentleman from Ohio (Mr. Ashley) and the gentleman from Illinois (Mr. Anderson) for 30 minutes to debate the conference report on H.R. 5289.

PARLIAMENTARY INQUIRY

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Speaker, my parliamentary inquiry is this:

Under the rule governing the conference reports, it made the fifth conference report dealing with energy tax credits subject to consideration contingent upon consideration by the other body and its availability. Do I understand from the reading that this fifth conference report is also included in the motion of the gentleman from Ohio (Mr. Ashley)?

THE SPEAKER PRO TEMPORE: The Chair would like to advise the gentleman from Maryland (Mr. Bauman) that

18. See § 22.10, supra, for H. Res. 1434 and the adoption thereof.

19. 124 CONG. REC. 38349, 38350, 95th Cong. 2d Sess.

20. William H. Natcher (Ky.).

the message was just received from the Senate.

MR. BAUMAN: So that all five conference reports are available?

THE SPEAKER PRO TEMPORE: That is correct.

MR. BAUMAN: And we have the papers for that conference report at this time?

THE SPEAKER PRO TEMPORE: The papers are here at the Speaker's table.

MR. BAUMAN: May I further inquire of the Chair whether the first hour of debate is to be directed to the natural gas conference report and not to the other four conference reports?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. BAUMAN: Only to the natural gas conference report?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. BAUMAN: Would it be out of order to discuss the other parts during that time?

THE SPEAKER PRO TEMPORE: The Chair would like to advise the gentleman that the Chair would have to rule as points along that line are brought to the attention of the Chair.

MR. BAUMAN: I thank the Speaker.

THE SPEAKER PRO TEMPORE: The Chair would like to advise the gentleman that the resolution provides the first hour of which shall be confined solely to the conference report on the bill H.R. 5289.

Points of Order Preserved Where Consideration Postponed

§ 22.12 Where a conference report is considered as read and further proceedings are postponed, points of order against the report may still be raised when the report is again before the House as unfinished business.

On Sept. 23, 1976, a voluminous conference report on the Outer Continental Shelf Lands Act Amendments of 1976, was called up in the House. After attempts to dispense with the reading by unanimous consent were unsuccessful, the manager of the conference report, John M. Murphy, of New York, made a two-part request: that reading be dispensed with and that consideration of the report be postponed until the following week. There followed a series of inquiries as shown here:[1]

MR. MURPHY of New York: Mr. Speaker, I call up the conference report on the Senate bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

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1. 122 CONG. REC. 32102, 32103, 94th Cong. 2d Sess.

THE SPEAKER:[2] Is there objection to the request of the gentleman from New York.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, reserving the right to object, I should like to ask the chairman of the ad hoc select committee at this time if he will withdraw this report from consideration or seek to postpone further consideration of the report. If not, those on this side will be constrained to object to the request of the gentleman from New York.

Mr. Speaker, the House should not squander its precious remaining hours on a bill that is clearly destined, if not designed, to be vetoed.

MR. MURPHY of New York: Mr. Speaker, I have no intention to withdraw the conference report.

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, then I object.

THE SPEAKER: Objection is heard. The Clerk will read.

The Clerk read as follows:

(For conference report and statement see proceeding of the House of September 20, 1976.) . . .

MR. MURPHY of New York: Mr. Speaker, I ask unanimous consent to dispense with further reading of the report, and that consideration thereof be the unfinished business when the House convenes on Tuesday next.

THE SPEAKER PRO TEMPORE:[3] Is there objection to the request of the gentleman from New York?

MR. FISH: Mr. Speaker, I reserve the right to object.

Mr. Speaker, reserving the right to object—and I shall not object—I wish to be sure that I understand the request of the gentleman from New York. The gentleman is asking that: First, the rest of the report be considered as read; second, that further consideration today be dispensed with; and, third, that it not be considered until next Tuesday at the earliest.

Also, Mr. Speaker, I reserve several points of order against the conference report, and would ask, is this the understanding with my reservation of these points of order?

THE SPEAKER PRO TEMPORE: The points of order will still be in order.

MR. FISH: I thank the Chair.

MR. MURPHY of New York: I would clarify for my colleague that the unanimous-consent request specifically stated that this would be the first order of business on Tuesday next.

MR. FISH: On Tuesday next?

MR. MURPHY of New York: Tuesday next.

MR. FISH: Not before that?

THE SPEAKER PRO TEMPORE: The first order of unfinished business on Tuesday next.

MR. MURPHY of New York. That is correct.

MR. FISH: Mr. Speaker, further reserving the right to object, is the Chairman also of the opinion that the several points of order which I have so reserved will be protected when we take this matter up?

MR. MURPHY of New York: If the gentleman will yield, the Chair always protects the points of order of the minority.

MR. FISH: Mr. Speaker, I withdraw my reservation of objection.

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2. Carl Albert (Okla.).
3. Thomas P. O'Neill, Jr. (Mass.).

THE SPEAKER: Is there objection to the request of the gentleman from New York?

There was no objection.

Question of Consideration Against Postponed Conference Report

§ 22.13 Where the initial consideration of a conference report, after the reading thereof had been dispensed with, was postponed to a day certain, the question of consideration may be raised when the report is laid before the House as unfinished business; and the question of consideration is addressed before the Chair entertains points of order against the report.

Where the House had by unanimous consent dispensed with the reading of a conference report and then postponed consideration to a later day, it was, on the appointed day, laid before the House. The proceedings of Sept. 28, 1976,[4] were as shown:

CONFERENCE REPORT ON S. 521, OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

THE SPEAKER:[5] The unfinished business is the further consideration of the conference report on the Senate bill S. 521, which the Clerk will report by title.

The Clerk read the title of the Senate bill.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I demand the question of consideration.

THE SPEAKER: The question is, Will the House now consider the conference report on the Senate bill S. 521.

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 236, nays 150, not voting 44 . . . .

So consideration of the conference report was ordered.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. FISH: Mr. Speaker, my parliamentary inquiry is as to whether my reserved points of order are in order at this time?

THE SPEAKER: The Chair will state that they are.

Conference Report "Considered as Agreed To"

4. 122 CONG. REC. 33018, 33019, 94th Cong. 2d Sess.

5. Carl Albert (Okla.).

§ 22.14 On rare occasions, the House, acting by unanimous consent, has considered a conference report as agreed to, thus precluding a vote on the question of adoption.

The type of unanimous-consent request utilized by the chairman of the Committee on Public Works and Transportation, carried below,[6] was unusual. Normally, a request is made for the consideration of a measure, and if that is granted, the question is then put on its adoption.

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. Emerson] at 1 o'clock and 29 minutes p.m.

CONFERENCE REPORT ON S. 440, NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

MR. [BUD] SHUSTER [of Pennsylvania]: Mr. Speaker, on behalf of both the majority and the minority, I ask unanimous consent that the conference report to accompany the Senate bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, be considered as agreed to.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of November 15, 1995, at page H12459.)

THE SPEAKER PRO TEMPORE:[7] Is there objection to the request of the gentleman from Pennsylvania? . . .

There was no objection.

THE SPEAKER PRO TEMPORE: Without objection, the conference report is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

Parliamentarian's Note: The second *Congressional Record* line "There was no objection" was technically not required. Only one unanimous-consent request was before the House.

Agreeing to Report by Unanimous Consent

§ 22.15 Instance where the House, by unanimous consent, agreed to consider and adopt a conference report thus avoiding the possibility of a vote on the question.

The State, Commerce, Justice and the Judiciary Appropriation Act, fiscal 1990, had been reported from conference with amendments remaining in disagreement. After adoption of the conference report, the amendments in disagreement

6. See 141 CONG. REC. 33981, 33988, 104th Cong. 1st Sess., Nov. 18, 1995.

7. Bill Emerson (Mo.).

were acted on in the House, then in the Senate. Most issues in disagreement were resolved, except for three amendments which had reached the third degree between the two Houses. These Senate amendments to House amendments to Senate amendments to the House bill remained unresolved when a final conference report was called up on Nov. 7, 1989.[8]

The conference solution provided for the House to recede from its disagreement to each of the Senate amendments to the House amendments to the original Senate amendments and concur with further House amendments. The unusual unanimous-consent request, the form of the report, and the action of the House are carried here.

FURTHER CONFERENCE REPORT ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. [Neal] Smith of Iowa submitted the following conference report and statement on the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101–332)

The further committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: Provided further, that appropriations under this heading may be used to reimburse agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989 and the date of enactment of this Act: Provided further, That section 506(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by

8. 135 CONG. REC. 27738, 27746, 27747, 101st Cong. 1st Sess.

section 6091 of the Anti-Drug Abuse Act of 1988, is amended by adding "or 0.25 percent, whichever is greater," after "$500,000".

And the Senate agree to the same. . . .

NEAL SMITH,
BILL ALEXANDER,
JOSEPH D. EARLY . . .
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
DALE BUMPERS . . .
Managers on the Part of the Senate.

FURTHER CONFERENCE REPORT ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

MR. SMITH of Iowa: Mr. Speaker, I ask unanimous consent that the House immediately consider and agree to the further conference report to accompany the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, and that said conference report and statement of the managers be considered as having been read. . . .

THE SPEAKER PRO TEMPORE:[9] Is there objection to the request of the gentleman from Iowa?

There was no objection.

(For conference report and statement see proceedings of the House of earlier today). . . .

The conference report was agreed to.

A motion to reconsider was laid on the table.

Rule Requiring "Layover" Waived for Remainder of Week

§ 22.16 By unanimous consent, consideration of conference reports the same day reported has been made in order during the remainder of the week.

On Sept. 8, 1959,[10] Speaker Sam Rayburn, of Texas, recognized Majority Leader John W. McCormack, of Massachusetts, to make the following request:

Mr. Speaker, I ask unanimous consent that during the remainder of this week it shall be in order to consider conference reports the same day reported, notwithstanding the provisions of Rule XXVIII clause 2.[11]

THE SPEAKER: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.[12]

§ 22.17 The House may grant a unanimous-consent request that it may be in order for a

9. Charles E. Bennett (Fla.).

10. 105 CONG. REC. 18626, 86th Cong. 1st Sess.

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

12. See also 113 CONG. REC. 36409, 90th Cong. 1st Sess., Dec. 13, 1967.

stated period to consider conference reports as they are submitted notwithstanding the fact that they have not been printed in the Record.

On July 25, 1947,[13] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Mr. Charles A. Halleck, of Indiana, to make the following request:

> Mr. Speaker, I ask unanimous consent that it may be in order for the balance of the week to consider conference reports as they are submitted, notwithstanding the fact that they have not been printed in the Record.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Indiana?
>
> There was no objection.[14]

§ 22.18 The House adopted a resolution providing during the remainder of the week for the consideration of conference reports the same day reported, notwithstanding the provisions of Rule XXVIII clause 2.[15]

On July 25, 1956,[16] Mr. Howard W. Smith, of Virginia, by direction of the Committee on Rules, presented House Resolution 630, and asked for its immediate consideration.

> The Clerk read as follows:
>
> *Resolved,* That during the remainder of this week it shall be in order to consider conference reports the same day reported notwithstanding the provisions of clause 2, rule XXVIII. . . .
>
> THE SPEAKER:[17] The question is on the resolution.
>
> The question was taken; and (two-thirds having voted in favor thereof) the resolution was agreed to.[18]

Rule Waived for Remainder of Session

§ 22.19 By unanimous consent the consideration of conference reports the same day reported has been made in order during the remainder of the session.

13. 93 CONG. REC. 10258, 80th Cong. 1st Sess.
14. See also 100 CONG. REC. 14670, 83d Cong. 2d Sess., Aug. 16, 1954.
15. *House Rules and Manual* § 912a (1997).
16. 102 CONG. REC. 14456, 84th Cong. 2d Sess.
17. Sam Rayburn (Tex.).
18. A two-thirds vote of the Members present and voting is required for the immediate consideration of resolutions reported from the Committee on Rules. See Rule XI clause 4, *House Rules and Manual* § 729 (1997).

On Sept. 16, 1961,[19] Mr. Carl Albert, of Oklahoma, made the following request:

> . . . I would like to ask unanimous consent that . . . during the remainder of the session it shall be in order to consider conference reports the same day reported, notwithstanding the provisions of clause 2 of rule XXVIII.[20]
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, reserving the right to object, may I say in connection with this request that this matter has been called to my attention. It is standard procedure as we come up to the end of a session. I sincerely hope it is not objected to, because its adoption will very materially expedite the business of the House of Representatives to the objective of *sine die* adjournment.
>
> THE SPEAKER PRO TEMPORE:[1] Is there objection to the request of the gentleman from Oklahoma?
>
> There was no objection.[2]

§ 22.20 The Speaker Pro Tempore declined to recognize a Member to ask unanimous consent for the revocation of the proceedings whereby the House had agreed to permit the consideration of conference reports on the same day reported for the remainder of the session.

On Sept. 25, 1961,[3] the following occurred in the House:

> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I have a unanimous-consent request to make concerning the procedure of the House. I ask unanimous consent that the action by which clause 2 of rule XXVIII[4] was suspended a week ago last Saturday[5] be revoked, and that clause 2, rule XXVIII of the Rules of the House of Representatives be restored.
>
> Mr. Speaker, I should like to be heard briefly on my reasons for so doing.
>
> Mr. Speaker, as the Members well know, suspension of clause 2, rule XXVIII, provides for the consideration of a conference report when it is reported to the House. I agreed a week ago last Saturday and offered no objection to suspension of that provision of the rule for the reason, I thought, that by not objecting the business of the House during the past week would be expedited. But if this session is to continue interminably, I think the Members of the House ought to know what the remaining conference reports contain. . . .
>
> Mr. Speaker, the deficiency appropriation bill coming up, as now pending before the other body, contains over a

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19. 107 CONG. REC. 19800, 87th Cong. 1st Sess.
20. See *House Rules and Manual* § 912a (1997).
1. John W. McCormack (Mass.).
2. See also 105 CONG. REC. 19128, 86th Cong. 1st Sess., Sept. 11, 1959.
3. 107 CONG. REC. 21183, 21184, 87th Cong. 1st Sess.
4. See *House Rules and Manual* § 912a (1997).
5. See § 22.19, supra.

billion dollars or an increase of almost half a billion dollars over the bill which the House approved. I certainly want, and I would hope the other Members of the House would want to know why this deficiency appropriation bill has been increased by a half-billion dollars. I do not want to see that bill considered nor do I want to see the foreign aid appropriations bill, dealing with billions of dollars, considered without ample notice to the House.

Mr. Speaker, that is the reason I have asked unanimous consent that clause 2, rule XXVIII, be restored with full force and effect.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, reserving the right to object, we sincerely hope that Members handling conference reports will cooperate in advising the House as to any changes that have been made in House bills. The procedure about which the gentleman is talking is the one generally used toward the end of sessions of Congress. Of course, it is necessary for the expeditious handling of the business leading to adjournment of the House as the gentleman well knows. . . .

The procedure by which the handling of these matters may be expedited is not only an accommodation to individual Members, but is beneficial to the House of Representatives as a whole. I hope the gentleman will not pursue his unanimous-consent request. I would like to cooperate with the gentleman in having matters thoroughly explained as they come from conference, but I would be constrained to object if the gentleman should pursue his request. . . .

I would respectfully suggest that the gentleman withdraw his request.

THE SPEAKER PRO TEMPORE:[6] Under the circumstances the Chair declines to recognize the gentleman from Iowa to submit the request.

Calling Up Report as Privileged Pursuant to Unanimous-consent Agreement

§ 22.21 A conference report was called up as privileged following agreement to a unanimous-consent request permitting it to be called up the same day reported.

On Oct. 21, 1963,[7] after Mr. Oren Harris, of Arkansas, submitted the conference report and statement on S. 1576, a bill providing assistance for combating mental retardation, the following occurred:

MR. HARRIS: Mr. Speaker, I ask unanimous consent that it may be in order, notwithstanding that the privileged report has just been presented, to call up the conference report this afternoon.

THE SPEAKER:[8] Is there objection to the request of the gentleman from Arkansas?

MR. [PAUL F.] SCHENCK [of Ohio]: Mr. Speaker, reserving the right to object,

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6. John W. McCormack (Mass.).
7. 109 CONG. REC. 19942, 19954, 88th Cong. 1st Sess.
8. John W. McCormack (Mass.).

may I inquire of the chairman of the committee if he intends to fully explain the conference report when it is brought up?

MR. HARRIS: I may say to the gentleman it is my intention with other members of the conference committee to explain in full the conference report. I should like to say to the gentleman I do this because we did not have the privilege of filing the report last week prior to adjournment of the House. We had no idea that the conferees would get together on the bill. We were at an impasse and it looked like it would be impossible to reach agreement and, therefore, I did not ask permission to file it at that time. To our amazement and complete satisfaction the conferees did agree. I have just now had the opportunity of filing the report. I am leaving late this afternoon as one of the delegates appointed by the Speaker to the U.S. delegation at an international conference in Geneva, and I would like to get the report considered before I leave. That is the reason for asking for this privilege. . . .

MR. [LESLIE C.] AREND [of Illinois]: Mr. Speaker, reserving the right to object, and I shall not object, in view of the circumstances explained by the gentleman from Arkansas. May I ask the chairman if you have agreed on any time later in the day for consideration of this conference report?

MR. HARRIS: That is up to the Speaker. It is his prerogative. I assume it will be following the Consent Calendar, and disposition of the bill to be considered under suspension, but that is up to the Speaker.

MR. AREND: I understand. The only statement I should like to make to the gentleman is that I trust this action later today will not in any way set a precedent. It is unusual procedure, but under the circumstances that prevail at the moment I voice no objection to consideration of the conference report later on in the day.

MR. HARRIS: I would not want it to be a precedent.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object, I want it clearly understood that this is not to be considered as establishing any kind of precedent. It is extremely fast action to bring a conference report to the House and within an hour or so consider it without having conformed to the rules which require that it lay over. I want it thoroughly understood, therefore, this is not to be considered as a precedent but, rather, in the nature of an accommodation under the circumstances to the gentleman from Arkansas [Mr. Harris]. . . .

THE SPEAKER: Is there objection to the request of the gentleman from Arkansas?

There was no objection. . . .

MR. HARRIS: Mr. Speaker, I call up the conference report on the bill (S. 1576) to provide assistance in combating mental retardation through grants for construction of research centers and grants for facilities for the mentally retarded and assistance in improving mental health through grants for construction and initial staffing of community mental health centers, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE:[9] Is there objection to the request of the gentleman from Arkansas?

There was no objection.

§ 22.22 Where consideration of a conference report is made in order, by unanimous consent, on the same day the report is filed, the report is called up as privileged.

On Sept. 12, 1962,[10] the following occurred in the House:

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that consideration of the military construction appropriation bill for fiscal 1963 may be in order this afternoon.

THE SPEAKER PRO TEMPORE:[11] Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Later that day Mr. Harry R. Sheppard, of California, submitted the conference report on H.R. 12870. Immediately thereafter Speaker John W. McCormack, of Massachusetts, recognized Mr. Sheppard:

Mr. Speaker, I call up the conference report on the bill (H.R. 12870) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1963, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER: Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

THE SPEAKER: The gentleman from California [Mr. Sheppard] is recognized.

Example of Requests To Expedite Consideration of Conference Report

§ 22.23 Instance where a conference report was filed from the floor during debate on a special order reported from the Committee on Rules waiving the "layover" requirement for consideration of the conference report.

Where Congress was pressing toward an Easter recess, it: (1) permitted the immediate filing of a conference report of a major bill; and (2) provided for debate on the report before printed copies were available and before the official debate was in order. These requests are carried here as exam-

9. Carl Albert (Okla.).
10. 108 CONG. REC. 19258, 19278, 87th Cong. 2d Sess.
11. Roland V. Libonati (Ill.).

ples of the way consideration of a measure may be expedited.[12]

MR. [SPARK M.] MATSUNAGA [of Hawaii]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 358, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 358

Resolved, That immediately upon the adoption of this resolution, clause 2, rule XXVIII to the contrary notwithstanding, it shall be in order to consider any conference report on the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low-income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes.

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

MR. MATSUNAGA: Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 358 provides that, clause 2, rule XXVIII of the Rules of the House of Representatives to the contrary notwithstanding, it would be in order to consider the conference report on the bill H.R. 2166, known as the Tax Reduction Act of 1975.

Clause 2 of rule XXVIII is divided into two paragraphs. Paragraph (a) relates to the 3-day filing requirement for the conference report and the accompanying statement, and the printing of both in the *Congressional Record* for the day on which such report and statement are filed.

Paragraph (b) relates to the consideration of Senate amendments reported from conference in disagreement. . . .

MR. [JOHN B.] ANDERSON of Illinois: Mr. Speaker, the hour is late in the afternoon, and I realize the cries of "Vote! Vote!" have begun to rise in the Chamber. But as one who was not present in the Committee on Rules and, therefore, did not vote on this particular rule, I do have some reservations about the apparently very hasty manner in which we are going to consider this bill this afternoon. . . .

As I understand it, there are three copies—and I stand to be corrected if I am wrong—there are only three copies available of a conference report on a $23 billion bill. I do not want to stand here and pose as a purist and as a stickler for detail, because I am perfectly willing to take shortcuts when it is necessary. But my vacation is not so important, we are not so busy that we should not take more time to consider this matter today.

THE SPEAKER: The time of the gentleman has expired. . . .

MR. MATSUNAGA: Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Ways

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12. 121 CONG. REC. 8895–97, 8899, 8900, 8916, 8917, 94th Cong. 1st Sess., Mar. 26, 1975.

13. Carl Albert (Okla.).

and Means, the gentleman from Oregon (Mr. Ullman).

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, let me tell my friends in the House that the conferees have worked about as diligently as any Members ever have. We have attempted to keep the American people, as well as the Members of Congress informed.

We have had full press conferences yesterday and today following every action that we have taken. It has been rather widely publicized in the press.

. . . [W]e have had the staff working as hard and as efficiently as possible. They are in the process of copying all the material now. We had expected this to be on the floor by 5:30, and I am rather sure that it will. That is the timetable they are meeting for both copies of the bill and the statement of the managers.

Now, the statement of the managers is here now and copies of the bill will be very shortly. . . .

MR. MATSUNAGA: Mr. Speaker, I yield 1 additional minute to the gentleman from Oregon.

MR. [MAX] BAUCUS [of Montana]: Mr. Speaker, will the gentleman yield? . . .

Mr. Speaker, earlier this morning, about noon, I, as a new Member of Congress, thought that I should inform myself so that I could inform my constituents of what is in the tax bill, so I found out where the conferees were meeting. I went over to the room, talked to the policeman. He said I could enter because I was a Member of Congress.

I got into the meeting room, and I was asked to leave.

Mr. Speaker, I understand that not only Members of Congress who are not conferees, but also other Members of the Committee on Ways and Means are not entitled to sit in on the closed conference committee meetings. . . .

MR. ULLMAN: Mr. Speaker, if I have any additional time, let me reply to the gentleman.

The gentleman raised the issue of an open conference. It has never been done. I am not going to be adverse to doing it. I think one can make an argument for doing it. The Senate has not passed rules that correspond to the House as of yet. If they would have, I am sure this conference would have been open. But we also have space problems. We did move over into the main hearing room of the Committee on Ways and Means for part of the conference, but we were over here at H–208, and we were also over on the Senate side into a small room. If there were any problems, I apologize to my friend from Montana (Mr. Baucus). I did not ask him to leave. I think it was another member of the committee. But it would not have been fair to allow one member and not allow others. It is a Senate rule that prevents it, and the Senators are rather touchy about it, and I think, under the circumstances, it would have been very unfair to us to allow this to happen. . . .

MR. MATSUNAGA: Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. Ullman).

CONFERENCE REPORT ON H.R. 2166, TAX REDUCTION ACT OF 1975

Mr. Ullman submitted the following conference report and statement on the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes,

to increase the low-income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes:

CONFERENCE REPORT (H. REPT. 94–120)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, 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 House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Tax Reduction Act of 1975". . . .

SPECIAL ORDER REQUESTS

MR. ULLMAN: Mr. Speaker, I ask unanimous consent that upon the adoption of the rule I be granted a 60-minute special order.

THE SPEAKER: Is there objection to the request of the gentleman from Oregon?

MR. [ROBERT E.] BAUMAN [of Maryland]: Reserving the right to object, Mr. Speaker, we have in the rules of the House an adequate rule for the consideration of conference reports, which provides for points of order for nongermane amendments, motions to reject, debate of the conference report, and that rule governing conference reports protects both the rights of the majority and the minority. I have no way of knowing, nor does any Member in this Chamber know, who will control the time during a special order, except the gentleman from Oregon, whether questions, once raised, will be answered, or whether or not debate will deteriorate into partisan debate.

THE SPEAKER: The gentleman is very effectively but improperly stating the rules. The minority has 30 minutes and the majority has 30 minutes on the conference report.

MR. BAUMAN: I am talking about the lack of protection contained in the request for the 1-hour special order that was just made by the gentleman from Oregon.

THE SPEAKER: Any Member of the House may make a request for a special order.

MR. BAUMAN: I withdraw my reservation of objection.

MR. [HERMAN T.] SCHNEEBELI [of Pennsylvania]: Mr. Speaker, further reserving the right to object, I also ask for a 60-minute special order following that of the gentleman from Oregon (Mr. Ullman).

THE SPEAKER: Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MR. SCHNEEBELI: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER: Is there objection to the request of the gentleman from Oregon?

There was no objection. . . .

MR. MATSUNAGA: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

THE SPEAKER: The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appear to have it.

MR. [WILLIAM L.] ARMSTRONG [of Colorado]: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 240, noes 172, not voting 20. . . . [14]

Appointing Conferees Before Papers Received From Senate

§ 22.24 Instance where the House deemed a general appropriation bill to be in conference, although the Senate had not yet acted on the matter and requested a conference, and provided that the Speaker be deemed to have appointed conferees, but permitting an immediate motion to instruct.

The wording of unanimous-consent requests to anticipate Senate action and deem a matter in conference has varied from time to time, depending on the emphasis placed on preserving the option for a motion to instruct the conferees.

In the 100th Congress,[15] a request was made to deem a bill in conference and authorized the Speaker to appoint conferees without intervening motion, thus precluding a motion to instruct. In the 101st Congress,[16] a request was utilized which deemed the matter in conference and authorized the Speaker to appoint conferees, thus assuring a motion to instruct. In the instance discussed here,[17] the availability of the motion to instruct is left somewhat in doubt, although as shown by the proceedings below, a motion was offered and no objection or question was raised.

DEEMING HOUSE TO HAVE DISAGREED TO SENATE AMENDMENTS AND AGREED TO CONFERENCE AND DEEMING SPEAKER TO HAVE APPOINTED CONFEREES ON H.R. 3759,

14. See § 25.21, infra, for proceedings on calling up the conference report and consideration thereof.

15. See 133 CONG. REC. 35049, 100th Cong. 1st Sess., Dec. 11, 1987.

16. See 135 CONG. REC. 18642, 101st Cong. 1st Sess., Aug. 3, 1989.

17. See 140 CONG. REC. 1903, 1904, 103d Cong. 2d Sess., Feb. 10, 1994.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1994

MR. [RICHARD A.] GEPHARDT [of Missouri]: Mr. Speaker, I ask unanimous consent that if and when the Clerk receives a message from the Senate indicating that that body has passed H.R. 3759, the emergency supplemental appropriations bill, with amendments, insisted on its amendments and requested a conference with the House, that the House be deemed to have disagreed to the amendments of the Senate and agreed to the conference asked by the Senate, and that the Speaker be deemed to have appointed conferees. . . .

THE SPEAKER PRO TEMPORE:[18] Is there objection to the request of the gentleman from Missouri?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 3759, EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1994

MR. [JOSEPH M.] MCDADE [of Pennsylvania]: Mr. Speaker, I offer a motion to instruct conferees on H.R. 3759.

The Clerk read as follows:

> Mr. McDade moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.R. 3759, be instructed to agree to the D'Amato amendment number 1442 as modified, as adopted by the Senate. On vote number 36, as follows:
>
> SEC. . Extension of RTC Civil Statute of Limitations.
>
> "Section 21A(b)(14)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)(C) is amended by striking clause (i) and inserting in lieu thereof the following:
>
> "(i) the period beginning on the date the claim accrues (as determined pursuant to section 11(d)(14)(B) of the Federal Deposit Insurance Act) and ending on December 31, 1995; or ending on the date of the termination of the corporation pursuant to section 21A(m)(1), whichever is later; or."

MR. MCDADE (during the reading): Mr. Speaker, I ask unanimous consent that the motion to instruct conferees be considered as read and printed in the Record. . . .

THE SPEAKER PRO TEMPORE: The gentleman from Pennsylvania [Mr. McDade] will be recognized for 30 minutes, and the gentleman from Iowa [Mr. Smith] will be recognized for 30 minutes.

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

Parliamentarian's Note: The difficulty of drafting a motion to instruct where the Senate action on the matter has not yet been finalized is shown by the somewhat ambiguous form of the motion offered by Mr. McDade.

Validity of Report as Effected by Informal Meeting of Conferees

§ 22.25 A conference report having been signed by a majority of the managers of

18. Jim Chapman (Tex.).

each House, the Senate having received and acted upon it and notified the House of its action, the report is properly before the House when called up.

On June 19, 1948,[19] Mr. Walter G. Andrews, of New York, submitted the conference report on S. 2655, the Selective Service Act of 1948. Mr. Vito Marcantonio, of New York, made a point of order in which he contended that the document submitted by Mr. Andrews was not a valid conference report because he alleged the agreement contained therein had been reached prior to the formal appointment of the Senate managers. Mr. Andrews acknowledged that the House managers had met informally prior to the appointment of their Senate counterparts, but he asserted that subsequent to that meeting a full and free conference with the duly appointed Senate managers took place at which the report at issue was agreed upon.

THE SPEAKER:[20] The Chair is ready to rule.

On page 770, volume 5, of Hinds' Precedents, section 6497 states:

A conference report is received if signed by a majority of the managers of each House.

The Chair has examined the report and the papers and finds that it is signed by five of the managers on the part of the Senate and six of the seven managers on the part of the House.

The Chair has no knowledge, of course, how this report was reached, but the Chair cannot impeach the names of the managers on the part of the two Houses. Furthermore, the Senate having already received the report, and according to a message heretofore received by the House has officially adopted it, the Chair feels that under the circumstances the report is properly before the House for such action as the House may see fit to take. The Chair overrules the point of order.

Precedence Over Call of the Consent Calendar

§ 22.26 Consideration of conference reports takes precedence over the calling of the Consent Calendar.

On Nov. 30, 1945,[1] Speaker Sam Rayburn, of Texas, recognized Mr. John W. McCormack, of Massachusetts:

Mr. Speaker, I ask unanimous consent that the conference report on the rescission bill may precede the call of the Consent Calendar on Monday.

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19. 94 CONG. REC. 9253, 9268, 9269, 80th Cong. 2d Sess.
20. Joseph W. Martin, Jr. (Mass.).

1. 91 CONG. REC. 11279, 79th Cong. 1st Sess.

THE SPEAKER: It is not necessary to obtain unanimous consent for that. The Chair can recognize the gentleman to call up the conference report before the call of the Consent Calendar and will do so.

§ 22.27 While the call of the Consent Calendar under Rule XIII clause 4(2) is mandatory on the first and third Mondays of the month immediately after approval of the Journal, the Speaker may recognize a Member to call up a conference report under Rule XXVIII clause 1,(3) before directing the Clerk to call the Consent Calendar.

On May 4, 1970,(4) after the announcement of the death of Mr. William L. St. Onge, of Connecticut, the following occurred:

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Speaker, I call up the conference report on the bill (H.R. 515) to amend the National School Lunch Act and the Child Nutrition Act of 1966, to clarify responsibilities related to providing free and reduced-price meals and preventing discrimination against children, to revise program matching requirements, to strengthen the nutrition training and education. . . .

THE SPEAKER:(5) The question is on the conference report.

The conference report was agreed to.

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

THE SPEAKER: This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

§ 23. Who May Call Up; Reading

It is the general practice for the Speaker to recognize the senior majority manager on the part of the House to call up a conference report for consideration. On one instance, this general practice was followed even though this senior majority manager (the chairman of the legislative committee which had handled the bill) had not signed the report and was opposed to it.(6) The Speaker may recognize a junior member of the conference committee in the absence of the senior House conferee(7) or even the ranking majority member in lieu of the chairman of the legislative committee who was also a conferee.(8)

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2. See annotation to Rule XIII clause 4(a) *House Rules and Manual* § 746 (1997).
3. *Id.* at § 909.
4. 116 CONG. REC. 13987–4014, 14021–33, 14043, 91st Cong. 2d Sess.
5. John W. McCormack (Mass.).
6. § 23.3, infra.
7. § 23.1, infra.
8. § 23.2, infra.