Restore the matter stricken by said amendment amended to read as follows:

"SEC. 104. It is the sense of the Congress that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Panama Canal."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

When the report was called up and read on Oct. 7, 1975, the Speaker[12] laid down the amendment in disagreement.[13]

The Clerk read the Senate amendment, as follows:

Senate amendment No. 8: Page 16, line 18, strike out:

"SEC. 104. None of the funds appropriated in this title shall be used for the purposes of negotiating the surrender or relinquishment of any U.S. rights in the Panama Canal Zone."

MOTION OFFERED BY MR. SLACK

MR. [JOHN M.] SLACK [of West Virginia]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

"SEC. 104. It is the sense of the Congress that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Panama Canal."

PARLIAMENTARY INQUIRY

MR. [JOHN J.] FLYNT [Jr., of Georgia]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. FLYNT: Mr. Speaker, is a division of the question in order?

THE SPEAKER: Yes, a request for a division of the question is in order.

MR. FLYNT: Mr. Speaker, I demand a division of the question.

THE SPEAKER: The question will be divided.

§ 25. Points of Order

Prior to 1979, points of order against conference reports were raised or reserved after the report was read[14] and before the joint statement of the managers was read.[15] It was too late to raise a point of order once debate had begun on a conference report.[16] When a point of order was reserved prior to the reading of the statement it could be raised after the statement is read.[17] However,

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12. Carl Albert (Okla.).

13. 121 CONG. REC. 32064, 94th Cong. 1st Sess.

14. §§ 25.5, 25.6, infra.

15. § 25.6, infra.

16. § 25.16, infra.

17. § 25.13, infra.

when a point of order was reserved pending a request that the statement be read in lieu of the report, and this request was denied, the point of order can be raised after the report is read.[18] The pertinent rule[19] now provides that a report on meeting the availability requirements in clause 2(b) of the rule is considered as read. Points of order are properly made after the title of the report is reported.

When a point of order against a conference report is sustained, this nullifies the agreements reached in conference, and the bill and amendments are again before the House for consideration.[20] Since the stage of disagreement has already been reached[1] amendments which may have required consideration in the Committee of the Whole need not be considered there again.[2]

The sustaining of a point of order on the ground that the conference report contained provisions beyond the range of disagreement as committed to the conferees does not preclude the subsequent adoption of the identical provision when offered in a motion to concur in the Senate amendment with a germane amendment.[3]

Points of order against a conference report may be waived by the provisions of a resolution reported from the Committee on Rules,[4] and will not be entertained when a conference report is being considered under a motion to suspend the rules.[5]

Violation of Instructions by Conferees

§ 25.1 The Speaker may not rule out of order a conference report as in contravention of instructions imposed on the managers.

On Aug. 12, 1940,[6] Mr. Clarence F. Lea, of California, called up the conference report on S. 2009, the Transportation Act of 1940. Among the several points of order raised against the conference report was the following:

> MR. [JAMES W.] WADSWORTH [Jr., of New York]: Mr. Speaker, I raise a point

18. § 25.14, infra.
19. Rule XXVIII clause 2(c), *House Rules and Manual* § 912d (1997).
20. § 25.24, infra.
1. *Id.*
2. § 25.4, infra.
3. § 25.22, infra.
4. See §§ 26.1–26.6, infra.
5. §§ 26.7, 26.8, infra.
6. 86 CONG. REC. 10146, 10174–77, 76th Cong. 3d Sess.

of order against this conference report as now presented to the House. It will be remembered that on May 9 the House, by a majority vote, recommitted this transportation bill to the conferees with definite instructions to insist upon certain amendments. As to two of those amendments the conferees are reporting what might be termed "compromises." As to the third amendment, known generally as the Wadsworth amendment, the conferees have eliminated it entirely from this conference report. My contention is that in doing so the conferees have ignored the instructions of the House and have exceeded their power. Having been instructed by the House to insist upon this specific amendment, it was their duty, obviously, to strive earnestly in its behalf in their negotiations with the Senate conferees. Failing to persuade the Senate conferees to accept the Wadsworth amendment, it was their duty to report the amendment back to the House as being in disagreement, and to ask the House for further instructions concerning it. This the House conferees have failed to do. Instead, they have completely ignored the amendment in their report, and in doing so they have ignored the instructions of the House. I contend, sir, that the House, having once by a majority vote instructed its conferees to insist upon a certain amendment, and the Senate conferees having refused to accept it, it is the duty, under the rule, of the House conferees to report such disagreement to the House and await further instructions.

The Speaker, William B. Bankhead, of Alabama, quoted from Cannon's Precedents:

Mr. Speaker Clark, as reported in section 3248, volume VIII, of Cannon's Precedents, rendered a decision upon which the following syllabus is based:

> The Speaker may not rule out of order a conference report as in contravention of instructions imposed on the managers. . . .

The Chair reads the following from the precedent he has just cited: . . .

> The Speaker has not a thing to do in passing upon the question of whether the conferees did or did not comply with the instructions of the House. That question is for the House to decide. . . .

The Speaker then read section 6395 of Hinds' Precedents, and concluded:

> It seems to the Chair that that opinion is as clear as crystal. This is a matter for the House to decide. The point of order is overruled, and the House has the conference report before it. If the House does not like the conference report, it can vote it down. That is its remedy.

Speaker Bankhead continued:

In other words, at the proper stage in the proceedings on this conference report, after the previous question has been ordered, if it is ordered on the adoption of the conference report, the Members making these points of order, or any other Member, may, in addition to the opportunity to vote down the conference report, have the right to offer a motion to recommit this entire bill to the conferees. . . .

In view of the decisions read, the Chair feels constrained to overrule the point of order made by the gentleman from New York [Mr. Wadsworth]. . . .

Time for Point of Order as to Failure of Conferees To Reflect Views of Members

§ 25.2 A point of order that conferees appointed do not represent the attitude of the majority and minority members of the House on the disagreements in issue should be made when they are appointed, and it is too late to raise such question at the time the conferees file their report.

On July 27, 1946,[7] Mr. Sam Hobbs, of Alabama, submitted for printing the conference report on S. 1253, a railroad reorganization measure. Mr. Francis E. Walter, of Pennsylvania, then rose:

Mr. Speaker, I make a point of order against the filing of the report.

THE SPEAKER:[8] The gentleman will state it.

MR. WALTER: Mr. Speaker, under the rules of the House, when conferees are appointed the differences in the views of the several Members should be considered in the appointment of the conferees.

In the instant case no regard was taken of seniority or the views of the Members, particularly those of the Committee on the Judiciary. An examination of the motion to recommit will disclose that those Members who did not speak on behalf of the bill voted against the motion to recommit, so that the only conferees on this tremendously important legislation were the proponents of any kind of legislation. . . .

THE SPEAKER: Of course, the Chair could enter into quite a discussion about the point the gentleman has raised, but the Chair thinks it is necessary only to say that if the point of order the gentleman contends for would lodge it comes too late. It should have been made when the conferees were appointed.

The Clerk read the title of the bill, and the Speaker ordered the bill printed.[9]

Time for Point of Order as to Consideration in Committee of the Whole

§ 25.3 A point of order under Rule XX clause 1 that a particular Senate amendment included in a conference report should have been considered in the Committee of the Whole is not in order

7. 92 CONG. REC. 10326, 79th Cong. 2d Sess.
8. Sam Rayburn (Tex.).
9. See 92 CONG. REC. 10327, 79th Cong. 2d Sess., July 27, 1946.

when the report is called up for consideration, and must be made before the bill and Senate amendment are sent to conference.

On Oct. 20, 1966,[10] Mr. Wilbur D. Mills, of Arkansas, called up the conference report on H.R. 13103, the Foreign Investment Tax Act of 1966. Mr. Howard W. Smith, of Virginia, rose with a point of order:

> Mr. Speaker, I desire to make a point of order against title III of the conference report.
>
> THE SPEAKER:[11] The gentleman will state his point of order.
>
> MR. SMITH of Virginia: Mr. Speaker, this point of order is directed at title III of the conference report. That title is the one that provides for the contribution of $1 apiece from any taxpayer who wishes to do so, to be used as a fund to be divided between the political parties in Presidential elections. The title itself has never been before the House. This is a Senate amendment to the bill that the gentleman from Arkansas has just called up. It is not germane to that bill itself and comes under the prohibition of rule XX of the rules of the House.[12]
>
> And, Mr. Speaker, I shall read the part that is relevant to the point of order:
>
> > Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if originating in the House, it would be subject to that point. . . .
>
> THE SPEAKER: The Chair is prepared to rule. . . .
>
> Without passing upon the germaneness of the amendment, because that point was not raised, the Chair calls attention to the fact that the Senate amendment went to conference by unanimous consent. Where unanimous consent was obtained, the effect of that is to circuit rule XX, in other words, to waive or vitiate that portion of rule XX.
>
> If objection had been made at the point when the unanimous consent request was made to send the bill to conference, then the bill could have been referred to the proper standing committee, and then, if and when reported out of the committee would have been brought up for consideration in the Committee of the Whole House on the State of the Union.
>
> At this point, and under the parliamentary situation, the bill was sent to conference by unanimous consent; and this applies to all bills that go to conference by unanimous consent, if there be provisions therein that might be subject to the first sentence of rule XX. If there is no objection made at that time, the bill goes to conference; which in this case had the effect of suspending that portion of rule XX. Therefore, it is properly before the House at the present time as part of the conference

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10. 112 CONG. REC. 28240, 28241, 89th Cong. 2d Sess.

11. John W. McCormack (Mass.).

12. Rule XX clause 1, *House Rules and Manual* § 827 (1997).

report and the Chair overrules the point of order.

§ 25.4 Amendments between the Houses, once disagreed to, do not again require consideration in the Committee of the Whole in the event the conference report is ruled out of order.

On Aug. 19, 1937,[13] Mr. John Taber, of New York, raised a point of order against the conference report on H.R. 7646, relating to public works for flood control, on the ground that the conferees had exceeded their authority.

THE SPEAKER:[14] The Chair is prepared to rule. . . .

There is a long and consistent line of decisions and precedents holding that such powers are clearly beyond the authority of the conferees and the Chair regretfully feels compelled to sustain the point of order.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: When a conference report has been thrown out on a point of order is it not the same as if it had been rejected by the House.

THE SPEAKER: The gentleman from New York makes a parliamentary inquiry as to whether when a point of order to a conference report is sustained ipso facto, the Senate amendments come before the House for further consideration. Is that the parliamentary inquiry?

MR. SNELL: Yes.

THE SPEAKER: In reply to the gentleman the Chair calls the gentleman's attention to section 3257, volume 8, Cannon's Precedents:

> When a conference report is ruled out of order, the bill and amendments are again before the House as when first presented, and motions relating to amendments and conference are again in order.

MR. SNELL: When this first came back from the Senate there was an important matter that should have gone before the committee for consideration because it entailed expenditure of large amounts of money, and is it a privileged motion to move to consider that in the House at the present time?

THE SPEAKER: It is in the opinion of the Chair, because by sending the bill and Senate amendments to conference, the provisions of the rules requiring consideration in Committee of the Whole were waived.

The Clerk will report the first amendment in disagreement.

Time for Point of Order as to Substance of Report

§ 25.5 A point of order against a conference report is properly raised after the reading of the report.

13. 81 CONG. REC. 9376–79, 75th Cong. 1st Sess.

14. William B. Bankhead (Ala.).

On the legislative day of Sept. 25, 1961,[15] Mr. Albert Thomas, of Texas, called up the conference report on H.R. 9169, supplemental appropriations for fiscal 1961, and sought 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 PRO TEMPORE:[16] Is there objection to the request of the gentleman from Texas?
>
> MR. [JOHN] TABER [of New York]: Mr. Speaker, I object.
>
> The Clerk read the conference report.
>
> MR. TABER: Mr. Speaker, I make a point of order against the conference report, and I refer especially to the paragraph on page 30, under the title of "Preservation of Ancient Nubian Monuments—Special Foreign Currency Program". . . .

After hearing the arguments for and against the point of order, the Speaker Pro Tempore overruled the point of order.

§ 25.6 Points of order against conference reports are made after the reading of the report and before the reading of the joint statement of the managers.

15. 107 CONG. REC. 21521, 87th Cong. 1st Sess., Sept. 27, 1961 (Calendar Day).
16. John W. McCormack (Mass.).

On Mar. 27, 1945,[17] the Clerk was about to read the conference report on H.R. 1752, providing for the mobilization of civilian manpower, when Mr. Forest A. Harness, of Indiana, posed a parliamentary inquiry:

> I propose to make a point of order against the report. As I understand the rules, the point of order must be made after the reading of the report and before the reading of the statement.
>
> THE SPEAKER:[18] That is correct.[19]

Reading of Conference Report Dispensed With if Printed in Record

§ 25.7 In the 96th Congress, the House adopted a new rule waiving the reading requirement for any conference report (and amendment in disagreement) which has been printed in the Record for three days.

17. 91 CONG. REC. 2838–40, 79th Cong. 1st Sess.
18. Sam Rayburn (Tex.).
19. See also 117 CONG. REC. 46779, 46780, 92d Cong. 1st Sess., Dec. 14, 1971; 100 CONG. REC. 12399–445, 83d Cong. 2d Sess., July 28, 1954; 96 CONG. REC. 14120, 14134, 81st Cong. 2d Sess., Sept. 1, 1950; and 93 CONG. REC. 10479, 80th Cong. 1st Sess., July 26, 1947.

On Jan. 15, 1979,[20] Rule XXVIII clause 2,[1] was amended as indicated as part of the package of rules changes adopted on the opening day of the 96th Congress.

> (19)(a) In Rule XXVIII, clause 2, add the following new subclause:
> "(c) Any conference report and Senate amendment in disagreement which has been available as provided in paragraphs (a) and (b) of this clause shall be considered as having been read when called up for consideration." . . .
>
> MR. [JAMES C.] WRIGHT [Jr., of Texas]: . . . We would anticipate that all of the Members on the Democratic side, as has been the tradition unbrokenly in the past, will support the decision of the Democratic Caucus and of the majority party. Basically, the purpose of these changes is to save the time of the House, to save the taxpayers waste of that valuable time, and to save Members the harassment that has sometimes come from procedural demands that they present themselves and vote on meaningless votes.

Proper Time for Point of Order

§ 25.8 Where a conference report is considered as read, pursuant to a special order previously adopted, the proper time to raise a point of order is when the report is called up for consideration and the title has been reported.

On Oct. 6, 1978,[2] the House had adopted a special order providing, *inter alia,* that for the remainder of the second session, 95th Congress, conference reports might be considered on the same day filed (subject to the two-hour layover requirement in Rule XXVIII clause 2) and would be considered as read when called up for consideration.

> MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1404 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> H. RES. 1404
>
> *Resolved,* That it shall be in order at any time during the remainder of the second session, Ninety-fifth Congress, up to and including October 15, 1978: (1) To consider conference reports and amendments reported from conference in disagreement on the same day reported or any day thereafter notwithstanding the provisions of clause 2, Rule XXVIII (but subject to the two-hour availability requirement of that clause), and any said conference report or amendment in disagreement shall be considered as having been read when called up for consideration; (2) for the Speaker

20. 125 CONG. REC. 9, 96th Cong. 1st Sess.

1. See *House Rules and Manual* § 912d (1997).

2. 124 CONG. REC. 34085, 95th Cong. 2d Sess.

to declare recesses at any time, subject to the call of the Chair; and (3) for the Speaker to entertain motions to suspend the rules.

It was pursuant to this authority that Mr. George E. Danielson, of California, called up the conference report on S. 555, the Ethics in Government Act, on Oct. 12, 1978.[3]

CONFERENCE REPORT ON S. 555, ETHICS IN GOVERNMENT ACT OF 1978

MR. DANIELSON: Mr. Speaker, I call up the conference report on the Senate bill (S. 555) to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of October 11, 1978.)

THE SPEAKER PRO TEMPORE:[4] Under the rule previously adopted, the conference report is considered as having been read.

§ 25.9 Where a conference report is considered read pursuant to a special order previously adopted, the proper time for pressing a point of order against the report is after the title has been reported.

A parliamentary inquiry about the proper timing of a point of order was directed to the Speaker on Oct. 12, 1978.[5]

CONFERENCE REPORT ON S. 555, ETHICS IN GOVERNMENT ACT OF 1978

MR. [GEORGE E.] DANIELSON [of California]: Mr. Speaker, I call up the conference report on the Senate bill (S. 555) to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of October 11, 1978.)

THE SPEAKER PRO TEMPORE:[6] Under the rule previously adopted, the conference report is considered as having been read.

PARLIAMENTARY INQUIRY

MR. [CHARLES E.] WIGGINS [of California]: Mr. Speaker, I pose a parliamentary inquiry.

3. 124 CONG. REC. 36459, 95th Cong. 2d Sess.
4. Norman Y. Mineta (Calif.).
5. 124 CONG. REC. 36459, 36460, 95th Cong. 2d Sess.
6. Norman Y. Mineta (Calif.).

It is my intention to make a point of order against title VI of the conference report, and I will do so at this time if it is the appropriate time to do so.

THE SPEAKER PRO TEMPORE: This is the appropriate time. Is the gentleman designating title VI?

Points of Order When Statement of Managers Is Read in Lieu of Report

§ 25.10 A point of order against a conference report must be made or reserved after the reading of the report and before the reading of the statement; and if unanimous consent is asked that the statement be read in lieu of the report, the point of order must be made or reserved before the reading of the statement.

On Dec. 17, 1969,[7] the following occurred in the House:

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Speaker, I call up the conference report on the bill (S. 2917) to improve the health and safety conditions of persons working in the coal mining industry of the United States, 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:[8] Is there objection to the request of the gentleman from Kentucky?

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Speaker, reserving the right to object, I would like to make a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. ERLENBORN: It is my intention to make a point of order against the conference report. I understand that this must be made before the statement on the part of the managers is read. Am I correct?

THE SPEAKER: In response to the parliamentary inquiry, the gentleman's understanding is also the understanding of the Chair. The gentleman is correct.

MR. ERLENBORN: If I do not object to the unanimous-consent request for dispensing with the reading of the report, will I be protected in my point of order before the statement of the managers is read?

THE SPEAKER: The gentleman could reserve a point of order, and he could exercise it at the conclusion of the reading of the statement of the managers on the part of the House.

MR. ERLENBORN: Mr. Speaker, I reserve the point of order against the report and withdraw my reservation of objection.

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

7. 115 CONG. REC. 39704, 91st Cong. 1st Sess.

8. John W. McCormack (Mass.).

There was no objection.
The Clerk read the statement.[9]

§ 25.11 A point of order against a conference report must be made after the reading of the report and before the reading of the joint statement, and where unanimous consent is granted to read the statement in lieu of the report, a point of order is properly made before the reading of the statement commences.

On Dec. 15, 1975,[10] the chairman of the Committee on Interstate and Foreign Commerce[11] called up the report of the managers at the conference on S. 622, the Energy Policy and Conservation Act. Mr. Staggers then asked that the statement be read in lieu of the report. Numerous Members reserved the right to object to this request to question various managers at the conference about the meaning and effect of several controversial provisions and to ask the Chair about the proper time to lodge points of order against the report. The action of calling up the report, the proceedings, and a portion of the colloquies under the reservation of the right to object are carried herein:

MR. [OLIN E.] TEAGUE [of Texas]: Mr. Speaker, I reserved the right to object in order to ask a question of the gentleman from West Virginia, the chairman of the committee.

Mr. Speaker, I would like to ask the gentleman from West Virginia a question with respect to the inclusion in the conference substitute for S. 622, of provisions relating to application of advanced automotive technology. These provisions establish a program in the Department of Transportation to develop new automotive technologies and guarantee loans for these purposes. These provisions came from title II of S. 1883, which was referred to the Committee on Science and Technology as H.R. 9174. Is the inclusion of these provisions in the conference report an assertion of jurisdiction by the Interstate and Foreign Commerce Committee over the subject of energy or environmental research and development?

MR. STAGGERS: If the gentleman will yield, I will be very happy to say very emphatically that we have no intention of ever invading the authority of any other committee. . . .

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

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9. See also 118 CONG. REC. 20278–80, 92d Cong. 2d Sess., June 8, 1972; 118 CONG. REC. 1076, 92d Cong. 2d Sess., Jan. 25, 1972; and 93 CONG. REC. 10479, 80th Cong. 1st Sess., July 26, 1947.

10. 121 CONG. REC. 40672, 40675, 40676, 94th Cong. 1st Sess.

11. Harley O. Staggers (W. Va.).

THE SPEAKER:[12] Is there objection to the request of the gentleman from West Virginia (Mr. Staggers)?

PARLIAMENTARY INQUIRY

MR. [JOHN B.] ANDERSON of Illinois: Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ANDERSON of Illinois: I address the Chair with the following parliamentary inquiry: At which point would it be in order to offer or make a point of order against section 102 of the conference report?

THE SPEAKER: If objection to the reading of the statement is not made, or at any time prior to reading the statement. The Chair has promised he is going to recognize the gentleman from California first on that issue, either now or at that point.

MR. ANDERSON of Illinois: Mr. Speaker, if I still have the floor, I make a point of order against section 102 of the conference report.

THE SPEAKER: The gentleman will not be recognized because there is a unanimous-consent request pending.

MR. ANDERSON of Illinois: May I reserve a point of order against that section?

THE SPEAKER: The gentleman's rights will be protected, but the Chair has already promised the gentleman from California that he would recognize him first on his point of order.

Is there objection to the request of the gentleman from West Virginia (Mr. Staggers).

MR. [GEORGE E.] BROWN [Jr.] of California: Reserving the right to object, Mr. Speaker I reserve the right to object to inquire further with regard to the scope of the conference report and the degree to which it conforms to rule XXVIII, clause 1. I call the attention of either the chairman of the committee or the chairman of the subcommittee to the statement in the report having to do with sections 531 and 541 which state, in one sentence, that the provisions follow the House language. . . .

MR. BROWN of California: I understand that the conference report has dropped the definition of any energy action. The gentleman is, therefore, defining this as merely a technical action?

MR. [JOHN D.] DINGELL [Jr., of Michigan]: It is defined in the conference report.

MR. BROWN of California: No; the definition of any energy action is nowhere defined. It was in the House bill when it went to the Senate, but that provision was dropped for the conference report.

MR. DINGELL: I thank the gentleman for that advice.

MR. BROWN of California: Is it the gentleman's view, then, that that is purely a technical matter and that the report in that respect does conform to the requirements of clause 1, rule XXVIII?

MR. DINGELL: Let me read the language of section 551 for the benefit of the gentleman:

> For purposes of this section, the term "energy action" means any matter required to be transmitted or submitted to the Congress in accor-

12. Carl Albert (Okla.).

dance with the procedures of this section. . . .

MR. DINGELL: I support the conference report.

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

There was no objection.

Reservation of Point of Order

§ 25.12 A point of order against a conference report must be made or reserved prior to the reading of the statement of the managers in lieu thereof, and when so reserved may be entertained after the reading of the statement.

On June 23, 1959,[13] the following occurred in the House:

MR. [ALBERT] RAINS [of Alabama]: Mr. Speaker, I call up the conference report on the bill (S. 57) to extend and amend laws relating to the provision and improvement of housing and the renewal of urban communities, 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:[14] Is there objection to the request of the gentleman from Alabama?

MR. [GRAHAM A.] BARDEN [of North Carolina]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BARDEN: Mr. Speaker, I want to make a point of order against the conference report. Should I reserve the point of order against the conference report at this point or wait until later?

THE SPEAKER: If the gentleman intends to make a point of order he has to reserve it at this time.

MR. BARDEN: Mr. Speaker, I reserve the point of order at this time.

THE SPEAKER: Is there objection to the statement of the managers on the part of the House being read in lieu of the report?

There was no objection. . . .

THE SPEAKER: The Clerk will read the statement of the Managers on the part of the House.

The Clerk read the statement. . . .

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

§ 25.13 A point of order against a conference report normally is entertained after the reading of the report, or after the reading is dispensed with; but a point of order has been entertained after the reading of the statement where a clear reservation of the point of order was on the record in a timely manner.

When a conference report on a bill was called up in the House on

13. 105 CONG. REC. 11599, 11600, 11615, 86th Cong. 1st Sess.
14. Sam Rayburn (Tex.).

Oct. 1, 1980,[15] repeated unanimous-consent requests were made to dispense with the reading of the report and then to read the statement in lieu of the report. After receiving assurances that his right to press a point of order would be protected, Mr. George E. Danielson, of California, allowed the reading of the statement to proceed and the Chair then entertained the point of order.

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I call up the conference report on the bill (H.R. 5612) to amend section 8(a) of the Small Business Act, 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.

MR. DANIELSON: Mr. Speaker, I make a point of order against this conference report.

THE SPEAKER PRO TEMPORE:[16] The gentleman will be protected.

Is there objection to the request of the gentleman from Iowa?

MR. [DAN] ROSTENKOWSKI [of Illinois]: Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: Objection is heard.

The Clerk will read the report.

The Clerk proceeded to read the report.

MR. SMITH of Iowa (during the reading): Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

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

MR. DANIELSON: Mr. Speaker, a while ago I raised a point of order against the conference report. I understood the Speaker to say that my point of order will be protected.

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. DANIELSON: If I am not waiving any rights, I will withdraw my reservation of objection.

THE SPEAKER PRO TEMPORE: Without objection, the statement of the managers will be read in lieu of the report.

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 30, 1980.)

Reservation of Point of Order Pending Request That Statement Be Read in Lieu of Report

§ 25.14 When a point of order against a conference report is reserved pending a request that the statement of the managers be read in lieu of the report, and this request is denied, the point of order is made after the report is read.

15. 126 CONG. REC. 28637, 28638, 96th Cong. 2d Sess.

16. William H. Natcher (Ky.).

On Dec. 20, 1969,[17] the following occurred in the House:

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Speaker, I call up the conference report on the bill (H.R. 15149) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1970, 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.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[18] The gentleman from Illinois will state his parliamentary inquiry.

MR. YATES: At what point is it in order to make a point of order against the conference report?

THE SPEAKER: The Chair will state in response to the parliamentary inquiry of the gentleman from Illinois that such a point of order would be in order after the reading of the report or the gentleman can reserve a point of order now before the reading of the statement accompanying the report.

MR. YATES: Mr. Speaker, I reserve a point of order on the conference report.

THE SPEAKER: The gentleman from Illinois reserves a point of order on the conference report.

Is there objection to the request of the gentleman from Louisiana? . . .

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, I object to the unanimous-consent request.

THE SPEAKER: The Clerk will read the conference report.

The Clerk read the conference report.

MR. YATES: Mr. Speaker, I make a point of order against that portion of the conference report which provides funds for the purchase of planes for the Republic of China on the ground that it is an appropriation that is not authorized by law.

Consideration of Conference Report Postponed To Preserve Point of Order

§ 25.15 A point of order against a conference report is made following the reading of the report and is premature when only the title has been read by the Clerk.

In response to a parliamentary inquiry during the session of the House on Sept. 30, 1976,[19] the Speaker explained the proper time for raising a point of order against a conference report.

CONFERENCE REPORT ON H.R. 12572, U.S. GRAIN STANDARDS ACT OF 1976

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Speaker, I call up the conference report on the bill (H.R. 12572) to amend the U.S. Grain Standards Act to improve the grain inspection and weighing system, and for other purposes, and ask unanimous consent that

17. 115 CONG. REC. 40445–48, 91st Cong. 1st Sess.

18. John W. McCormack (Mass.).

19. 122 CONG. REC. 34224, 34225, 94th Cong. 2d Sess.

the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

POINT OF ORDER

MR. [W. HENSON] MOORE [of Louisiana]: Mr. Speaker, I make a point of order against consideration of this conference report.

THE SPEAKER:[20] The gentleman will state his point of order.

MR. MOORE: Mr. Speaker, the conference report, in particular section 8, subparagraph (5), violates clause 3 of Rule XXVIII of the rules of the House.

THE SPEAKER: Will the gentleman withhold his point of order, because the gentleman is premature. We have to read the report before the point of order would lie.

MR. MOORE: My rights will be protected to raise the point of order, Mr. Speaker?

THE SPEAKER: The gentleman's rights will be protected. . . .

Is there objection to the request of the gentleman from Washington?

There was no objection.

MR. MOORE: Mr. Speaker, I reserve my point of order on the conference report.

THE SPEAKER: The gentleman from Louisiana (Mr. Moore) reserves a point of order on the conference report.

Does the gentleman from Washington (Mr. Foley) request that this matter be put over and be made the first order of business tomorrow?

MR. FOLEY: Mr. Speaker, I ask unanimous consent that the further consideration of this conference report be postponed, and that it be made the first order of business tomorrow.

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

There was no objection.

20. Carl Albert (Okla.).

During Debate on Report

§ 25.16 A point of order against a conference report must be made after the reading of the conference report is completed or dispensed with, and comes too late after debate has been had on the conference report.

On Oct. 18, 1972,[1] Mr. Wilbur D. Mills, of Arkansas, called up the conference report on H.R. 16810, to provide a temporary increase in the public debt limitation, and obtained the consent of the House that the statement of the managers be read in lieu of the report.

MR. MILLS of Arkansas (during the reading): Mr. Speaker, I ask unanimous consent that the statement of the managers be considered as read.

THE SPEAKER:[2] Is there objection to the request of the gentleman from Arkansas?

There was no objection.

1. 118 CONG. REC. 37065–67, 37073, 92d Cong. 2d Sess.
2. Carl Albert (Okla.).

MR. MILLS of Arkansas: Mr. Speaker, I yield myself 5 minutes. . . .

Mr. Mills then began to explain the conference report, answering several questions posed by Mr. John F. Seiberling, of Ohio, Mr. Richard C. White, of Texas, and Ms. Bella S. Abzug, of New York.

MR. JAMES J. PICKLE [of Texas]: Mr. Speaker, will the gentleman yield?

MR. MILLS of Arkansas: I yield to the gentleman from Texas.

MR. PICKLE: I was off the floor when this bill was first brought up, after waiting an hour.

MR. MILLS of Arkansas: Let me tell the gentleman about it, if he wanted to make a point of order.

MR. PICKLE: I wanted to ask that question of the Speaker.

Mr. Speaker, may I make a parliamentary inquiry?

THE SPEAKER: The gentleman will state it.

MR. PICKLE: Would the gentleman from Texas be permitted to make the point of order that the title in this conference report pertaining to the unemployment benefits program is not germane under this conference report?

THE SPEAKER: That point of order would come up too late now.

Subsequent Point of Order

§ 25.17 Where a point of order against a conference report is overruled, a second point of order may be pressed against the report providing that debate on the report has not intervened.

On Dec. 20, 1969,[3] after Mr. Otto E. Passman, of Louisiana, called up the conference report on H.R. 15149, foreign assistance appropriations for fiscal 1970, Mr. Sidney R. Yates, of Illinois, raised a point of order against the report on the ground that the conferees exceeded their authority. After Speaker John W. McCormack, of Massachusetts, heard the arguments for and against the conference report, the following occurred:

THE SPEAKER: . . . The gentleman from Louisiana is recognized for 1 hour.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Louisiana yield for a parliamentary inquiry?

MR. PASSMAN: Mr. Speaker, I yield for a parliamentary inquiry.

MR. GROSS: Mr. Speaker, I desire to make a point of order against consideration of the bill.

MR. PASSMAN: Mr. Speaker, I yielded to the gentleman for a parliamentary inquiry, not for a motion.

MR. GROSS: Mr. Speaker, I make a point of order against consideration of the conference report in toto.

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

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3. 115 CONG. REC. 40445–48, 91st Cong. 1st Sess.

Several Points of Order

§ 25.18 The Speaker indicated that the Chair would rule on all points of order raised against a conference report, whether they were made separately or at one time.

On June 8, 1972,[4] the House was considering the conference report on S. 659, the Higher Education Amendments of 1972. After further reading of the report had been dispensed with, Speaker Carl Albert, of Oklahoma, recognized Mr. Joe D. Waggonner, Jr., of Louisiana, who sought to offer separately two points of order.

THE SPEAKER: The Chair would state to the gentleman from Louisiana that the Chair would prefer the gentleman would make both points of order at this time.

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WAGGONNER: Mr. Speaker, my parliamentary inquiry is this, if the gentleman from Louisiana states both points of order simultaneously, for consideration simultaneously, is the gentleman hindered in any way if one point of order should have merit and the other not have merit?

THE SPEAKER: The Chair will state that the gentleman from Louisiana would not lose his rights to have the Chair pass on both points of order.

MR. WAGGONNER: A further parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WAGGONNER: Mr. Speaker, it is my understanding then that the Chair will rule on the points of order separately?

THE SPEAKER: The Chair will rule on all points of order.

MR. WAGGONNER: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WAGGONNER: Mr. Speaker, my parliamentary inquiry is this, will the Chair rule separately on all points of order?

THE SPEAKER: The Chair will state that the Chair would like to hear the points of order first.

MR. WAGGONNER: Mr. Speaker, I prefer to make the points of order separately.

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

Order of Entertaining Points of Order Against Conference Reports

§ 25.19 The Chair attempts to entertain and rule on points of order against conference reports which, if sustained, will vitiate the entire report (as under the Congressional

4. 118 CONG. REC. 20278–80, 92d Cong. 2d Sess.

Budget Act) before entertaining points of order under Rule XXVIII clause 4, which if sustained will merely permit motions to reject the nongermane portions of the report.

On Sept. 23, 1976,[5] the House had before it H.R. 10339, the conference report on the Farmer-to-Consumer Direct Marketing Act of 1976. A Member challenged the report, stating that he had two points of order, one that the report provided for new entitlement authority to become prematurely effective (in violation of section 401(b)(1) of the Budget Act), and another that the conferees had agreed to a provision which was not germane to the House version of the measure (Rule XXVIII clause 4).[6] The Chair first heard argument on the Budget Act point, for if it were sustained, there would be no need to address the second point of order. The proceedings were as indicated:

MR. [JOSEPH P.] VIGORITO [of Pennsylvania]: Mr. Speaker, I call up the conference report on the bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers, 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:[7] Is there objection to the request of the gentleman from Pennsylvania?

POINT OF ORDER

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Speaker, I make a point of order.

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

MR. ROUSSELOT: Mr. Speaker, I have two points of order to raise against the conference report on H.R. 10339 (H. Rept. 94–1516).

The first is under the Budget Control Act. The second is under House Rule XXVIII.

Section 401(b)(1) of the Congressional Budget and Impoundment Control Act (Public Law 93–344) provides as follows:

> (b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—
>
> (1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

The text of the conference agreement as set forth in the amendment adding a new section 8 is as follows:

5. 122 CONG. REC. 32099, 32100, 32104, 32108, 94th Cong. 2d Sess.

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

7. Carl Albert (Okla.).

EMERGENCY HAY PROGRAM

SEC. 8. In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977.

It is clear from a literal reading of this proposed language that certain livestock owners will be entitled to a hay subsidy immediately upon enactment of this bill.

This bill is effective during the so-called transition period of July 1–September 30, 1976.

In any event it is a new spending authority effective before October 1, 1976 . . . .

The second point of order is that section 8 of the conference report is not in compliance with rule XXVIII, clause 4, and if such language were offered to H.R. 10339 during its consideration in the House it would not be deemed to be germane under rule XI, clause 7.

THE SPEAKER: Does the gentleman from Pennsylvania (Mr. Vigorito) desire to be heard on the points of order?

MR. VIGORITO: Yes, Mr. Speaker, I would like to be heard on the two points of order.

THE SPEAKER: The gentleman from Pennsylvania is recognized.

MR. VIGORITO: Mr. Speaker, my understanding is that if this program is an entitlement program under section 401 of the Budget Act, the funding could not be given an authorization in this bill until the beginning of the next fiscal year, or, in this case, October 1, 1976. If that is the case, I would think that we could develop legislative intent here in that none of the funding would begin in this bill until fiscal year 1977. As a practical matter, the bill will probably not have cleared the President prior to that time, anyway, and consequently we will not be delaying the impact of the bill for any substantial length of time. We have less than a week before October 1 comes about. . . .

THE SPEAKER: The Chair is having difficulty with the argument made by the distinguished gentleman from Pennsylvania, because, as the Chair understands it, theoretically and legally it would be possible to begin the payments before October 1, 1976, which would be in violation of the Budget Impoundment and Control Act, as the entitlement to those payments might vest prior to October 1. If, as the Chair understands it, the entitlement to payments only vested after October 1, 1976, there would be no violation of the Budget Control Act.

What is the gentleman's answer to that?

MR. VIGORITO: The intent is only to begin after October 1, 1976.

THE SPEAKER: Of course, the Chair sees before him language which it seems to the Chair—and the Chair is sympathetic with what the gentleman is trying to do—indicates that:

In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or

major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977.

This language does not say when the entitlement to payments vests and does not imply when the payments begin. It does say when the payments end. But the point is that the payments cannot begin before October 31, 1976, without violating the Congressional Budget Act. . . .

THE SPEAKER: The Chair thinks that under the present circumstances he should insist that the gentleman consider another procedure, because he thinks it can be worked out. Therefore, the Chair must sustain the point of order.

The Chair will not rule on the second point of order, on germaneness grounds, because one point of order against the entire conference report has been sustained.

Will the gentleman undertake to work that out within the next day or two?

MR. VIGORITO: Mr. Speaker, I ask unanimous consent to pull this off so that we can work this out.

THE SPEAKER: The conference report is no longer before the House. The gentleman can dispose of the Senate amendments under another procedure. . . .

MR. [BOB] BERGLAND [of Minnesota]: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers, with Senate amendments thereto, and consider the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, strike out "1975" and insert: "1976". . . .

MR. BERGLAND (during the reading): Mr. Speaker, I ask unanimous consent that Senate amendments be considered as read and printed in the Record.

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

MR. ROUSSELOT: Mr. Speaker, reserving the right to object, can the gentleman tell us if the problem of compliance with the budget resolution is included in the gentleman's motion?

MR. BERGLAND: If the gentleman will yield, the answer is yes. The question which the gentleman raised earlier has been met. The effective date is October 1, 1976, therefore clearing up the question of entitlement in violation of the Budget Act. . . .

MOTION OFFERED BY MR. BERGLAND

MR. BERGLAND: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bergland moves to recede from disagreement to Senate amendment No. 1 and concur therein.

The motion was agreed to.

THE SPEAKER PRO TEMPORE: The Clerk will report the next Senate amendment:

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8. John J. McFall (Calif.).

Senate amendment: Page 5, line 16, strike out "for the fiscal year beginning October 1, 1976" and insert: "for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979".

MOTION OFFERED BY MR. BERGLAND

MR. BERGLAND: Mr. Speaker, I offer a motion.[9]

The Clerk read as follows:

Mr. Bergland moves to recede from disagreement to Senate amendment No. 2 and concur therein with an amendment as follows: On page 1, lines 4 and 5 of the Senate engrossed amendments, strike out "September 30, 1978, and September 30, 1979" and insert in lieu thereof "and September 30, 1978";

The motion was agreed to.

THE SPEAKER PRO TEMPORE: The Clerk will report the last Senate amendment.

The Clerk read as follows:

Senate amendment No. 3: Page 5, after line 16, insert:

EMERGENCY HAY PROGRAM

SEC. 8. (a) In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture, at the option of the farmers and ranchers, to:

(1) Purchase hay in areas of the United States in which hay is in plentiful supply, transport such hay to the area in which such farmers or ranchers are located, and sell such hay to such farmers or ranchers as prescribed in this section, or

(2) Pay the costs to transport the cattle of farmers and ranchers from such area to a location where adequate grazing land is available and the costs of transporting such cattle back to such area.

(b) Hay shall be made available under section 305 to farmers and ranchers to help such farmers and ranchers maintain their cattle herds during any period such assistance is needed as the result of an emergency or major disaster. . . .

(g) The Secretary of Agriculture is authorized to utilize the facilities of the Commodity Credit Corporation in carrying out any emergency livestock feed program under section 305 of the Disaster Relief Act of 1974.

MOTION OFFERED BY MR. BERGLAND

MR. BERGLAND: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bergland moves to recede from its disagreement to Senate amendment no. 3 and concur therein with an amendment as follows: In lieu of the matter proposed to be inserted by

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9. Under a literal reading of § 401(b) of the Congressional Budget Act, a point of order lies against the consideration in the House of a Senate amendment containing new entitlement authority, and such point of order would come before a motion was offered to recede and concur with an amendment which cured the Budget Act violation. The chairman of the Budget Committee (Mr. Adams) agreed with the Parliamentarian that a point of order should not lie against the mere consideration of such a Senate amendment so as to prevent any motion to dispose of the amendment. Rather, the point of order lies against the motion when made to dispose of the Senate amendment.

the Senate amendment, insert the following:

EMERGENCY HAY PROGRAM

SEC. 8. In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977; and shall become effective on October 1, 1976, or on the date of enactment of this Act, whichever is later.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

§ 25.20 Under Rule XXVIII clause 4, once a motion to reject a portion of a conference report has been agreed to, following a decision that the portion was not germane, a point of order against the entire conference report under clause 3 of that rule, as exceeding scope, comes too late if the Speaker has already recognized the manager of the report to offer a motion to recede and concur with an amendment under clause 4.

On Dec. 15, 1975,[10] during a long series of "reservations of the right to object" to a unanimous-consent request to dispense with further reading of a lengthy motion that the House recede and concur in a Senate amendment in disagreement with a further amendment (the text of the conference report which had not been stricken by the ruling on the germaneness point of order), the Speaker[11] responded to several inquiries concerning the parliamentary situation.

So the motion [to reject the portion of the conference report held not to be germane] was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

MOTION OFFERED BY MR. STAGGERS

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Staggers moves that the House recede from its disagreement to the Senate amendments to the House amendment and concur with an amendment, as follows: In lieu of the matter proposed to be inserted by the

10. 121 CONG. REC. 40681, 40710–14, 94th Cong. 1st Sess. (conference report on S. 622, Standby Energy Authorities Act).
11. Carl Albert (Okla.).

Senate amendment, insert the following:

That this Act may be cited as the "Energy Policy and Conservation Act" . . .[12]

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

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

MR. [CLARENCE J.] BROWN of Ohio: Mr. Speaker, I reserve the right to object.

MR. [BARRY M.] GOLDWATER [Jr., of California]: Mr. Speaker, I reserve the right to object.

MR. [JOHN B.] ANDERSON of Illinois: Mr. Speaker, I reserve the right to object.

MR. STAGGERS: Mr. Speaker, I would like to explain that what we are referring to is on page 8, commencing with article 4, down to the small "d," which the gentleman from Illinois had objected to, and that has been deleted from the amendment.

MR. ANDERSON of Illinois: Mr. Speaker, reserving the right to object, as the gentleman knows, I was prepared to offer a point of order to section 102 of the bill on the grounds it violates clause 3 of rule XXVIII, in that as the conference report came back from the House it contained a proposition which was not committed to the conference committee. That objection was based on the fact that H.R. 7014, the House bill in the section dealing with incentives to developing underground coal mines, limited it to a $750 million total program to new coal mines.

On page 8 of the conference report in subparagraph (2)(c)(4) is contained the language:

The term "developing new underground coal mines" includes expan-

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12. The Staggers' motion deleted two provisions from the conference report. The first was that section which had been rejected by the adoption of a motion to reject as provided under Rule XXVIII clause 4, *House Rules and Manual* § 913b (1997). The conferees had, however, adopted a provision defining "new coal mines" to include new shafts in old mines, a change not contemplated by either version of the bill and thus not within the scope of the matter committed to conference, and this was also deleted by the Staggers' motion. Rule XXVIII clause 4(d)(1), *House Rules and Manual* (1997), states that "If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the conference report shall be considered as rejected and the question then pending before the House shall be—(1) whether to recede and concur in the Senate amendment with an amendment which shall consist of that portion of the conference report not rejected . . .". Since the Staggers' motion deleted an additional section of the conference report against which no point of order had been raised it was not technically in order under the rule, however no point of order was made against the motion.

sion of existing underground coal mines.

Mr. Speaker, existing mines are clearly not the same thing as new mines. . . .

MR. ANDERSON of Illinois: With the clear understanding from the gentleman from West Virginia that the provision of the conference report has now been amended to insure that these loan guarantees will not go to the owners or the operators of existing mines, I will not raise a point of order which I think otherwise would have been sustained.

MR. STAGGERS: I thank the gentleman from Illinois.

PARLIAMENTARY INQUIRY

MR. BROWN of Ohio: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BROWN of Ohio: Mr. Speaker, I rise to inquire about the parliamentary status with reference to this amendment. Presuming the amendment offered by the gentleman from West Virginia is in order before the House and is not objected to under the unanimous consent reservation, is it then in order that the amendment would be voted on immediately? Would there be time to debate that amendment?

THE SPEAKER: It would be subject to debate.

MR. BROWN of Ohio: Subject to debate under what time limitation?

THE SPEAKER: One-hour rule.

MR. BROWN of Ohio: Mr. Speaker, assuming that it then is approved, at that point does the House then go into consideration of the conference report, as amended, or does that infer approval of the conference report at that point?

THE SPEAKER: The conference report has been rejected by the action on the Goldwater motion pursuant to clause 4(d), rule XXVIII.

MR. BROWN of Ohio: Mr. Speaker, I am not sure that I understand the answer to my question. Once more, the question is that, if the motion of the gentleman from West Virginia is not objected to and is open to debate for 1 hour——

THE SPEAKER: Adoption of the motion to strike rejected the conference report, the pending motion is to recede and concur with an amendment.

MR. BROWN of Ohio: And that would be a vote on the whole conference report?

THE SPEAKER: Minus the parts that were stricken.

MR. BROWN of Ohio: In other words, it would be a vote on the whole conference report except that which is taken out by the amendment of the gentleman from West Virginia, is that correct?

THE SPEAKER: By the motion of the gentleman from California and the additional deletion from page 8 contained in the motion of the gentleman from West Virginia. . . .

PARLIAMENTARY INQUIRIES

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Speaker, let us try to clear up the parliamentary situation here, and let us try to do it on a step-by-step basis to see if we can gain an understanding of where we are.

Mr. Speaker, am I correct in saying that by voting up the Goldwater mo-

tion, the net effect is that the House has now rejected the conference report?

THE SPEAKER: The gentleman is correct.

MR. WAGGONNER: Mr. Speaker, am I further correct in saying that if there is no objection to the motion under a reservation of objection or otherwise, offered by the gentleman from West Virginia (Mr. Staggers), there will be provided 1 hour of debate, 30 minutes for and 30 minutes against, on his motion, which has the net effect of striking from section 102 that language which makes in order or authorizes loan guarantees for development of existing coal mines?

THE SPEAKER: The gentleman is partially correct.

MR. WAGGONNER: Mr. Speaker, am I further correct in saying that if there is no objection and we do debate that issue and that motion is agreed to, then the situation would have developed wherein, if that motion is agreed to, the conference would then be reconvened and the Senate would have the option of accepting the action of the House or not accepting it?

THE SPEAKER: No. Would the gentleman bear with the Chair for a moment?

All the House can do now is to send an amendment back to the Senate. The Senate can either ask for a new conference or it can accept the amendment as presented to the Senate by the House. . . .

MR. BROWN of Ohio: Mr. Speaker, I reserve the right to object.

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Speaker, will the gentleman yield?

MR. BROWN of Ohio: I yield to the gentleman from California.

MR. ROUSSELOT: Mr. Speaker, could we have another explanation on why the point of order that the gentleman from Illinois made could not be made at this point, could not be in order?

THE SPEAKER: The Chair will state that the point of order raised by the gentleman from Illinois (Mr. Anderson) was to the conference report and the conference report is no longer before the House.

While, in fact, most of what the Clerk is reading is identical to the text of the conference report, it is still a motion as though it were taken out and typed up separately. The Clerk is now reading a motion. Whether we read the whole motion or whether we agree to dispense with the further reading of the motion will have nothing to do with the parliamentary situation topside or bottom.

MR. ANDERSON of Illinois: Mr. Speaker, will the gentleman yield?

MR. BROWN of Ohio: I yield to the gentleman from Illinois.

MR. ANDERSON of Illinois: Mr. Speaker, if the gentleman will yield further, as I understand and interpret the remarks as given by the Speaker, they are that once the motion offered by the gentleman from California (Mr. Goldwater) to reject certain language in the conference report was adopted, the conference report was gone. Therefore any point of order which I might otherwise have been entitled to make under rule XXVIII, clause 3, having to do with certain matters as being beyond the scope of the conference, was no longer in order. That is, as I understand, the ruling of the Chair.

THE SPEAKER: The gentleman did not seek recognition at that time, and if, under the operation of clause 4(d), rule

XXVIII, a conference report is rejected, no further points of order against the report are in order. . . .

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. BAUMAN: Would a point of order lie at this point against the portion of the motion, section 102, a point of order based on other grounds?

THE SPEAKER: The Chair knows of no other grounds. . . .

MR. [JOHN E.] MOSS [of California]: Mr. Speaker, I insist upon regular order.

MR. BAUMAN: The gentleman from Maryland is making a point of order.

MR. MOSS: Mr. Speaker, I insist upon regular order. The reading of the motion is the order before the House at this moment.

THE SPEAKER: The Chair will state to the gentleman that no point of order, whether there is one or is not, assuming there were one, would be in order until the motion is read.

MR. BAUMAN: I thank the gentleman. I will wait for that. . . .

There was no objection.

THE SPEAKER: The gentleman from West Virginia (Mr. Staggers) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Brown) will be recognized for 30 minutes.

Points of Order Based on Nongermane Provisions in Conference Report

§ 25.21 Where four points of order were raised against provisions in a conference report, on the ground that the provisions targeted contained nongermane matter in violation of Rule XXVIII clause 4,[13] the Chair ruled on each point as it was raised. Two of the provisions were held germane, two were ruled not to be germane. One motion rejecting the offending matter was voted down. No motion to reject the second item of nongermane matter having been offered, the conference report as reported from the committee of conference was agreed to.

The conference report of the Tax Reduction Act of 1975 was filed and called up in the House on Mar. 26, 1975.[14] Since printed copies were not available when the report was filed, the report was informally debated pursuant to special orders until the chairman of the Committee on Ways and Means, Al Ullman, of Oregon,

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

14. 121 CONG. REC. 8899, 8930, 94th Cong. 1st Sess.

formally called up the report.[15] At that time, four points of order were lodged, seriatim, against provisions in the conference substitute. The first, raised by Mr. Barber B. Conable, Jr., of New York, was held to be germane; the second, also argued by Mr. Conable, was ruled out as not germane but after debate on the motion to reject the provision, on a voice vote the motion was defeated. The third, by Mr. Bill Frenzel, of Minnesota, was held not germane but no motion to reject the provision was offered. The final point of order, by Mr. William A. Steiger, of Wisconsin, was held germane.

After further debate on the conference agreement, the report was adopted by the House on a roll call vote.

MR. ULLMAN: Mr. Speaker, I call up the 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, 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:[16] Is there objection to the request of the gentleman from Oregon?

There was no objection.

The table of contents of the conference statement and the parts of the agreement which were the object of points of order are carried here for purposes of clarity.[17]

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:

15. 121 CONG. REC. 8900, 8902, 94th Cong. 1st Sess., Mar. 26, 1975. See also § 22.23, supra

16. Carl Albert (Okla.).

17. See 121 CONG. REC. 8900–16, 94th Cong. 1st Sess., Mar. 26, 1975, for full text of the conference report.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

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

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of 1954 Code.

TITLE I—REFUND OF 1974 INDIVIDUAL INCOME TAXES

Sec. 101. Refund of 1974 individual income taxes.
Sec. 102. Refunds disregarded in the administration of Federal programs and federally assisted programs.

TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES

Sec. 201. Increase in low income allowance.
Sec. 202. Increase in percentage standard deduction.
Sec. 203. Credit for personal exemptions.
Sec. 204. Credit for certain earned income. . . .

TITLE III—CERTAIN CHANGES IN BUSINESS TAXES

Sec. 301. Increase in investment credit.
Sec. 302. Allowance of investment credit where construction of property will take more than 2 years.
Sec. 303. Change in corporate tax rates and increase in surtax exemption. . . .

TITLE IV—CHANGES AFFECTING INDIVIDUALS AND BUSINESSES

Sec. 401. Federal welfare recipient employment incentive tax credit.
Sec. 402. Time when contributions deemed made to certain pension plans.

TITLE V—PERCENTAGE DEPLETION

Sec. 501. Limitations on percentage depletion for oil and gas.

TITLE VI—TAXATION OF FOREIGN OIL AND GAS INCOME AND OTHER FOREIGN INCOME

Sec. 601. Limitations on foreign tax credit for taxes paid in connection with foreign oil and gas income.
Sec. 602. Taxation of earnings and profits of controlled foreign corporations and their shareholders. . . .

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Certain unemployment compensation.
Sec. 702. Special payment to recipients of benefits under certain retirement and survivor benefit programs.

The provision in the conference report at which the first point of order was directed is included here.

SEC. 208. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:

"SEC. 44. PURCHASE OF NEW PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the purchase price of a new principal residence purchased or constructed by the taxpayer.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) may not exceed $2,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS.—In the case of a husband and wife who file a joint return under section 6013, the amount specified under paragraph (1) shall apply to the joint return. In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$1,000' for '$2,000'.

"(4) CERTAIN OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals as prescribed by the Secretary or his delegate, but the sum of the amounts allowed to such individuals shall not exceed $2,000 with respect to that residence.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under sections 33, 37, 38, 40, 41, and 42.

"(c) DEFINITIONS.—For purposes of this section—

"(1) NEW PRINCIPAL RESIDENCE.—The term 'new principal residence' means a principal residence (within the meaning of section 1034), the original use of which commences with the taxpayer, and includes, without being limited to, a single family structure, a residential unit in a condominium or cooperative housing project, and a mobile home.

"(2) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the new principal residence on the date of the acquisition thereof. . . .

POINT OF ORDER

MR. CONABLE: Mr. Speaker, I have a point of order.[18]

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

MR. CONABLE: Mr. Speaker, I make a point of order against the conference report on the ground it contains matter which is in violation of provision 1, clause 7, of rule XVI. The nongermane matter I am specifically referring to is that section of the report dealing with the tax credit on sales of new homes. It appears in section 208 of the conference report, on page 14, as reported by the Committee on Conference.

THE SPEAKER: Does the gentleman from New York (Mr. Conable) desire to be heard further on the point of order?

MR. CONABLE: Mr. Speaker, I will add only briefly that a careful scrutiny of the titles of the House bill, as it was sent to the Senate, shows many types

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18. Synopsis of this point of order: To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a portion of a Senate amendment in the nature of a substitute in the form of a new section which was contained in a conference report and which added a new section relating to tax credits for new home purchases and amended a portion of the law amended by the House bill was held germane. See 121 CONG. REC. 8900, 8902, 8930, 8931, 94th Cong. 1st Sess., Mar. 26, 1975.

of tax measures, but nothing relating to the sale of homes. This clearly is an addition of a very divergent nature to the bill and deals with the nonbusiness and nonpersonal type of credit.

THE SPEAKER: Does the gentleman from Oregon (Mr. Ullman) desire to be heard on the point of order?

MR. ULLMAN: Mr. Speaker, I would like to speak against the point of order.

Mr. Speaker, this is a very broad bill. It was a broadly based bill when it left this House to go to the other body. It has many diverse sections and many different kinds of tax treatments. It does deal with tax credits. It did deal with tax credits when it left the House, both for individuals and for corporations.

Mr. Speaker, it seems to me this falls totally within the purview of the bill as we passed it in the House and should be considered germane to the bill.

THE SPEAKER: The Chair is ready to rule.

The gentleman from New York (Mr. Conable) makes the point of order against section 208 of the conference report on the bill H.R. 2166 on the ground that it would not have been germane to H.R. 2166 as passed by the House and is thus subject to the provisions of clause 4, rule XXVIII.

In passing upon any point of order against a portion of the Senate amendment in the nature of a substitute which the conferees have incorporated in their report, the Chair feels it is important to initially characterize the bill H.R. 2166 in the form as passed by the House. The House-passed bill contained four diverse titles, and contained amendments to diverse portions of the Internal Revenue Code of 1954. Title I of the House bill provided a refund of 1974 individual income taxes. Title II provided for reductions, including credits, in individual income taxes. Title III made several changes in business taxes, and title IV further affected business taxes by providing for the repeal of the percentage depletion for oil and gas.

The Senate amendment in the nature of a substitute contained provisions comparable to all four titles in the House-passed bill, and also contained a new title IV amending other portions of the Internal Revenue Code, making further amendments to the code with respect to tax changes affecting individuals and businesses, and a new title VI and title VII, relating to taxation of foreign and domestic oil and gas income and related income, and to the tax deferment and reinvestment period extension, respectively. The provision against which the gentleman makes the point of order was contained in section 205 of title II of the Senate amendment in the nature of a substitute.

The Chair would call the attention of the House to the precedent contained in Cannon's VIII, section 3042, wherein the Committee of the Whole ruled that to a bill raising revenue by several diverse methods of taxation, including excise taxes, an amendment in the form of a new section proposing an additional method of taxation—a tax on the undistributed profits of corporations—was held germane. The Chair would emphasize that the portion of the Senate amendment included in the conference report against which the point of order has been made was in the form of a new section to the House

bill, and was not an amendment to a specific section of the House bill. As indicated in Deschler's Procedure, chapter 28, section 14.4, the test of germaneness in such a situation is the relationship between the new section or title and the subject matter of the bill as a whole.

The Chair would also point out that section 203 of the House bill, on page 10, amends the same portion of the code which this part of the conference report would amend.

For these reasons, the Chair holds that section 208 of the conference report is germane to the House-passed bill and overrules the point of order.

The portion of the conference report relevant to the second point of order was as follows:

SEC. 702. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGRAMS.

(a) PAYMENT.—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act, make a $50 payment to each individual, who for the month of March, 1975, was entitled (without regard to sections 202(j)(1) and 223(b) of title II of the Social Security Act and without the application of section 5(a)(ii) of the Railroad Retirement Act of 1974) to—

(1) a monthly insurance benefit payable under title II of the Social Security Act,

(2) a monthly annuity or pension payment under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or

(3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act; . . .

POINT OF ORDER

MR. CONABLE: Mr. Speaker, I have another point of order against the conference report.[19]

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

MR. CONABLE: I make a point of order against the conference report on the ground that it contains matter which is in violation of clause 7, rule XVI.

The nongermane matter I am specifically referring to is that section of the report dealing with a rebate to social security recipients. This section appears as section 702 of the conference report, on page 55.

Mr. Speaker, I listened very carefully to the Chair's ruling on my earlier point of order. There is clearly nothing

19. A synopsis of this point of order: To a House bill containing several diverse amendments to the Internal Revenue Code to provide individual and business tax credits, a portion of a Senate amendment in the nature of a substitute contained in a conference report which authorized appropriations for special payments to social security recipients was not related to tax benefit provisions in the Internal Revenue Code and was ruled out as not germane. See 121 CONG. REC. 8911, 8912, 8931, 94th Cong. 1st Sess., Mar. 26, 1975.

in the House bill dealing with social security matters. There is nothing relating to a trust fund or the relationship of trust fund and general fund.

For that reason, Mr. Speaker, it seems to me that this, if not the earlier one, is clearly outside the scope of the House bill.

THE SPEAKER: Does the gentleman from Oregon (Mr. Ullman) desire to be heard on the point of order?

MR. ULLMAN: Yes, Mr. Speaker, I would like to speak in opposition to the point of order.

In the House-passed bill there was a provision very specifically rebating funds to individuals under title I. The measure included in this conference report does not affect the trust fund in any way. It does not in any way amend the Social Security Code.

In the statement of the managers we say the following:

> The conferees emphasize that these payments are not Social Security benefits in any sense, but are intended to provide to the aged, blind, and disabled a payment comparable in nature to the tax rebate which the bill provides to those who are working.

Therefore, in a broadly based bill such as this kind, where various kinds of rebates are passed along to different segments of the public, it seems to me that this is perfectly within the scope of the bill and should be determined germane to the bill.

MR. CONABLE: Mr. Speaker, if I may add further, these recipients of rebates are recipients of rebates solely by virtue of their entitlement to social security benefits. We are using that device to designate who will receive these benefits. It is clearly outside the scope of a general tax law.

THE SPEAKER: The Chair is prepared to rule.

Title V of the Senate amendment in the nature of a substitute "Miscellaneous Provisions" contained sections which did not amend the Internal Revenue Code and which could not be considered germane to any portion of the House-passed bill or the bill as a whole. Specifically, section 501 of the Senate amendment providing a special payment to recipients of benefits under certain retirement and survivor benefit programs, a modification of which was incorporated into section 702 of the conference report, is not germane to the House-passed bill. That provision is not related to the Internal Revenue Code and would provide an authorization of appropriations from the Treasury.

For this reason, the Chair holds that the section 702 of the conference report is not germane to the House bill and sustains the point of order.

MOTION OFFERED BY MR. CONABLE

MR. CONABLE: Mr. Speaker, I move the House reject the nongermane amendment covered by my point of order.

THE SPEAKER: The gentleman from New York is recognized for 20 minutes in support of his motion.

The motion to reject was defeated on a voice vote.

The provisions in title VII pertinent to the third point of order were as follows:

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. CERTAIN UNEMPLOYMENT COMPENSATION.

(a) AMENDMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974.—Section 102(e) of the Emergency Unemployment Compensation Act of 1974 is amended—

(1) in paragraph (2) thereof by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (3), the amount"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Effective only with respect to benefits for weeks of unemployment ending before July 1, 1975, the amount established in such account for any individual shall be equal to the lesser of—

"(A) 100 percentum of the total amount of regular compensation (including the dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

"(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b)(i)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year."

(b) MODIFICATION OF AGREEMENTS.—The Secretary of Labor shall, at the earliest practicable date after the enactment of this Act, propose to each State with which he has in effect an agreement entered into pursuant to section 102 of the Emergency Unemployment Compensation Act of 1974 a modification of such agreement designed to cause payments of emergency compensation thereunder to be made in the manner prescribed by such Act, as amended by subsection (a) of this section. Notwithstanding any provision of the Emergency Unemployment Compensation Act of 1974, if any such State shall fail or refuse, within a reasonable time after the date of the enactment of this Act, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement. . . .

POINT OF ORDER

MR. FRENZEL: Mr. Speaker, I make a point of order against the conference report.[20]

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

MR. FRENZEL: Mr. Speaker, I make a point of order against the conference report on the ground that it contains matter which is in violation of the provisions of clause 7 of rule XVI. The nongermane matter that I am specifically referring to is that section of the report dealing with section 701, providing certain unemployment compensation benefits.

THE SPEAKER: Does the gentleman desire to be heard any further?

MR. FRENZEL: I do, Mr. Speaker.

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20. A synopsis of this point of order: To a House bill amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a portion of a Senate amendment in the nature of a substitute contained in a conference report providing certain unemployment compensation benefits—a matter not within the class of tax benefits contained in the House bill—was conceded to be not germane. See 121 CONG. REC. 8911, 8933, 94th Cong. 1st Sess., Mar. 26, 1975.

I have looked over the House bill, and I can find no reference therein to unemployment compensation benefits. As nearly as I can figure it, this particular section came from a Senate nongermane amendment and has no relation whatsoever to anything that was contained in the House bill.

I, therefore, say the point of order should be sustained.

THE SPEAKER: Does the gentleman from Oregon desire to be heard upon the point of order?

MR. ULLMAN: Mr. Speaker, I concede the point of order.

THE SPEAKER: The gentleman from Oregon concedes the point of order, and the point of order is sustained.

Does the gentleman from Minnesota (Mr. Frenzel) desire to offer a motion?

MR. FRENZEL: Mr. Speaker, I do not.

The provisions of the conference report pertinent to the final point of order were as follows:

SEC. 602. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS.

(a) REPEAL OF MINIMUM DISTRIBUTION EXCEPTION TO REQUIREMENT OF CURRENT TAXATION OF SUBPART F INCOME.—

(1) REPEAL OF MINIMUM DISTRIBUTION PROVISIONS.—Section 963 (relating to receipt of minimum distributions by domestic corporations) is hereby repealed.

(2) CERTAIN DISTRIBUTIONS BY CONTROLLED FOREIGN CORPORATIONS TO REGULATED INVESTMENT COMPANIES TREATED AS DIVIDENDS.—Subsection (b) of section 851 (relating to limitations on definition of regulated investment company) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (2), there shall be treated as dividends amounts included in gross income under section 951(a)(1)(A)(i) for the taxable year to the extent that, under section 959(a)(1), there is a distribution out of the earnings and profits of the taxable year which are attributable to the amounts so included." . . .

POINT OF ORDER

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I make a point of order[1] against the conference report on the ground that it contains matter which is in violation of the provisions of clause 7 of rule XVI. The nongermane matter that I am specifically referring to is that section of the report dealing with taxation of earnings and profits of controlled foreign corporations and their shareholders, in section 602 as reported by the committee of conference.

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1. A synopsis of the fourth point of order: To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide certain individual and business tax credits, a new section of a Senate amendment in the nature of a substitute contained in a conference report which dealt with earnings and profits of controlled foreign corporations and which included limitations on the use of foreign tax credits from foreign oil-related income was held germane. See 121 CONG. REC. 8909, 8933, 8934, 94th Cong. 1st Sess., Mar. 26, 1975.

THE SPEAKER: Does the gentleman from Wisconsin desire to be heard on his point of order?

MR. STEIGER of Wisconsin: I do, Mr. Speaker.

As the Speaker well knows, I am sure, from listening carefully to the explanations regarding previous points of order, at no point during the consideration of the House-passed bill is there any mention of foreign taxation and the dealings of foreign taxes insofar as American corporations and their subsidiaries are concerned.

Title I of the 1975 tax bill dealt with the refund for 1974 taxes. Title II dealt with reductions in individual income taxes. Title III dealt with certain changes in business taxes, the title which dealt with the investment tax credit or income tax total, particularly as related to small business.

This particular provision, Mr. Speaker, in no way deals with a matter that was covered, mentioned, or dealt with by the bill that is presented to the House, or voted upon by the House.

Therefore, Mr. Speaker, I respectfully urge that the point of order be sustained.

THE SPEAKER: Does the gentleman from Oregon desire to be heard on the point of order?

MR. ULLMAN: Mr. Speaker, I do. I wish to speak against the point of order.

Mr. Speaker, the bill that the House passed had a great many diverse sections in it; it had credits. The matter that has been raised is an amendment to the Internal Revenue Code very clearly, and much of it is in the way of a credit. We have dealt with credits here both for individuals and for corporations in the bill that the House passed.

It seems to me that in a bill of this scope and in a bill that deals as broadly with tax credits and matters such as this that does involve an amendment to the Internal Revenue Code, it is very clearly within the province of the bill, and should be ruled germane.

THE SPEAKER: The Chair is prepared to rule.

For the reasons stated in the opinion of the Chair on a similar point of order made by the gentleman from New York (Mr. Conable) and for the reasons stated by the gentleman from Oregon, the Chair overrules the point of order.

Subsequent Inclusion of Nongermane Provision

§ 25.22 A conference report having been ruled out of order because the conferees had agreed on a provision which was outside the scope of the differences before them, the House proceeded to consider the Senate amendment and concurred therein with a germane amendment which included the same provision as that subject to the point of order when incorporated in the conference report.

On Dec. 11, 1967,[2] Mr. H. R. Gross, of Iowa, raised a point of order against the conference report on H.R. 7977, the Postal Revenue and Federal Salary Act of 1967.

MR. GROSS: Mr. Speaker, I make a point of order against the conference report on the grounds that the House managers exceeded their authority and did not confine themselves to the differences committed to them, in violation of the rules and precedents of the House of Representatives.

The House bill, in section 107(a) provided a minimum charge of 3.8 cents for bulk third-class mail effective January 7, 1968. Section 107(a) of the Senate amendment provided a two-step minimum charge—the first of 3.6 cents effective January 7, 1968, and a second 4-cent rate effective January 1, 1969.

The differences committed to the conferees with respect to this postage rate and the effective dates for this rate were: A rate range between 3.6 cents and 4 cents; a January 7, 1968, effective date for a one-rate charge with no further rate provided; and January 7, 1968, and January 1, 1969, effective dates for any two-rate charges.

The conference report contains a two-rate charge—the first, 3.6 cents, effective January 7, 1968; the second, 4 cents, effective July 1, 1969.

The July 1, 1969, effective date for a second rate goes beyond the disagreements confided to the conferees. By agreeing to any effective date for a second rate beyond January 1, 1969, the House managers have clearly exceeded their authority. . . .

THE SPEAKER:[3] Does the gentleman from New York desire to be heard on the point of order?

MR. [THADDEUS J.] DULSKI [of New York]: Mr. Speaker, I concede the point of order.

THE SPEAKER: The Chair sustains the point of order.

The Clerk will report the Senate amendment. . . .

MR. DULSKI (during the reading): Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with and that it be printed in full in the Record at this point.

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

There was no objection.

MR. DULSKI: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Dulski moves that the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 7977) and concur therein with an amendment as follows:
>
> In lieu of the matter proposed to be inserted by the Senate amendment insert the following: . . .

The provision in the conference report against which Mr. Gross addressed his point of order was included as § 107(a) of Mr. Dulski's substitute for the Senate

2. 113 CONG. REC. 35811–33, 35841, 90th Cong. 1st Sess.

3. John W. McCormack (Mass.).

amendment.[4] After the House debated Mr. Dulski's motion, the following resulted:

THE SPEAKER PRO TEMPORE:[5] The question is on the motion offered by the gentleman from New York [Mr. Dulski] that the House recede from its disagreement to the amendment of the Senate and concur therein, with an amendment. . . .

The question was taken; and there were—yeas 327, nays 63, not voting 43. . . .

Order of Taking Points of Order Against Conference Report

§ 25.23 Where the Chair expects multiple points of order against a conference report, he may in his discretion require all points of order which allegedly violate one rule (*e.g.*, Rule XXVIII clause 3) to be stated at the same time, so that he can rule on the several arguments in an order which will accommodate the schedule of the House and, where possible, save time.

On Sept. 28, 1976,[6] after the Speaker had overruled a Rule XXVIII clause 6 point of order against a conference report which would have, if sustained, vitiated the entire report, he entertained seven points of order under Rule XXVIII clause 3, and after hearing argument on some seven points in contention, found that each allegation of a scope violation was unfounded. The House then proceeded to the consideration of the conference report under the hour rule, with the hour being equally divided between the manager of the conference report and the minority.

POINT OF ORDER

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I make a point of order against the conference report.

THE SPEAKER:[7] The gentleman will state it.

MR. FISH: Mr. Speaker, I make a point of order against the conference report on the grounds that in section 208 the managers have exceeded their authority in several instances and in section 101 in one instance, and the report, therefore, is in violation of clause 3 of rule XXVIII.

Mr. Speaker, so as not to burden the House with unnecessary discussion, I will ask the Chair to rule on these

4. See 113 CONG. REC. 35824, 90th Cong. 1st Sess., Dec. 11, 1967.
5. Omar T. Burleson (Tex.).
6. 122 CONG. REC. 33020, 94th Cong. 2d Sess.
7. Carl Albert (Okla.).

questions of scope one at a time, because as soon as one is upheld, consideration of the others will not be needed.

THE SPEAKER: The Chair must state that when more than one point of order is going to be made under a particular House rule, it is proper under the precedents for the Chair to require all such points of order to be stated and for the Chair then to make his decision on the separate points of order, and the Chair intends to follow that procedure.

MR. FISH: Very good, Mr. Speaker.

THE SPEAKER: The Chair will hear all the arguments of the gentleman.

Sustaining of Point of Order as Affecting Consideration of Amendments in Disagreement

§ 25.24 When a conference report is ruled out of order, the bill and amendments are again before the House and, the stage of disagreement having been reached, motions relating to amendments and further conference are in order.

On Dec. 14, 1971,[8] Mr. H. R. Gross, of Iowa, raised a point of order against the conference report on S. 2891, to amend and extend the Economic Stabilization Act of 1970, on the ground that the conferees had exceeded their authority. After the point of order was discussed, the following occurred:

THE SPEAKER:[9] The Chair is ready to rule. . . .

The Chair is compelled to hold that the conferees, by deleting the word "statutory" in the Senate bill, have broadened the coverage of the comparability adjustments beyond the scope of the Senate bill or the House amendment. The Chair therefore sustains the point of order.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, I move that the House insist on its amendments to the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970, and request a further conference with the Senate thereon.

The motion was agreed to.[10]

Senate Practice Where Point of Order Is Sustained Against Conference Report

§ 25.25 In the Senate, if a point of order is sustained against a conference report that contains new matter not committed to the conference, the report is automatically recommitted to the conference,

8. 117 CONG. REC. 46779, 46780, 92d Cong. 1st Sess.

9. Carl Albert (Okla.).

10. See also 97 CONG. REC. 12702–04, 82d Cong. 1st Sess., Oct. 5, 1951; 81 CONG. REC. 9376–79, 75th Cong. 1st Sess., Aug. 19, 1937; and 80 CONG. REC. 7790–92, 74th Cong. 2d Sess., May 22, 1936.

if the Senate is acting first on the report.

In the House, where a conference report is ruled out on a point of order, the amendments in disagreement remain before the body for disposition. The Senate practice differs, as shown by the proceedings of Aug. 12, 1982.[11]

MR. [HOWARD H.] BAKER [Jr., of Tennessee]: Mr. President, I submit a report of the committee of conference on H.R. 5930 and ask for its immediate consideration.

THE PRESIDING OFFICER:[12] The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for 5 years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees. . . .

MRS. [NANCY L.] KASSEBAUM [of Kansas]: Mr. President, I raise a point of order under rule XXVIII that the conferees have exceeded their authority by including new matter not committed to them by either House.

THE PRESIDING OFFICER: Rule XXVIII states:

> Conferees shall not insert in the report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report.

New matter has been inserted. The point of order is valid.

MR. [ROBERT W.] PACKWOOD [of Oregon]: Mr. President, I take appeal from the decision of the Chair and I ask for the yeas and nays. . . .

THE PRESIDING OFFICER: Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 38. . . .

So the ruling of the Chair was sustained as the judgment of the Senate.

THE PRESIDING OFFICER: The conference report is recommitted.

Senate Application of "Byrd Rule"

§ 25.26 In the Senate, under the so-called "Byrd rule" (section 13 of the Budget Act), a provision which produces no measurable changes in outlays or revenues is not necessarily extraneous.

The provision in the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1994, which was targeted by a point of order by Senator John C. Dan-

11. 128 CONG. REC. 20886, 20897, 97th Cong. 2d Sess.
12. H. John Heinz III (Pa.).

forth, of Missouri, related to a program to provide pediatric immunizations under the Medicaid program. The point of order, the Chair's response, and the vote taken on the motion to sustain the Chair's ruling are carried here.[13]

MR. DANFORTH: Mr. President, I am concerned about the state of the Byrd rule, which is a rule that I think is extremely important in the Senate, and concerned that budgetary effects which are incapable of estimation have been used to justify what I would think to be extraneous provisions in this bill, I would like now to make two inquiries of the Chair.

First, is a provision of the budget reconciliation bill extraneous under section 313(b)(1)(A) of the Budget Act, the Byrd rule, if it produces no changes in outlays or revenues that can be estimated?

THE PRESIDING OFFICER:[14] Such a provision would not necessarily be out of order.

MR. DANFORTH: Would not necessarily be out of order.

The second question is: If the impact on outlays or revenues cannot be estimated, are they merely incidental to a nonbudgetary component under section 313(b)(1)(D) of the Byrd rule?

THE PRESIDING OFFICER: Once again, that would not necessarily be the case.

MR. DANFORTH: Mr. President, I now wish to raise a point of order, and do raise a point of order under sections 313(b)(1)(A) and 313(b)(1)(D) of the Budget Act, known as the Byrd rule; that title XIX, section 1928(d)(4)(B) in the conference agreement, section 13631(b) is extraneous to the reconciliation bill because it produces no change in the outlays or revenues or produces changes in outlays or revenues which are merely incidental to the nonbudgetary components of the provision.

THE PRESIDING OFFICER: The point of order is not well taken.

MR. DANFORTH: Mr. President, I appeal the ruling of the Chair.

THE PRESIDING OFFICER: Under the previous order, there is a half-hour equally divided on the appeal.

MR. DANFORTH: Mr. President, I ask for the yeas and nays.

THE PRESIDING OFFICER: Is this a sufficient second?

There is a sufficient second.

The yeas and nays were ordered. . . .

MR. [JAMES R.] SASSER [of Tennessee]: Mr. President, I yield myself such time as I may consume, and I will be very brief.

Mr. President, first, with regard to the Byrd rule, we worked very hard and very faithfully over a period of well over a week in going over this bill to try to clarify and remove items that might be subject to the Byrd rule.

As the distinguished ranking member indicated, I think over 150 items were removed from the reconciliation instrument here, because it was felt that they would be subject to the Byrd rule. And we furnished our friends on the other side of the aisle, the distinguished staff colleagues on the Senate Budget Committee, copies of the draft

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13. 139 CONG. REC. 19763, 19764, 19767, 103d Cong. 1st Sess., Aug. 6, 1993.

14. Herbert H. Kohl (Wis.).

language so that we would each know where we were, and there would be no surprises as we worked together to try to expunge the Byrd rule problems from the reconciliation conference report. . . .

THE PRESIDING OFFICER: All time has been yielded back.

The question is, is the appeal of the Senator from Missouri well taken? An affirmative vote of three-fifths of the Senators duly chosen and sworn is required for the appeal to be well taken.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 43, nays 57. . . .

Budget Act Point of Order in Senate

§ 25.27 Although a point of order under section 313 of the Budget Act is not debatable in the Senate, under section 904(d) of the Budget Act an appeal of a ruling thereon is debatable for one hour, equally divided between and controlled by the moving party and the bill manager.

On Aug. 6, 1993, during the debate on the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1994, a point of order was directed to a provision imposing domestic content requirements on U.S. cigarette manufacturers was held by the Presiding Officer not to be "extraneous" and subject to a point of order under the Byrd rule, as expressed in section 313 of the Budget Act.

While under section 313 a point of order is not subject to debate, an appeal from the decision of the Presiding Officer under section 904 is subject to one hour of debate.

To overturn the Chair's decision, a vote of three-fifths of the Members duly chosen and sworn is required.

A relevant portion of the proceedings is carried herein.[15]

MR. [HANK] BROWN [of Colorado]: . . . Mr. President, I raise a point of order that section 1106(a) is extraneous and violates section 313(b)(1)(D) of the Congressional Budget Act of 1974.

It violates it because it produces changes in the revenues that are clearly only incidental to the nonbudgetary components of the provision. The reality is this imposes the first domestic content provision that applies to exports. It is a tiny fraction of revenue—actually not even reducing the deficit—but only one-fourth of 1 percent of the tobacco——

THE PRESIDING OFFICER:[16] If the Senator will withhold, the Chair wishes

15. 139 CONG. REC. 19780–83, 103d Cong. 1st Sess., Aug. 6, 1993.
16. Joseph I. Lieberman (Conn.).

to advise the Senator the point of order is not debatable. So if the Senator is setting a predicate for offering a point of order, that is acceptable. If he is debating a point of order already offered, it is not.

MR. BROWN: I do raise that point of order and ask the Chair to rule on section 1106(a).

THE PRESIDING OFFICER: The Chair will not sustain the point of order. The point of order is not sustainable.

MR. BROWN: Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

THE PRESIDING OFFICER: Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

THE PRESIDING OFFICER: The vote will be taken by the yeas and nays.

MR. [WENDELL H.] FORD [of Kentucky]: Mr. President, as I understand it we have 30 minutes? Was that the gentleman's agreement? Or what is the time agreement?

THE PRESIDING OFFICER: The Chair advises the Senate the time available for debate will be 1 hour unless changed by unanimous consent. . . .

MR. [PAUL S.] SARBANES [of Maryland]: Mr. President, we ask unanimous consent the time on the appeal be limited to 10 minutes equally divided, 5 to a side.

THE PRESIDING OFFICER: Hearing no objection, that will be the order. . . .

MR. FORD: Mr. President, the Byrd rule under which my colleague from Colorado has made his appeal is very important. The individual's name who is carried on this Byrd rule does it because it is important to this institution.

Mr. President, let me explain to my colleagues, while I believe the Parliamentarian after careful review—and I underscore careful—has advised the Chair that this provision does not violate that Byrd rule.

This provision raises some $29 million over a 5-year period for deficit reduction.

The CBO estimate for this provision analyzed each part of the provision and concluded that each had a budgetary impact on the $29 million in savings achieved by this provision. That is the Byrd rule question, not the underlying argument. . . .

I urge my colleagues to uphold the ruling of the Chair. . . .

THE PRESIDING OFFICER:[17] All time has expired. The question is, Is the appeal of the Senator from Colorado well taken? An affirmative vote of three-fifths of the Senators duly chosen and sworn is required to overturn the decision of the Chair.

MR. BROWN: Mr. President, I ask for the yeas and nays.

THE PRESIDING OFFICER: Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

THE PRESIDING OFFICER: The clerk will call the roll. . . .

If there are no other Senators desiring to vote, on this vote the yeas are 43, the nays are 57. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the appeal is rejected.

MR. [GEORGE J.] MITCHELL [of Maine]: Mr. President, I move to recon-

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17. Charles S. Robb (Va.).

sider the vote by which the appeal was rejected.

MR. [PATRICK J.] LEAHY [of Vermont]: I move to lay that motion on the table.

The motion to lay on the table was agreed to.

§ 26. Waiving Points of Order

Resolution Waiving All Points of Order

§ 26.1 A conference report may be called up pursuant to the provisions of a resolution waiving points of order thereon.

On July 31, 1963,[18] the following took place in the House:

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 453 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill, H.R. 5207, to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, and for other purposes, and all points of order against the conference report are hereby waived. . . .

THE SPEAKER:[19] The question is on the resolution. . . .

The question was taken; and there were—yeas 234, nays 166, not voting 32. . . .

So the resolution was agreed to.

§ 26.2 Where conferees on a general appropriation bill bring back all amendments within the conference report, a special order providing a blanket waiver may be employed to protect the report from a variety of points of order.

The form of resolution carried here[20] is the most frequently utilized form since it not only protects the report from all points of order, both against consideration and content, but waives the reading of the report. Such a broad waiver protects the contents of the report from challenge because of possible violations of scope, the inclusion of legislation, and unauthorized appropriations or nongermane provisions; and in addition waives the three-day availability rule.

MR. [MARTIN] FROST [of Texas]: Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 301

18. 109 CONG. REC. 13816, 13822–25, 88th Cong. 1st Sess.

19. John W. McCormack (Mass.).

20. See 139 CONG. REC. 28520, 103d Cong. 1st Sess., Nov. 10, 1993.