Mr. Giaimo moves that the House concur in the Senate amendment to the House amendment.

THE SPEAKER PRO TEMPORE: The gentleman from Connecticut (Mr. Giaimo) is recognized for 1 hour.

MR. GIAIMO: Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. Latta), for the purposes of debate only, pending which I yield myself such time as I may consume.

§ 29. Disposition of Reports and Amendments in Disagreement

A conference report may reflect an agreement to all amendments submitted to conference, some of the amendments (a partial conference report or partial agreement), or none of the amendments (a report of total disagreement). When the conferees report a partial agreement, the amendments remaining in disagreement are considered after the consideration of the report itself.(4) However, in unusual circumstances, these amendments have been considered before the vote on the conference reports.(5) Since the 93d Congress, the "three-day rule"(6) has applied to reports of total disagreement as well as amendments in disagreement accompanying a partial conference report. This includes a disagreement reported by the conferees to an amendment in the nature of a substitute.(7) A two-hour availability requirement was added to Rule XXVIII in the 94th Congress.(8) The older practice was to consider amendments in disagreement the same day a report was submitted.(9)

4. § 29.3, infra.
5. § 29.4, infra.
6. Rule XXVIII clause 2(a), *House Rules and Manual* § 912a (1997). This rule delays the consideration of a conference report until the third day after the report and statement of the managers have been filed in the House, and requires that the report and statement be printed in the daily edition of the *Congressional Record* for the day on which they are filed (except during the last six days of a session). See generally § 27, supra.
7. Rule XXVIII clause 2(b)(1), *House Rules and Manual* § 912b (1997), as amended pursuant to H. Res. 1153, § 2(b)(2), 92d Cong. 2d Sess. (Oct. 13, 1972). The provisions of this clause became effective immediately prior to the beginning of the 93d Congress. See § 29.1, infra.
8. 122 CONG. REC. 4625, 94th Cong. 2d Sess., Feb. 26, 1976 (H. Res. 868). Rule XXVIII clause 2(a), *House Rules and Manual* § 912a (1997); Rule XXVIII clause 2(b)(1), *House Rules and Manual* § 912b (1997).
9. See § 29.12, infra, and 107 CONG. REC. 8892–94, 87th Cong. 1st Sess., May 25, 1961, for examples of the old

Each amendment reported in disagreement from a conference committee may be debated under the hour rule.[10] Since the beginning of the 93d Congress, control of this debate has been divided between the majority and minority parties[11] and, since the 94th Congress, may be divided three ways to give an opponent time if both the majority and minority managers support the motion offered by the floor manager.[12]

Through the first session of the 93d Congress, the rules of the House[13] provided for a separate vote (a two-thirds vote) on any Senate amendment which, if offered in the House, would be subject to a point of order on a question of germaneness. If the amendment were held not to be germane under that test, its adoption required a two-thirds vote. The mechanism for permitting points of order against provisions in a conference report or an amendment reported in disagreement which would have been subject to a point of order if offered in the House was shifted to Rule XXVIII clauses 4 and 5 in 1974. If the Chair sustains such a point of order, the amendment is not stricken but a motion to reject the provision is then in order. This new rule permits separate votes on parts of a Senate amendment in the nature of a substitute if the Chair rules the provision to come within the rule. However, the general practice of requiring consideration of Senate amendments in their entirety still applies, and the rejection of any section of any amendment pursuant to these rules results in the rejection of the entire amendment.[14]

When the amendment in disagreement is a House amendment, the House may recede therefrom and the bill returns to the position it had when last considered by the

procedure whereby amendments accompanying reports in total disagreement were considered immediately after the report was filed.

10. § 29.18, infra.

11. § 29.22, infra. See *Parliamentarian's Note* in § 29.19, infra.

12. Rule XXVIII clause 2(b)(1), *House Rules and Manual* § 912(b) (1997).

13. See Rule XX clause 1, *House Rules and Manual* § 827 (1971), adopted as part of the Legislative Reorganization Act of 1970, adopted Jan. 22, 1971. For historical treatment, see *House Rules and Manual* §§ 827, 913c (1997).

14. The reader is urged to consult later editions of this volume as they are published for further modifications of the rules concerning this subject.

Senate.[15] However, in accordance with Jefferson's Manual, the House may not recede from its own amendment and concur therein with an amendment.[16]

When considering a Senate amendment reported from conference in disagreement, the House is not bound by the restrictions placed on the conferees, and it may recede and concur in the amendment with a germane amendment which is beyond the range of disagreement between the House and Senate versions.[17] The House may concur in a non-germane Senate amendment, and by so doing makes that matter germane to the House bill, and this matter may be included in a further conference report on that bill.[18] Also, where the conferees require specific additional authority to agree to a Senate legislative amendment to a House general appropriation bill, when such an amendment is reported from conference in disagreement the House may consider it[19] and may concur therein with an amendment which adds new legislation, provided that this amendment is germane to the Senate amendment.[20] The House may also agree to an amendment reported from conference in disagreement which carries an appropriation on a bill other than a general appropriation bill.[1]

An example of the wide latitude the House may exercise when considering an amendment reported from conference in disagreement occurred when the House acted to incorporate many legislative provisions into the last general appropriation bill of a session.[2]

Three-day Rule

§ 29.1 Rule XXVIII clause 2(b)[3] requires that all amendments reported from conference in disagreement as well as reports in complete disagreement and the joint statement

15. § 29.47, infra.
16. *House Rules and Manual*, Jefferson's Manual § 526 (1997). See Ch. 32, § 7.15, supra. See, generally, Ch. 32, §§ 7–12, supra.
17. §§ 29.31, 29.32, infra.
18. § 29.30, infra.
19. § 29.33, infra.
20. § 29.35, infra.
1. See § 29.33, infra.
2. See § 29.38, infra.
3. *House Rules and Manual* § 912b (1997).

of the conferees must be printed in the Record on the day they are filed and be available for three calendar days before the amendment(s) in disagreement may be considered in the House.

On Oct. 13, 1972,[4] Mr. B. F. Sisk, of California, by direction of the Committee on Rules called up House Resolution 1153, to amend the rules of the House. He explained that section 2 of House Resolution 1153 accomplished two objectives:

> First, it changes the wording of the 3-day rule on conference reports and the 3-day rule on committee reports to make it clear that what we mean is 3 days and not 4. As the rules are presently interpreted, a conference report filed on a Monday is not eligible for floor consideration until Friday. We think this is unreasonable. So we suggest changing the language of the rule to make sure that a conference report filed on Monday could be considered on Thursday. Surely, this should give Members enough time to study the report. . . .
>
> Section 2 of the resolution also takes care of a problem that arose recently concerning situations in which House conferees report they cannot come to an agreement with the Senate. The Chair has ruled that in situations of this kind, the normal rules on conference reports do not apply. The report of the conferees need not be available for 3 days before consideration; the report need not be available on the floor; and the debate time does not have to be equally divided for and against.
>
> The Committee on Rules believes that all reports of conferees should be subject to these conditions, even when the conferees have not come to an agreement. House Resolution 1153 will accomplish this goal. . . .

Consideration of the resolution was concluded in the following manner:

> MR. SISK: Mr. Speaker, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Sisk: On page 8, immediately below line 5 insert the following:
>
> "Sec. 6. The amendments made by the foregoing sections of this resolution shall become effective immediately before noon on January 3, 1973." . . .
>
> THE SPEAKER:[5] The question is on the amendment offered by the gentleman from California (Mr. Sisk.).
>
> The amendment was agreed to.
>
> MR. SISK: Mr. Speaker, I move the previous question on the resolution.
>
> The previous question was ordered.
>
> THE SPEAKER: The question is on the resolution. . . .
>
> The question was taken; and there were—yeas 281, nays 57, not voting 93. . . .
>
> So the resolution was agreed to. . . .

4. 118 CONG. REC. 36013–15, 36021–23, 92d Cong. 2d Sess.

5. Carl Albert (Okla.).

A motion to reconsider was laid on the table.

Waiver of Three-day Rule

§ 29.2 Prior to the expiration of three calendar days (not including Saturdays, Sundays, and legal holidays) from the filing of a conference report in total disagreement, the report and Senate amendment in disagreement may be considered if the House waives Rule XXVIII clause 2(b).

On June 29, 1973,[6] Mr. Wilbur D. Mills, of Arkansas, requested unanimous consent for the immediate consideration of the conference report and amendment reported from conference in disagreement on H.R. 8410, providing for a continuation of a temporary increase in the public debt limit. Speaker Carl Albert, of Oklahoma, recognized Mr. William A. Steiger, of Wisconsin, to pose a parliamentary inquiry:

> Mr. Speaker, my parliamentary inquiry is this: that if an objection is heard to the request made by the gentleman from Arkansas, is it in order for the gentleman from Arkansas, the distinguished chairman of the Committee on Ways and Means, to move to suspend the rules to bring this to the floor of the House?
>
> THE SPEAKER: The Chair will state that the Chair has the authority to recognize the gentleman for such a motion.

Amendments in Disagreement Considered—After Consideration of Conference Report

§ 29.3 When a conference report is being considered, the vote first occurs on agreeing to the conference report; the amendments reported therein in disagreement are reported and acted on thereafter.

On Dec. 24, 1963,[7] the House was considering the conference report and amendments still in disagreement on H.R. 9499, foreign aid appropriations.

> MR. [JOHN J.] RHODES of Arizona: Mr. Speaker, I would first like to propound a parliamentary inquiry, if I may.
>
> THE SPEAKER:[8] The gentleman will state his parliamentary inquiry.
>
> MR. RHODES of Arizona: Mr. Speaker, it is my understanding that the first vote which will occur will be on the conference report.
>
> THE SPEAKER: That is correct.

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6. 119 CONG. REC. 22381, 22382, 22384, 93d Cong. 1st Sess.

7. 109 CONG. REC. 25532, 88th Cong. 1st Sess.

8. John W. McCormack (Mass.).

MR. RHODES of Arizona: And amendment No. 20 which is the so-called wheat amendment is not part of the conference report?

THE SPEAKER: That is correct. That will be considered by the House separately.

MR. RHODES of Arizona: If I may inquire further, Mr. Speaker, amendment No. 20 will be brought up in disagreement and on proper motion by the gentleman from Louisiana, a separate vote will occur at that time on amendment No. 20.

THE SPEAKER: The Chair understands that a motion will be made with respect to that amendment which is in disagreement.

— *Prior to a Vote on a Conference Report*

§ 29.4 Where adoption of a conference report is postponed pursuant to a special order putting over roll call votes to another day, the House proceeds immediately to the consideration of amendments reported back in disagreement.

On Sept. 18, 1962,[9] Mr. Jamie L. Whitten, of Mississippi, called up the conference report on H.R. 12648, agriculture appropriations, fiscal 1963. After debate was held on the report, the following took place:

MR. WHITTEN: Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[10] The question is on the conference report.

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

MR. [RALPH F.] BEERMANN [of Nebraska]: Mr. Speaker, I objected to the vote on the ground that a quorum is not present.

THE SPEAKER PRO TEMPORE: Further proceedings on this matter will be deferred until tomorrow.

The Clerk will report the first amendment in disagreement.

The House then proceeded to dispose of all the amendments in disagreement.

Consideration of Amendment in Disagreement Before Proceeding to Conference Report (Senate)

§ 29.5 In the Senate, where a conference report was pending and the conferees had reported certain amendments in disagreement, the Senate by unanimous consent amended one of those amendments, then proceeded to adopt the conference re-

9. 108 CONG. REC. 19708, 19714, 87th Cong. 2d Sess.

10. Carl Albert (Okla.).

port, and finally disposed of the remaining amendments in disagreement.

Where a conference report on a continuing appropriation bill had been rejected by the Senate, perhaps because there had been no opportunity to offer and vote on an amendment involving a cap on federal comparability pay, the Majority Leader asked that the vote on adoption of the conference report be reconsidered and then suggested a procedure to allow a vote on the controversial provision by attaching it as an amendment to one of the amendments in disagreement. The request of Majority Leader Robert C. Byrd, of West Virginia, together with the proceedings of Dec. 13, 1980,[11] that followed, are carried here.

So the conference report (H.J. Res. 637) was rejected. . . .

MR. ROBERT C. BYRD: Mr. President, a conference report cannot be amended. It can only be rejected or adopted. If it is rejected it can only go back to conference. In the event both bodies agree to have another conference, in which case all amendments that have not already been receded from by the House would again be up for negotiation.

The House has already adopted the conference report, and in so doing released its conferees. . . .

. . . [A]s I say, the Senate can only do two things: That is, adopt the conference report or reject it. It cannot amend the conference report. But the Senate can, after adopting the conference report, vote to amend one of the amendments in disagreement, and there are several there. That is what I propose to do . . . .

Mr. President, I ask unanimous consent that the Senate proceed to vote on the motion to reconsider forthwith, and that if the Senate votes to reconsider the vote, which I hope it will do because the decision is wrong at the moment—at the moment the conference report is rejected, but I hope the Senate will vote to reconsider.

I ask unanimous consent that the Senate proceed forthwith to a vote to reconsider, and if the motion to reconsider is agreed to, that I be recognized to offer an amendment on the pay cap, and that there be no more than 10 minutes for debate to be equally divided between the two leaders or their designees. I will not take any of the time. I will yield it to anybody. The Senate would proceed to vote within 10 minutes on the amendment. . . .

THE PRESIDING OFFICER:[12] Is there objection to the unanimous-consent request? Objection is not heard. It is so ordered.

The question is on agreeing to the motion to reconsider the vote by which the conference report was rejected. The yeas and nays have been ordered. . . .

11. 126 CONG. REC. 33985–90, 33994, 96th Cong. 2d Sess.

12. Daniel P. Moynihan (N.Y.).

So the motion to reconsider was agreed to.

THE PRESIDING OFFICER: Under the previous order, the Senator from West Virginia is recognized.

MR. ROBERT C. BYRD: Mr. President, I ask that the clerk state the first amendment is disagreement.

THE PRESIDING OFFICER: The clerk will state the first amendment in disagreement.

The assistant legislative clerk read as follows:

> *Resolved,* That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid resolution, and concur therein with an amendment as follows:
>
> Strike the matter stricken and inserted by said amendment, and insert: "not exceed $500,000,000: *Provided further,* That an overall ceiling for Foreign Military Credit Sales loans and grants of $3,046,187,000 is hereby established provided that of these funds $25,000,000 shall be for Oman and $6,000,000 for Kenya.".

MR. ROBERT C. BYRD: Mr. President, I send to the desk an amendment, which is the language on the pay cap, and which the Senate previously adopted.

THE PRESIDING OFFICER: The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. Robert C. Byrd) proposes an unprinted amendment numbered 1954 to the House amendment to the Senate amendment numbered 7.

MR. ROBERT C. BYRD: Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

THE PRESIDING OFFICER: Without objection, it is so ordered.

The amendment is as follows:

> At the end of the amendment, add the following: "Notwithstanding any other provision of this joint resolution, the provisions of section 306(a), (b), and (d) of H.R. 7593 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials) shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through September 30, 1981, by this or any other Act.". . . .

So the motion of Mr. Robert C. Byrd to concur in the House amendment with UP amendment No. 1954 was agreed to. . . .

THE PRESIDING OFFICER: The question now is, Shall the conference report on House Joint Resolution 637 upon reconsideration be agreed to?

The yeas and nays are automatic.

MR. ROBERT C. BYRD: Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

THE PRESIDING OFFICER: Without objection, it is so ordered.

The question is on the adoption of the conference report.

The conference report was agreed to.

MR. ROBERT C. BYRD: Mr. President, I move to reconsider the vote by which the conference report was agreed to.

MR. [LOWELL P.] WEICKER [Jr., of Connecticut]: Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MR. [WARREN G.] MAGNUSON [of Washington]: Mr. President, I ask

unanimous consent that the Senate concur en bloc in the amendments of the House to amendments of the Senate numbered 23, 24, 33, 34, 64, 89, 90, 103, 109, 111, 134, 136, and 139.

The Senate having disposed of all the amendments in disagreement in a manner consistent with the prior House action, then, anticipating that the amendment added to the House amendment to Senate amendment number 7 might not be accepted by the House, insisted on its amendment and asked a conference thereon.[13] The House, later on that same day, agreed to the request for a further conference.

Availability of Amendments on Floor

§ 29.6 Pursuant to Rule XXVIII clause 2(b)[14] copies of Senate amendments reported from conference in disagreement, as well as conference reports in complete disagreement and accompanying joint statements of the managers, must be available on the floor of the House when any such amendment is considered, unless the amendment is considered under suspension of the rules.

On June 29, 1973,[15] Mr. Wilbur D. Mills, of Arkansas, sought unanimous consent for the immediate consideration of the conference report and amendments in disagreement on H.R. 8410, providing for a continuation of a temporary increase in the public debt limit. Mr. William A. Steiger, of Wisconsin, under a reservation of objection, posed a parliamentary inquiry:

> Mr. Speaker, my parliamentary inquiry is this: that if an objection is heard to the request made by the gentleman from Arkansas, is it in order for the gentleman from Arkansas, the distinguished chairman of the Committee on Ways and Means, to move to suspend the rules to bring this to the floor of the House?
>
> THE SPEAKER:[16] The Chair will state that the Chair has the authority to recognize the gentleman for such a motion.
>
> MR. STEIGER of Wisconsin: Mr. Speaker, further reserving the right to object, may I ask the Chair's indulgence in a question relating to rule XXVIII, clause 2(b), as to whether we have waived that part of the rule XXVIII governing conference reports,

13. 126 CONG. REC. 33996, 96th Cong. 2d Sess.
14. *House Rules and Manual* § 912 (1997).
15. 119 CONG. REC. 22318, 22383, 22384, 93d Cong. 1st Sess.
16. Carl Albert (Okla.).

which says: Nor shall it be in order to consider any such amendment that is to the conference unless copies of the report and accompanying statement together with the text of the amendment are then available on the floor.

THE SPEAKER: The Chair will state that copies of the Senate amendment and conference report are available, but that suspension of the rules will suspend all rules.

Recommendations for Proposed Action

§ 29.7 The rules do not require conference committees to set out in their reports proposed action on amendments in disagreement.

On June 19, 1941,[17] Mr. John J. Cochran, of Missouri, anticipating the consideration of the conference report on H.R. 4590, Department of Interior appropriations, fiscal 1942, with 38 amendments reported in disagreement, posed a parliamentary inquiry in which he noted that the conferees had agreed informally on a motion to recede from the various amendments in disagreement and concur therein with an amendment.

MR. COCHRAN: . . . I feel that the conferees not only on appropriation bills, but on all other bills where amendments are in disagreement and a motion is to be made to recede and concur, with an amendment that has already been agreed to by the conferees, then that motion should be printed in the conference report, so that the Members of the House may have an opportunity to intelligently examine the amendment and take such action as they deem advisable when it is reached.

I am not asking for an immediate decision but I respectfully request, if the Chair is not prepared, that he examine the present rules of the House in reference to conference committees and see if we are in position under existing rules to require conferees to publish motions they propose to make in reference to amendments that are in disagreement in the conference report. I feel that the membership of the House is entitled to such information. . . .

THE SPEAKER:[18] . . . The Chair knows of no ruling of any Speaker or of anything in the rules or precedents of the House, that would require a conference committee to file more than what they considered to be a detailed statement of agreements made in the conference. Explanatory statements are made in the statement accompanying a conference report, but it is, so far as the Chair knows, entirely within the hands of the managers as to what they will include in the statement. The Chair cannot see how, under the rules of the House, members of a conference committee can be forced to include something in their statement that they do not want to include; and that would be

17. 87 CONG. REC. 5352, 77th Cong. 1st Sess.

18. Sam Rayburn (Tex.).

the position of the Chair upon this matter at this time.

It occurs to the Chair, however, that the managers certainly under the rules would have the power to include in the statement accompanying a conference report the additional information suggested by the gentleman from Missouri in his parliamentary inquiry.

Time for Point of Order

§ 29.8 A point of order against a matter reported from conference in disagreement should be made after the conference report is agreed to and when the matter in disagreement is before the House for disposition.

On Oct. 6, 1949,[19] Mr. Michael J. Kirwan, of Ohio, called up the conference report on H.R. 3838, Department of Interior appropriations, fiscal 1950. After the further reading of the managers' statement (which was being read in lieu of the report itself) was dispensed with, the following occurred:

THE SPEAKER:[20] Does the gentleman from Montana [Mr. D'Ewart] desire to make a point of order?

MR. [WESLEY A.] D'EWART [of Montana]: Yes, Mr. Speaker.

THE SPEAKER: The Chair will state to the gentleman, however, that the matter which he is complaining of is not in the conference report. It is a matter still in disagreement between the two bodies. The Chair doubts whether the gentleman's point of order would be proper at this time.

MR. D'EWART: Then, Mr. Speaker, the proper time to take this matter up would be when it comes before the House as a matter in disagreement.

THE SPEAKER: May the Chair inquire of the gentleman whether he intends to make a point of order against the conference report, or against a particular amendment in disagreement?

MR. D'EWART: Against a particular amendment, Mr. Speaker.

THE SPEAKER: The Chair recognizes the gentleman from Ohio [Mr. Kirwan].

MR. KIRWAN: Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER: The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. Kirwan then obtained the consent of the House for the en bloc consideration of several of the amendments in disagreement including Senate amendment No. 132. After the Clerk read Senate amendment No. 131, Mr. Kirwan made this request:

Mr. Speaker, I ask unanimous consent that Senate amendment No. 132 be deleted from my motion.

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

---

19. 95 CONG. REC. 14028, 14034–36, 81st Cong. 1st Sess.

20. Sam Rayburn (Tex.).

There was no objection.

The Clerk continued to read the amendments in disagreement.

At the conclusion of the reading of these specified amendments in disagreement, the following occurred:

MR. KIRWAN: Mr. Speaker, I move that the House recede and concur in these Senate amendments.

The Clerk read as follows:

Mr. Kirwan moves that the House recede from its disagreement to the amendments of the Senate numbered 6, 17, 20, 38, 46, 47, 50, 63, 66, 83, 108, 109, 125, 128, 130, 131, 133, 134, 144, 148, 156, 162, 164, 166, 172, 174, and 189 and concur therein.

MR. D'EWART: Mr. Speaker, I wish to make a point of order against Senate amendment No. 132.

THE SPEAKER: The Chair understands that Senate amendment No. 132 has been deleted [from the unanimous-consent request to recede from disagreement to a series of Senate amendments].

After the disposition of all other amendments in disagreement, Senate amendment 132 was then reported:[1]

THE SPEAKER: The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 132: Page 56, line 7, insert the following: ": *Provided further,* That no part of this or prior appropriations shall be used for construction, nor for further commitments to construction of Moorhead Dam and Reservoir, Mont., or any feature thereof until a definite plan report thereon has been completed, reviewed by the States of Wyoming and Montana, and approved by the Congress."

MR. D'EWART: Mr. Speaker, a point of order.

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

MR. D'EWART: Mr. Speaker I make a point of order against the provision found on page 56 of H.R. 3838, as reported by the conference committee. This provision reads as follows:

That no part of this or prior appropriations shall be used for construction, nor for further commitments to construction of Moorhead Dam and Reservoir, Mont., or any feature thereof until a definite plan report thereon has been completed, reviewed by the States of Wyoming and Montana, and approved by the Congress.

I make this point of order under rule 21, as it is clearly legislation on an appropriation bill; (1) because it is an affirmative direction and (2) it restricts executive discretion to a degree that may be fairly termed a change in policy. I call the Speaker's attention to page 422, section 844 of the House Rules and Manual, which reads, in part, as follows:

A provision proposing to construe existing law is in itself a proposition of legislation and therefore not in order. . . .

I submit, Mr. Speaker, that this provision is clearly subject to a point of order under rule 21.

1. See 95 CONG. REC. 14038, 14039, 81st Cong. 1st Sess., Oct. 6, 1949.

THE SPEAKER: The Chair is ready to rule.

The Chair has listened to the gentleman from Montana very carefully. The Chair will state that if an amendment of this sort had been proposed in the House of Representatives when this bill was under consideration in all probability it would have been subject to a point of order. The Chair does not feel that in this case it is a violation of clause 2 of rule 21, for the simple reason that it has been held as early as 1921 by Mr. Speaker Gillette that when an amendment that might have been subject to a point of order in the House if offered here was adopted by the Senate, and the conferees reported such an amendment in disagreement the House may consider the amendment.

Therefore, the Chair must overrule the point of order of the gentleman from Montana.

MR. KIRWAN: Mr. Speaker, I move that the House recede and concur in the Senate amendment, and I yield 5 minutes to the gentleman from Montana [Mr. D'Ewart].

Budget Resolution Reported in Technical Disagreement Because of Scope

§ 29.9 Where conferees on a concurrent resolution on the budget reported in disagreement, their report stated the reasons for this action and explained that a compromise between the House and Senate managers was possible only by including figures outside the range of differences submitted to conference.

The conference report on Senate Concurrent Resolution 80 and a portion of the joint statement of the managers filed in the House on May 15, 1978,[2] is included here. For further proceedings leading up to the debate on the motion to concur in the Senate amendment, see § 28.14, supra.

CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 80

Mr. [Robert N.] Giaimo [of Connecticut] submitted the following conference report and statement on the concurrent resolution (S. Con. Res. 80) setting forth the congressional budget for the U.S. Government for the fiscal year 1979:

CONFERENCE REPORT (H. REPT. NO. 95–1173)

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 80) setting forth the congressional budget for the United States Government for the fiscal year 1979, having met, after full and free conference have been unable to agree on a conference report because the conference decisions have reduced certain budget figures, including the deficit and the public debt, below the provisions enacted by either House. As set forth in the accompanying

2. 124 CONG. REC. 13615, 95th Cong. 2d Sess.

Joint Explanatory Statement, the conferees do propose a congressional budget, containing the lower figures, incorporated in a further amendment for the consideration of the two Houses.

ROBERT N. GIAIMO,
ELIZABETH HOLTZMAN,
BUTLER DERRICK,
WILLIAM LEHMAN,
PAUL SIMON,
JOSEPH L. FISHER,
JIM MATTOX,
Managers on the Part of the House.

WARREN G. MAGNUSON,
EDMUND S. MUSKIE,
FRITZ HOLLINGS,
ALAN CRANSTON,
LAWTON CHILES,
JAMES ABOUREZK,
HENRY BELLMON,
ROBERT DOLE,
H. JOHN HEINZ,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 80) setting forth the congressional budget for the United States Government for the fiscal year 1979, report that the conferees have been unable to agree. This is a technical disagreement, necessitated by the fact that in some instances the substitute language agreed to by the conferees includes figures which (for purely technical reasons) would fall outside the range between the corresponding House and Senate provisions.

It is the intention of the conferees that the managers on the part of the Senate will offer a motion in the Senate to recede and concur in the House amendment to the Senate-passed resolution with an amendment (in the nature of a substitute) consisting of the language agreed to in conference. Upon the adoption of such amendment in the Senate, the managers of the House will offer a motion in the House to concur therein.

Reporting Amendments in Technical Disagreement

§ 29.10 Where conferees on a particular Senate amendment in disagreement develop compromise language to settle the dispute between the two Houses which is "legislative language" to which the House managers cannot agree (under Rule XX clause 2) without specific permission of the House, the matter is often brought back in "technical disagreement."

This was the situation on May 16, 1978,[3] when a Senate amendment in disagreement to H.R. 9005, making appropriations for the District of Columbia, fiscal 1978, was considered in the House. The proceedings were as follows:

3. 124 CONG. REC. 13921–23, 95th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE:[4] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 37: Page 13, line 14, strike out: "$168,757,900" and insert "$102,173,400".

MOTION OFFERED BY MR. NATCHER

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$129,173,400: *Provided,* That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic Center".

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Bauman moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein.

MR. NATCHER: Mr. Speaker, I demand that the question be divided.

THE SPEAKER PRO TEMPORE: The question will be divided.

Does the gentleman from Kentucky (Mr. Natcher) seek time?

MR. BAUMAN: Mr. Speaker, I wonder if the gentleman would take some time briefly. I do not want to prolong this debate.

THE SPEAKER PRO TEMPORE: The gentleman from Kentucky (Mr. Natcher) is recognized for 30 minutes. . . .

MR. NATCHER: Mr. Speaker, I move the previous question on the motion to recede.

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the motion to recede.

There was no objection.

THE SPEAKER PRO TEMPORE: The question is, Will the House recede from its disagreement to Senate amendment No. 37.

The House receded from its disagreement to Senate amendment No. 37.

PREFERENTIAL MOTION OFFERED BY MR. NATCHER

MR. NATCHER: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Natcher moves that the House concur in the amendment of the Senate numbered 37 with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$129,173,400: *Provided,* That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the

4. Thomas S. Foley (Wash.).

City Council for the Washington Civic Center".

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

MR. BAUMAN: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Bauman moves to table the motion to concur in the amendment of the Senate numbered 37, with an amendment.

THE SPEAKER PRO TEMPORE: The question is on the preferential motion offered by the gentleman from Maryland (Mr. Bauman).

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

MR. BAUMAN: Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 190, nays 199, answered "present" 1, not voting 44. . . .

So the preferential motion to table was rejected.

The result of the vote was announced as above recorded.

MR. NATCHER: Mr. Speaker, I move the previous question on the motion now pending.

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the preferential motion offered by the gentleman from Kentucky (Mr. Natcher) to concur in the Senate amendment No. 37, with an amendment.

The question is on the preferential motion offered by the gentleman from Kentucky (Mr. Natcher).

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

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 199, nays 183, answered "present" 1, not voting 51.

Parliamentarian's Note: The motion to table a motion disposing of an amendment in disagreement does not carry with it the amendment and the bill itself, since if the motion is tabled other motions remain available for disposition of the amendment, whereas the tabling of a Senate amendment itself has the effect of carrying to the table the House bill as well.

Where Conferees Report in Complete Disagreement

§ 29.11 Where conferees have filed a conference report on a Senate bill, and the Senate has then amended a House amendment to the bill, the conference report is called up in the House but is not acted on, and a motion

to concur in the Senate amendment to the House amendment is privileged, the stage of disagreement being in effect.

The House does not act on a conference report in total disagreement but proceeds to consider the amendments in disagreement by motion. On Feb. 24, 1976, the following conference report was filed:[5]

CONFERENCE REPORT (H. REPT. NO. 94–839)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes, having met, after full and free conference, have been unable to agree.

The conference report and the amendments in disagreement were taken up and resolved on Mar. 4, 1976:[6]

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I call up the conference report on the Senate bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

THE SPEAKER:[7] The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement see proceedings of the House of February 24, 1976.)

THE SPEAKER: The Clerk will read the Senate amendment to the House amendment.

The Clerk read the Senate amendment to the House amendment as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill (S. 2017) entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes", insert the following:

That section 101 (21 U.S.C. 1101) of the Drug Abuse Office and Treatment Act of 1972 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new paragraph: . . .

MOTION OFFERED BY MR. STAGGERS

MR. STAGGERS: Mr. Speaker, I move that the House, concur in the Senate amendment to the House amendment on the Senate bill S. 2017.

The motion was agreed to.

A motion to reconsider was laid on the table.

§ 29.12 Prior to the 93d Congress, when conferees reported in total disagreement their report was filed, ordered printed, called up and read, and the amendments in

5. 122 CONG. REC. 4102, 94th Cong. 2d Sess.

6. 122 CONG. REC. 5497, 5502, 94th Cong. 2d Sess.

7. Carl Albert (Okla.).

disagreement were immediately called up for consideration.

On June 30, 1972,[8] proceedings in the House relative to the filing of a conference report occurred as indicated below:

> Mr. Mills of Arkansas submitted the following conference report on the bill (H.R. 15390) to provide for a 4-month extension of the present temporary level in the public debt limitation:
>
> CONFERENCE REPORT (H. REPT. NO. 92–1215)
>
> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15390) to provide for a four-month extension of the present temporary level in the public debt limitation, having met, after full and free conference, have been unable to agree.
>
> WILBUR D. MILLS,
> AL ULLMAN,
> JAMES A. BURKE,
> *Managers on the Part of the House.*
>
> RUSSELL B. LONG,
> CLINTON P. ANDERSON,
> HERMAN TALMADGE,
> WALLACE F. BENNETT,
> CARL T. CURTIS,
> *Managers on the Part of the Senate.*

Following a call of the House, the proceedings continued as follows:

> MR. [WILBUR D.] MILLS of Arkansas: Mr. Speaker, I call up the conference report on the bill (H.R. 15390) to provide for a 4-month extension of the present temporary level in the public debt ceiling.
>
> THE SPEAKER:[9] The Clerk will read the conference report.
>
> The Clerk read the conference report. . . .
>
> THE SPEAKER: The Clerk will report the first amendment in disagreement.

Mr. John W. Byrnes, of Wisconsin, then raised a parliamentary inquiry:

> Mr. Speaker, I make this parliamentary inquiry so that the Members of the House can be apprised of the parliamentary situation which we are in.
>
> Under normal circumstances, Mr. Speaker, a conference report is filed, it either lays over under the rule[10] for 3 days——
>
> THE SPEAKER: The Chair will ask the gentleman from Wisconsin to please state his parliamentary inquiry.

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8. 118 CONG. REC. 23716, 92d Cong. 2d Sess.

9. Carl Albert (Okla.).

10. Rule XXVIII clause 2, *House Rules and Manual* § 912 (1971) as amended pursuant to the Legislative Reorganization Act of 1970, Pub. L. No. 91–510, 84 Stat. 1140, § 125(b)(2), Oct. 26, 1970, required that conference reports lay over for three days prior to consideration. Clause 2(b) was not added to this rule until the adoption of H. Res. 1153, § 2(b)(2), 92d Cong. 2d Sess., Oct. 13, 1972, and did not take effect until the 93d Congress.

MR. BYRNES of Wisconsin: Mr. Speaker, my first parliamentary inquiry involves a question, and the question is: Why does this conference report differ, and why does this not follow the normal rules of the House with regard to laying over with respect to the required legislative days?

THE SPEAKER: The Chair will state to the gentleman from Wisconsin that the conference report was reported back in complete disagreement from the conference committee. . . .

Where conferees report in disagreement all of the amendments of the Senate no action is taken on the report. It is filed, ordered printed and called up and read before further action is taken on the amendments in disagreement.

Where the conferees report they have been unable to agree on all amendments submitted to them the report is not acted on and the Speaker directs the Clerk to report the amendments in disagreement.

That is what the Chair is getting ready to do.(11)

Senate Action on Conference Report in Disagreement

§ 29.13 In the Senate, a conference report in total disagreement is agreed to before disposition of the amendment reported in disagreement.

Based on precedents of the Senate dating back at least to 1913,(12) a conference report in total disagreement, called up in that body, is acted upon before motions to dispose of the amendment in disagreement are entertained. The proceedings with respect to the concurrent resolution on the budget in the 96th Congress, as excerpted from the Record of May 23, 1979,(13) demonstrate the Senate practice.

FIRST CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1980—CONFERENCE REPORT

MR. [EDMUND S.] MUSKIE [of Maine]: Mr. President, I submit a report of the committee of conference on House Concurrent Resolution 107 and ask for its immediate consideration.

THE PRESIDING OFFICER:(14) 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 amendment of the Senate to the resolution (H. Con. Res. 107) setting forth the congressional budget for the U.S. Government for fiscal year 1980 and revising the congressional budget for the U.S. Government for fiscal year 1979, having

11. See 118 CONG. REC. 23717, 92d Cong. 2d Sess., June 30, 1972.

12. See Senate Procedure, Riddick-Frumin, p. 489, Sen. Doc. 101–28, 101st Cong.

13. 125 CONG. REC. 12398, 12399, 96th Cong. 1st Sess.

14. David H. Pryor (Ark.).

met, after full and free conference, have been unable to agree. Signed by a majority of the conferees.

THE PRESIDING OFFICER: Without objection, the Senate will proceed to the consideration of the conference report. . . .

MR. MUSKIE: Mr. President, I ask unanimous consent that the use of small electronic calculators be permitted on the Senate floor during consideration of and votes on the conference report on House Concurrent Resolution 107.

THE PRESIDING OFFICER: Without objection, it is so ordered.

MR. MUSKIE: Mr. President, I move that the conference report in disagreement be agreed to.

THE PRESIDING OFFICER: Without objection, the conference report in disagreement is agreed to.

MR. MUSKIE: Mr. President, I think I have to make one further request before I go any further.

I ask unanimous consent that the Senate recede from its amendment to the resolution (H. Con. Res. 107), and that it only be in order to move to agree to the resolution with a new amendment in the nature of a substitute, which shall not be amended.

THE PRESIDING OFFICER: Is there objection? . . .

Without objection, it is so ordered.

Disagreement to Amendment in the Nature of a Substitute

§ 29.14 Under current practice, where conferees report that they are unable to agree on an amendment in the nature of a substitute sent to conference, their report is filed, and called up after three days but not acted upon, and the Speaker then directs the Clerk to report the amendment in disagreement.

On July 31, 1973,[15] Mr. William R. Poage, of Texas, submitted the conference report in disagreement on S. 1888, to extend and amend the Agricultural Act of 1970.

On Aug. 3, 1973,[16] the following occurred in the House:

MR. POAGE: Mr. Speaker, I call up the conference report on the bill (S. 1888) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices.

The Clerk read the title of the bill.

THE SPEAKER:[17] The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of July 31, 1973.)

THE SPEAKER: The Clerk will read the Senate amendment to the House amendment.

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15. 119 CONG. REC. 27001–13, 93d Cong. 1st Sess.

16. *Id.* at p. 28121.

17. Carl Albert (Okla.).

The Clerk proceeded to read the Senate amendment to the House amendment.

(For Senate amendment to House amendment, see proceedings of the Senate of July 31, 1973.)[18]

§ 29.15 A conference committee reported a disagreement in order to give the House an opportunity to perfect a Senate amendment in the nature of a substitute.

On June 8, 1937,[19] Mr. William P. Connery, Jr., of Massachusetts, obtained the consent of the House to recommit the conference report on H.R. 6551 (to create a Civilian Conservation Corps) to the committee of conference. Mr. Connery had made an agreement with John Snell, of New York, the Minority Leader, to recommit this report to set the stage for later proceedings in which separate votes could occur in the House on three provisions on which the House had originally insisted. On June 21, 1937,[20] Speaker William B. Bankhead, of Alabama, recognized Mr. Robert Ramspeck, of Georgia, to call up the subsequent conference report on H.R. 6551, in place of Mr. Connery who had died in the interim.

MR. RAMSPECK: . . . First, let me explain the parliamentary situation, briefly. After having reported a conference agreement to the House, Mr. Connery asked that the bill be recommitted to the conferees in order to give the House an opportunity to express its choice on the three matters. In pursuance of this desire, the conferees have reported a disagreement. I propose to offer a motion that the House recede from its disagreement to the Senate amendment. If that motion carries, which I trust it will, I then propose to offer three separate amendments to the Senate amendment which will substitute for the Senate provisions in controversy the House provisions. On each of these amendments a separate vote may be had if desired.

After the disposition of the three motions, I shall move to offer as a substitute for the entire Senate amendment a proposal which will contain, first, all the matters tentatively agreed on by the conferees, about which I am sure there is no substantial controversy; and, second, the matters which the House has just voted on in the previous separate three motions.

By following this procedure we shall be able to dispose of the noncontroversial matters, give the House the desired separate votes, and offer a proposition to the Senate which it can agree to or send to conference and which will set forth in definite fashion the position of the House.

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18. 119 CONG. REC. 26897–911, 93d Cong. 1st Sess.

19. 81 CONG. REC. 5462, 75th Cong. 1st Sess.

20. *Id.* at pp. 6095–97, 6099, 6100.

I may say further that the reason for this complicated procedure is the fact that the Senate, in considering the House bill, struck out all after the enacting clause and substituted the Senate bill. It therefore became impossible for the conference, under the parliamentary situation, to carry out the promise which Mr. Connery made the gentleman from New York [Mr. Snell] when the bill was taken from the Speaker's table and sent to conference. This is the only parliamentary method by which we can carry out that promise, and I am sure the Members of the House, in view of what has happened since, will join with me in helping to keep a promise for a man who never broke one. [Applause] . . .

MR. [CARL E.] MAPES [of Michigan]: I do not understand clearly the parliamentary situation. As I understand the gentleman's motion, it is to recede and concur in the Senate amendment? . . .

MR. RAMSPECK: If the pending motion is adopted, then I shall offer a motion to put back in the bill the provisions of the House bill and we will then go to conference on that.

MR. MAPES: After the House recedes, the gentleman then proposes to offer amendments to the Senate amendment?

MR. RAMSPECK: That is correct.

Parliamentary Situation Where Conference Report Ruled Out on Point of Order

§ 29.16 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,[1] after Speaker William B. Bankhead, of Alabama, sustained a point of order against the conference report on H.R. 7646, relating to public works on rivers and harbors for flood control, Mr. Bertrand H. Snell, of New York, raised a parliamentary inquiry:

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 im-

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

portant 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 the Committee of the Whole were waived.

§ 29.17 Where a conference report on a House bill, amended in the Senate by a complete amendment in the nature of a substitute, is ruled out of order, the Senate amendment in disagreement remains before the House for disposition by any of a variety of motions. If the conference manager determines to proceed immediately to address the amendment in disagreement, the Speaker directs that it be read and then a motion may be offered to dispose of the amendment in disagreement.

On Sept. 27, 1976,[2] the conference report on H.R. 5546, the Health Professions Educational Assistance Act of 1976, was called up for consideration in the House. A point of order was raised against the report by the chairman of the Committee on the Budget,[3] and the report was then ruled out of order in violation of section 401(a) of the Congressional Budget Act, since it contained new spending authority not subject to advance appropriations.

The manager[4] of the conference then offered a motion to recede from disagreement and concur in the Senate substitute with a further amendment which rectified the Budget Act violation.

The various inquiries regarding this procedure are contained in the portions of the *Congressional Record* which are set forth herein:[5]

MR. ADAMS: Mr. Speaker, I make a point of order on the conference report.

THE SPEAKER PRO TEMPORE:[6] The gentleman from Washington will state his point of order.

MR. ADAMS: Mr. Speaker, the conference agreement on H.R. 5546, the Health Professions Assistance Act of 1976, contains a provision which appears to provide borrowing authority which is not subject to advance appropriations. Consequently, it would be

2. 122 CONG. REC. 32655, 94th Cong. 2d Sess.

3. Brock Adams (Wash.).

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

5. 122 CONG. REC. 32655, 32656, 32679, 32703, 32704, 94th Cong. 2d Sess., Sept. 27, 1976.

6. John J. McFall (Calif.).

subject to a point of order under section 401(a) of the Congressional Budget Act.

Section 401(a) provides:

> 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)(A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, or amendment also provides that such new spending authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation acts.

Section 401(c)(2)(B) of the Budget Act defines spending authority as authority "to incur indebtedness—other than indebtedness incurred under the second Liberty Bond Act—for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation acts." This form of spending authority is commonly known as borrowing authority.

The conference report accompanying H.R. 5546 contains a provision creating a student loan insurance fund under section 734 of the Public Health Service Act.

Clearly, the requirement that the Secretary of the Treasury purchase these obligations constitutes borrowing authority.

And since the provision contains no requirement that the authority be limited to amounts provided in advance in appropriation acts, it appears to give rise to a section 401(A) point of order.

The fact that the provision relates to default payments which might arise pursuant to a loan guarantee program does not bring the provision within the "loan guarantee" exception to section 401 of the Budget Act. Although the loan guarantee itself may not be subject to advance appropriation, the default payment made pursuant to the provision in question does not constitute a loan guarantee and it is fully subject to the requirements of section 401.

MR. STAGGERS: Mr. Speaker, will the gentleman yield?

MR. ADAMS: I yield to the gentleman from West Virginia, the chairman of the committee.

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

Mr. Speaker, I have a motion.

THE SPEAKER PRO TEMPORE: The gentleman from West Virginia (Mr. Staggers) concedes the point of order.

Therefore, the point of order is sustained.

The Clerk will report the Senate amendment in disagreement.

PARLIAMENTARY INQUIRY

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

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

MR. BAUMAN: Mr. Speaker, it was my understanding that the gentleman from West Virginia (Mr. Staggers) called up a conference report, and a point of order was made against that conference report, which was sustained.

Is the conference report still before the House, Mr. Speaker?

THE SPEAKER PRO TEMPORE: The conference report is not, but the Senate amendment in disagreement is; and a

motion will be offered, the Chair will state to the gentleman from Maryland, that could cure the point of order. Therefore, if the gentleman will bear with us for the sake of orderly procedure, we will have this matter properly before the House. . . .

MR. STAGGERS (during the reading): Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment in disagreement be dispensed with.

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

There was no objection.

MOTION OFFERED BY MR. STAGGERS

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

The Clerk read as follows:

> Mr. Staggers moves that the House recede from its disagreement to the amendment of the Senate to the bill H.R. 5546, 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:
>
> SHORT TITLE: REFERENCE TO ACT
>
> SECTION 1. (a) This Act may be cited as the "Health Professions Educational Assistance Act of 1976". . . .

MR. BAUMAN: Mr. Speaker, I reserve the right to object to the unanimous-consent request made by the gentleman from West Virginia (Mr. Staggers).

My inquiry of the Chair is the same as I made before, and that is that in view of the fact that a point of order has been made to any consideration of the conference report, is the motion that is being made to agree with the Senate amendment to the amendment of the House deleting the offending phrase?

THE SPEAKER PRO TEMPORE: When a conference report is ruled out of order as this one was, then the Senate amendment in disagreement is before the House. This motion, if passed, would remedy the point of order that was made. . . .

PARLIAMENTARY INQUIRY

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I have a parliamentary inquiry.

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

MR. MICHEL: My parliamentary inquiry is this, Mr. Speaker, could the Chair advise us how many disagreeing amendments there are if there is no conference report to be adopted?

THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman there is only one amendment and that is in the nature of a substitute and it is a very long amendment, it is about three-quarters of an inch thick and the reading of the Senate amendment was dispensed with.

The Chair understands that the offending language which was objected to by the chairman of the Committee on the Budget, the gentleman from Washington (Mr. Adams) which gave rise to the point of order is not in the motion now before the House.

MR. MICHEL: I thank the gentleman.

THE SPEAKER PRO TEMPORE: The gentleman from West Virginia (Mr. Staggers) will be recognized for 30 minutes and the gentleman from Ken-

tucky (Mr. Carter) will be recognized for 30 minutes.

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

Debate on Amendments in Disagreement

§ 29.18 Debate on each amendment in disagreement is under the hour rule.

On Mar. 16, 1942,[7] Mr. Hatton W. Sumners, of Texas, called up the conference report and amendments in disagreement on S. 2208, the second war powers bill. Mr. Sumners then inquired:

> Mr. Speaker, let me inquire in regard to the time. How much time is allowed for the entire disposition of the conference report, including amendment No. 32?
>
> THE SPEAKER:[8] The gentleman is entitled to 1 hour on the conference report. He can yield such time as he desires. Then, if he desires, an hour may be taken on each amendment in disagreement.

Control of Debate

§ 29.19 As each amendment in disagreement is reported, the Chair recognizes the Member handling the conference report to offer a motion relating to that amendment; and even though another Member offers a preferential motion pertaining to the amendment, the Member handling the report does not thereby lose control of his or her allotted time for debate.

On Oct. 24, 1967,[9] Mr. Joe L. Evins, of Tennessee, called up the conference report on H.R. 9960, independent offices appropriations, fiscal 1968. After the House adopted the report, it granted unanimous consent for the en bloc consideration of two of the Senate amendments in disagreement.

> THE SPEAKER:[10] The Clerk will report the Senate amendments in disagreement.
>
> The Clerk read as follows:
>
> Senate amendment No. 58: On page 36, line 23, strike out "$75,000,000" and insert "$125,000,000".
>
> Senate amendment No. 59: On page 37, line 2, strike out "$237,000,000" and insert "$537,000,000".
>
> MR. EVINS of Tennessee: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. Evins of Tennessee moves that the House insist on its disagreement

7. 88 CONG. REC. 2502–04, 77th Cong. 2d Sess.
8. Sam Rayburn (Tex.).
9. 113 CONG. REC. 29837–42, 90th Cong. 1st Sess.
10. John W. McCormack (Mass.).

to the amendments of the Senate numbered 58 and 59.

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Giaimo moves that the House recede from its disagreement to the amendments of the Senate numbered 58 and 59 and concur therein.

THE SPEAKER: The Chair recognizes the gentleman from Tennessee [Mr. Evins].

During the hour of debate under his control, Mr. Evins recognized three Members, including Mr. Giaimo, who spoke in favor of the preferential motion, and two Members who spoke in favor of the motion that the House insist on its disagreement to the Senate amendments. After this time had expired, the consideration of Senate amendments No. 58 and No. 59 ended in the following manner:

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Connecticut [Mr. Giaimo] that the House recede from its disagreement to Senate amendments No. 58 and No. 59, and concur therein. . . .

The question was taken; and there were—yeas 156, nays 241, not voting 35. . . .

So the preferential motion was rejected. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from Tennessee [Mr. Evins] that the House insist upon its disagreement to the amendments of the Senate No. 58 and No. 59.

The motion was agreed to.

Parliamentarian's Note: In this instance, Mr. Evins controlled the entire hour of debate on the motion offered by Mr. Giaimo. A Member handling a conference report controlled the entire hour of debate on each amendment reported in disagreement through the 92d Congress. Had this occurred after the 92d Congress, Mr. Evins would have controlled half an hour of debate and a Member of the minority the other half hour. House Resolution 1153, 92d Cong. 2d Sess., Oct. 13, 1972, which became effective on Jan. 3, 1973, added clause 2(b) to Rule XXVIII, *House Rules and Manual* § 912 (1973), to provide that time for debate on amendments reported from conference in disagreement be divided between the majority and minority parties. See also § 29.27, infra.

Amendments in Disagreement as Unfinished Business

§ 29.20 Where the House disposed of a conference report on one day and then adjourned, the amendments in disagreement were consid-

ered as unfinished business when the House next met.

A portion of the proceedings of Aug. 1, 1991,[11] are carried to show how the Chair initiated the consideration of amendments in disagreement which remained to be disposed of after an adjournment of the House.

CONFERENCE REPORT ON H.R. 2427, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1992

AMENDMENTS IN DISAGREEMENT

THE SPEAKER PRO TEMPORE:[12] The unfinished business is consideration of the amendments in disagreement on the conference report on H.R. 2427.

Pursuant to the order of the House of Tuesday, July 30, 1991, the amendments in disagreement are considered as having been read.

The Clerk will designate the first amendment in disagreement.

Modifying Pending Motion To Recede and Concur With Amendment

§ 29.21 Where a motion to recede and concur in a Senate amendment is before the House, offered under Rule XXVIII clause 4,[13] following the rejection of portions of a conference report after a decision that they were not germane, the only way to further modify the pending motion is to vote down the previous question.

On Dec. 15, 1975,[14] during the prolonged consideration of the conference report on S. 622, the Standby Energy Authorities Act, several inquiries were directed to the Speaker[15] after the majority manager of the conference report offered his motion that the House recede from disagreement and concur in the Senate amendment (to the House amendment to the Senate bill) with a further amendment. The pertinent debate from the *Congressional Record* is included here.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BROWN of Ohio: Mr. Speaker, is the motion offered by the gentleman from West Virginia (Mr. Staggers) at this point amendable?

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11. 137 CONG. REC. 20954, 102d Cong. 1st Sess.
12. Michael R. McNulty (N.Y.).
13. *House Rules and Manual* § 913b (1997).
14. 121 CONG. REC. 40713, 40714, 40716, 40738, 94th Cong. 1st Sess.
15. Carl Albert (Okla.).

THE SPEAKER: No.

MR. BROWN of Ohio: Is it divisible?

THE SPEAKER: The only way it could be amended is if it is read. After debate, the previous question is in order. If the previous question is voted down, then it is amendable. . . .

The Chair would like for the sake of the entire House, if the gentleman will bear with the Chair, to hear a parliamentary inquiry.

The gentleman from California is correct. The regular order is the reading of the motion.

MR. [JOHN E.] MOSS [of California]: Mr. Speaker, I am inclined not to be charitable. I insist upon the rules being applied, in this instance the reading of the motion pending.

THE SPEAKER: The Clerk will read.

The Clerk proceeded to read the motion.

MR. [SILVIO O.] CONTE [of Massachusetts] (during the reading): Mr. Speaker, I ask unanimous consent that the motion [to recede and concur with an amendment] and amendment be considered as read and printed in the Record.

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

PARLIAMENTARY INQUIRY

MR. BROWN of Ohio: Mr. Speaker, may I ask a parliamentary inquiry?

THE SPEAKER: The gentleman yields to himself for a parliamentary inquiry.

The gentleman is recognized for 30 minutes.

MR. BROWN of Ohio: Mr. Speaker, in order to get to a modification of what we have before us that might receive a majority vote on the floor of the House, is it required that we would divide the question and that the House vote to recede and then modify the amendment of the gentleman from West Virginia (Mr. Staggers)?

THE SPEAKER: The way the gentleman can get at what he apparently is trying to get at is to vote down the previous question on the motion offered by the gentleman from West Virginia.

MR. BROWN of Ohio: So that when the previous question on the motion of the gentleman from West Virginia is put, there should be a vote requested on that previous question so that we can vote down the previous question and then modify the amendment of the gentleman from West Virginia?

THE SPEAKER: The Chair is not saying it should be done. The Chair is saying that that is the way to get done what the gentleman wants done. . . .

The question is on ordering the previous question.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. BROWN of Ohio: Mr. Speaker, if the previous question is voted down, then there is no vote on the issue raised by the gentleman from West Virginia (Mr. Staggers), and the time goes to the gentleman from Louisiana (Mr. Waggonner) for a motion, as I understand. Now, the vote to accomplish that would be a "no" vote, is that correct?

THE SPEAKER: A vote against the previous question will permit an amendment to be offered to the pending motion.

MR. BROWN of Ohio: I thank the Speaker.

Division of Debate Time on Motion To Dispose of Amendment Between Houses

§ 29.22 In the modern practice, debate on a privileged motion to dispose of a Senate amendment in disagreement, during the subsequent stages of action following the rejection of a conference report, is equally divided between the majority and minority parties.

While the provisions of Rule XXVIII clause 2(b) specifically address the division of debate time on an amendment "reported in disagreement" from a conference committee, the practice has developed of dividing the time between the parties on any motion to dispose of an amendment, once the stage of disagreement has been reached.

On Dec. 19, 1985,[16] the Chair's announcement of the division of time in the proceedings carried here shows the practice that has been followed in recent years.[17]

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 3128) entitled "An act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process," with an amendment.

The message also announced that the Senate had passed a joint resolution of the following title, in which concurrence of the House is requested:

S.J. Res. 255. Joint Resolution Relative to the convening of the 2d session of the 99th Congress.

CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

MR. [WILLIAM (BILL) H.] GRAY of Pennsylvania: Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, with the Senate amendment to the House amendment to the Senate amendment, and concur in the Senate amendment to the House amendment to the Senate amendment.

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16. 131 CONG. REC. 38359, 38360, 38367, 99th Cong. 1st Sess.

17. This practice supersedes that followed in the period immediately following the adoption of Rule XXVIII clause 2(b) in 1972. See *House Rules and Manual* § 912(b) (1997) for a synopsis of the evolution of dividing debate time.

THE SPEAKER PRO TEMPORE:[18] The Clerk will report the title of the bill and the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment as follows:

(See Senate proceedings in today's Record, page S18201, part II.)

MOTION OFFERED BY MR. DAUB

MR. [HAL] DAUB [of Nebraska]: Mr. Speaker, I move to table the motion.

My motion is in writing, and it is on its way to the desk.

THE SPEAKER PRO TEMPORE: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Daub moves to table the motion.

THE SPEAKER PRO TEMPORE: The question is on the motion to lay on the table offered by the gentleman from Nebraska (Mr. Daub).

The motion to table was rejected.

MR. GRAY of Pennsylvania: Mr. Speaker, I move to limit debate to 15 minutes per side.

THE SPEAKER PRO TEMPORE: The gentleman requests that debate be limited. Is there objection to the request of the gentleman from Pennsylvania?

MR. DAUB: Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: Objection is heard.

The gentleman from Pennsylvania [Mr. Gray] will be recognized for 30 minutes and the gentleman from Ohio [Mr. Latta] will be recognized for 30 minutes [on the pending motion to concur].

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

MR. GRAY: . . . Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gray] to concur in the Senate amendment to the House amendment to the Senate amendment.

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

MR. GRAY of Pennsylvania: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 137, nays 211, not voting 86, as follows: . . .

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Debate Time on Amendments Offered Once Stage of Disagreement Reached

§ 29.23 While the modern practice in the House is to divide time on motions to dispose of amendments once the stage of disagreement has been reached, as recently as the 96th Congress, the practice was to recognize the Member

18. Dale E. Kildee (Mich.).

making a motion for a full hour where the pending amendment had not been reported in disagreement.

The House had earlier adopted the conference report on S. 918, a bill addressing Small Business Act amendments but the Senate had rejected the report and thereafter had concurred in the House amendment to the Senate bill with a further amendment. When this new amendment reached the House on Feb. 6, 1980,[19] the following request was entertained and the debate proceeded as indicated.

SMALL BUSINESS ACT

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I move to take from the Speaker's table the Senate bill (S. 918) to amend the Small Business Act and Small Business Investment Act of 1958 and for other purposes, with a Senate amendment to the House amendment and concur in the Senate amendment to the House amendment with an amendment.

The Clerk read the Senate amendment to the House amendment and the House amendment to the Senate amendment to the House amendment, as follows:

Senate Amendment to House Amendment: In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS . . .

MR. SMITH of Iowa (during the reading): Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment to the House amendment and the House amendment to the Senate amendment to the House amendment be dispensed with and that they be printed in the Record.

THE SPEAKER PRO TEMPORE:[20] Is there objection to the request of the gentleman from Iowa?

There was no objection.

THE SPEAKER PRO TEMPORE: Under the rule, the gentleman from Iowa (Mr. Smith) is recognized for 1 hour.

Recognition To Control One-third Time Against Conference Report

§ 29.24 The minority has no priority of recognition in opposition to a conference report to control one-third of the debate time where both managers are not opposed; and the Chair will recognize the senior member of the reporting committee to control the 20 minutes in opposition, regardless of party affiliation.

19. 126 CONG. REC. 2133, 2140, 96th Cong. 2d Sess.

20. James C. Wright, Jr. (Tex.).

The rule providing for a three-way division of time on a conference report, where the managers are in favor of the report and another Member rises in opposition, was adopted in 1985.[1]

The proceedings carried here[2] show the factors the Chair considers in deciding whom to recognize for the time in opposition.

MR. [PETER W.] RODINO [Jr., of New Jersey]: Mr. Speaker, I call up the conference report on the Senate bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States and for other purposes.

The Clerk read the title of the Senate bill.

THE SPEAKER PRO TEMPORE:[3] Pursuant to House Resolution 592, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, October 14, 1986.)

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey [Mr. Rodino] will be recognized for 30 minutes, the gentleman from California [Mr. Lungren] will be recognized for 30 minutes.

MR. [DON] EDWARDS of California: Mr. Speaker, I rise in opposition to the bill.

THE SPEAKER PRO TEMPORE: Is the gentleman from California [Mr. Edwards] opposed to the conference report?

MR. EDWARDS of California: I am opposed to the conference report, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Is the gentleman from New Jersey [Mr. Rodino] opposed to the conference report?

MR. RODINO: No, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Under the rules, the gentleman from California [Mr. Edwards], the senior member of the originally reporting committee, is entitled to 20 minutes.

POINT OF ORDER

MR. [F. JAMES] SENSENBRENNER [Jr., of Wisconsin]: Mr. Speaker, I rise to a point of order. I believe that the member of the minority would have preference to control the 20 minutes in opposition to the conference report under the precedents of the House and rule XXVIII, clause 2(b).

I am opposed to the conference report, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The Chair would state to the distinguished gentleman from Wisconsin under a ruling this year recognition goes to the opposition on the issue but not necessarily the minority party in the House; and under the rules the Chair is constrained to recognize the senior member of the Judiciary Committee.

1. See Rule XXVIII clause 2(a), *House Rules and Manual* § 912a (1997), adopted as part of the package of rules put in place by H. Res. 7 (131 CONG. REC. 393, 99th Cong. 1st Sess., Jan. 3, 1985).
2. See 132 CONG. REC. 31630, 31631, 99th Cong. 2d Sess., Oct. 15, 1986.
3. Kenneth J. Gray (Ill.).

MR. [DAN] LUNGREN [of California]: Mr. Speaker, I could not hear the Chair's ruling. It seems to me, Mr. Speaker, that a member of the Subcommittee on Immigration would have the right to this time.

THE SPEAKER PRO TEMPORE: The Chair was stating that under a situation like this, it is regrettable where two Members are seeking equal time, the Chair must rule that under the precedents of the House that in this case 20 minutes should be given to the senior Member in opposition to the conference report. That senior Member is the gentleman from California [Mr. Edwards].

Therefore, the time will be divided, 20 minutes to the gentleman from New Jersey [Mr. Rodino], 20 minutes to the gentleman from California [Mr. Lungren], and 20 minutes to the gentleman from California [Mr. Edwards].

The Chair recognizes the gentleman from New Jersey [Mr. Rodino].

Parliamentarian's Note: The Chair had occasion to make another decision regarding recognition later on the same day. The chairman of the Committee on Appropriations, Jamie L. Whitten, of Mississippi, offered a motion on a Senate amendment in disagreement on the continuing appropriation bill, for fiscal year 1987. Both he and the minority floor manager, Ralph Regula, of Ohio, were in favor of the motion. A majority Member, Mike Lowry, of Washington, offered a preferential motion and claimed one-third of the time for debate on the underlying Whitten motion.[4]

Demand for One-third of Debate Time Must Be Timely

§ 29.25 A challenge under Rule XXVIII clause 2(b),[5] that both managers are in favor of the pending motion to dispose of the amendment in disagreement is timely when the motion is offered but comes too late after debate has begun.

As the proceedings of Nov. 6, 1991,[6] show, a Member must be timely if he desires to have a three-way division of time on a motion to dispose of an amendment in disagreement.

MOTION OFFERED BY MR. NATCHER

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the

4. See proceedings at 132 CONG. REC. 32116, 32117, 99th Cong. 2d Sess., Oct. 15, 1986 (H.J. Res. 738).
5. See *House Rules and Manual* § 912b (1997).
6. 137 CONG. REC. 30564, 30565, 102d Cong. 1st Sess.

sum proposed by said amendment, insert "$125,000,000, of which $25,000,000 shall be for the Healthy Start program".

MR. [CARL D.] PURSELL [of Michigan] (during the reading): Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

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

There was no objection.

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

MR. [DAN] BURTON of Indiana: Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: Objection is heard. . . .

Does the gentleman from Kentucky [Mr. Natcher] seek time on the motion?

MR. NATCHER: Mr. Speaker, I reserve my time at this time.

THE SPEAKER PRO TEMPORE: Does the gentleman from Michigan seek time?

MR. PURSELL: Yes, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman from Michigan [Mr. Pursell] is recognized for 30 minutes. . . .

PARLIAMENTARY INQUIRY

MR. BURTON of Indiana: Mr. Speaker, I have a parliamentary inquiry.

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

MR. BURTON of Indiana: Mr. Speaker, as I understand it, on these motions on amendments in disagreement, those who are opposed get some portion of the time. I was not allocated any time, nor was the question put by the Chair on whether or not the gentleman from Tennessee or the gentleman from Michigan was opposed. If they are opposed, they get the time, and I will ask them for time, but if they are not opposed, according to the rules, I believe I get part of the time.

THE SPEAKER PRO TEMPORE: The Chair would state that ordinarily the gentleman from Kentucky and the gentleman from Michigan would be recognized on each amendment. However, at the time the motion is offered, if another Member challenges the minority Member and the minority Member is not opposed, then that Member making the challenge would be entitled to one-third of the time.

MR. BURTON of Indiana: As a further parliamentary inquiry, Mr. Speaker, usually the Chair puts the question to those involved, the chairman and the ranking member: "Are you opposed to the motion?" And if they are not opposed, then those who are opposed are granted part of the time.

THE SPEAKER PRO TEMPORE: The Chair normally does not put that question to the two managers unless there is a challenge.

MR. BURTON of Indiana: With all due respect to my colleague from Tennessee and my colleague from Michigan, Mr. Speaker, I make that request.

THE SPEAKER PRO TEMPORE: On this amendment, the gentleman's request is not timely. The gentleman from Michigan [Mr. Pursell] controls the time. The gentleman from Indiana would have to ask for time from the gentleman from Michigan.

7. Don J. Pease (Ohio).

§ 29.26 A Member who has offered a pending preferential motion to dispose of a Senate amendment in disagreement does not thereby gain control of time and may not, in time yielded him for debate, move the previous question and deprive the managers of the hour divided between them.

Where a conference report[8] had been adopted and a motion offered by the majority manager of the conference to dispose of an amendment in disagreement by receding and concurring with a further amendment, a preferential motion to recede and concur was offered by Mr. Robert E. Bauman, of Maryland. Mr. Bauman was then yielded a brief time to debate his preferential motion by the minority manager, Mr. Robert H. Michel, of Illinois. The proceedings were as indicated below:[9]

MR. BAUMAN: Mr. Speaker, I believe the gentleman from Pennsylvania (Mr. Flood) has offered or will offer a motion, and I have a preferential motion at the desk.

THE SPEAKER:[10] The Clerk will first report the motion offered by the gentleman from Pennsylvania (Mr. Flood).

MOTION OFFERED BY MR. FLOOD

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest or next nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

MR. BAUMAN: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Bauman moves that the House recede from its disagreement to Senate amendment No. 72 and concur therein.

THE SPEAKER: The Chair recognizes the gentleman from Pennsylvania (Mr. Flood).

MR. BAUMAN: Mr. Speaker, may I inquire, who has the right to the time under the motion?

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) has 30 min-

8. H.R. 8069 (Labor and Health, Education, and Welfare appropriations for fiscal year 1976).

9. 121 CONG. REC. 38714, 38716, 38717, 94th Cong. 1st Sess., Dec. 4, 1975.

10. Carl Albert (Okla.).

utes, and the gentleman from Illinois (Mr. Michel) has 30 minutes. The time is controlled by the committee leadership on each side, and they are not taken from the floor by a preferential motion. . . .

MR. MICHEL: Mr. Speaker, I yield myself such time as I might consume before I yield to the gentleman from Maryland (Mr. Bauman). . . .

MR. BAUMAN: Mr. Speaker, I move the previous question.

THE SPEAKER: The gentleman from Pennsylvania has the floor and the Chair is trying to let the gentleman be heard.

MR. FLOOD: Mr. Speaker, I demand a division.

MR. BAUMAN: Mr. Speaker, I have not yielded. My time has not expired.

THE SPEAKER: The gentleman has time for debate only.

MR. BAUMAN: No; Mr. Speaker, it was not yielded for debate only.

THE SPEAKER: The gentleman from Maryland has 15 seconds.

MR. BAUMAN: Mr. Speaker, I move the previous question.

THE SPEAKER: The gentleman was yielded to for debate only. The gentleman from Illinois had no authority under clause 2, rule XXVIII to yield for any other purpose but debate.

MR. BAUMAN: Mr. Speaker, I was yielded to. There was no limitation on for what purpose.

THE SPEAKER: The gentleman was yielded 5 minutes. He can use it for debate only. The gentleman's time has expired.

The Chair recognizes the gentleman from Pennsylvania.

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

MR. MICHEL: A parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The question will be divided.

MR. MICHEL: A point of order, Mr. Speaker.

THE SPEAKER: The gentleman will state it.

POINT OF ORDER

MR. MICHEL: Mr. Speaker, the gentleman from Illinois was given to understand that the time was to be divided equally. There was no indication on the part of the gentleman from Illinois that he had concluded giving what time he wanted to allocate to Members for general debate.

The gentleman from Illinois still has a request pending.

THE SPEAKER: The gentleman has 30 minutes for debate only. He can yield more time.

MR. MICHEL: I am still entitled, if I understand it, to the balance of the time to which I have been originally allocated. The gentleman from Illinois has 17 minutes remaining.

Debate on Amendments in Disagreement

§ 29.27 When amendments in disagreement are considered in the House after disposition of the conference report, each amendment is debatable for one hour, equally divided between the majority and minority parties, and this division of time is not

disturbed by the offering of a preferential motion.

The rule dividing time on an amendment in disagreement[11] was first adopted in the 92d Congress.[12] It was later amended, in the 99th Congress,[13] to provide for a three-way division of time if the majority and minority floor leaders on the conference report both support the offered motion.

In the 94th Congress, a controversial Senate amendment was reported in disagreement from the conference dealing with the bill H.R. 8069, the Department of Health, Education, and Welfare and related agencies appropriation bill for fiscal year 1976. The original motion to dispose of the Senate amendment, offered by the majority floor manager of the report, was to recede from disagreement and concur with a further amendment. Immediately after the motion of Mr. Daniel J. Flood, of Pennsylvania, was read, Mr. Robert E. Bauman, of Maryland, offered a preferential motion to recede and concur. The Chair[14] explained that the offering of this preferential motion did not deprive Mr. Flood of the floor. When the minority floor leader yielded part of his debate time to Mr. Bauman, the latter spoke briefly and then attempted to move the previous question, but the Chair declined to entertain the motion since it would cut off the time allocated to the managers under Rule XXVIII clause 2(b). After debate, the question on receding and concurring was divided, the House receded from disagreement, rejected a motion to concur with an amendment, and eventually concurred in the Senate amendment.[15]

MR. BAUMAN: Mr. Speaker, I believe the gentleman from Pennsylvania (Mr. Flood) has offered or will offer a motion, and I have a preferential motion at the desk.

THE SPEAKER: The Clerk will first report the motion offered by the gentleman from Pennsylvania (Mr. Flood).

MOTION OFFERED BY MR. FLOOD

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

The Clerk read as follows:

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11. Rule XXVIII clause 2(b)(1), *House Rules and Manual* § 912b (1997).

12. See H. Res. 1153 (118 CONG. REC. 36013–23, 92d Cong. 2d Sess., Oct. 13, 1972).

13. See H. Res. 7 (131 CONG. REC. 393–413, 99th Cong. 1st Sess., Jan. 3, 1985).

14. Carl Albert (Okla.).

15. 121 CONG. REC. 38714, 38716–19, 94th Cong. 1st Sess., Dec. 4, 1975.

Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest or next nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

MR. BAUMAN: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Bauman moves that the House recede from its disagreement to Senate amendment No. 72 and concur therein.

THE SPEAKER: The Chair recognizes the gentleman from Pennsylvania (Mr. Flood).

MR. BAUMAN: Mr. Speaker, may I inquire, who has the right to the time under the motion?

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) has 30 minutes, and the gentleman from Illinois (Mr. Michel) has 30 minutes. The time is controlled by the committee leadership on each side, and they are not taken from the floor by a preferential motion. . . .

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. Bauman). . . .

MR. BAUMAN: The gentleman from Maryland has made his case and if the gentleman would like to concur in the stand taken by the majority party in favor of busing he can do that. I do not concur.

Mr. Speaker, I move the previous question on the motion.

MR. FLOOD: Mr. Speaker, I demand the question be divided.

MR. BAUMAN: Mr. Speaker, I move the previous question.

THE SPEAKER: The gentleman from Pennsylvania has the floor and the Chair is trying to let the gentleman be heard.

MR. FLOOD: Mr. Speaker, I demand a division.

MR. BAUMAN: Mr. Speaker, I have not yielded. My time has not expired.

THE SPEAKER: The gentleman has time for debate only.

MR. BAUMAN: No; Mr. Speaker, it was not yielded for debate only.

THE SPEAKER: The gentleman from Maryland has 15 seconds.

MR. BAUMAN: Mr. Speaker, I move the previous question.

THE SPEAKER: The gentleman was yielded to for debate only. The gentleman from Illinois had no authority under clause 2, rule XXVIII to yield for any other purpose but debate.

MR. BAUMAN: Mr. Speaker, I was yielded to. There was no limitation on for what purpose.

THE SPEAKER: The gentleman was yielded 5 minutes. He can use it for debate only. The gentleman's time has expired.

The Chair recognizes the gentleman from Pennsylvania.

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

MR. MICHEL: A point of order, Mr. Speaker.

THE SPEAKER: The gentleman will state it.

POINT OF ORDER

MR. MICHEL: Mr. Speaker, the gentleman from Illinois was given to understand that the time was to be divided equally. There was no indication on the part of the gentleman from Illinois that he had concluded giving what time he wanted to allocate to Members for general debate.

The gentleman from Illinois still has a request pending.

THE SPEAKER: The gentleman has 30 minutes for debate only. He can yield more time.

MR. MICHEL: I am still entitled, if I understand it, to the balance of the time to which I have been originally allocated. The gentleman from Illinois has 17 minutes remaining.

THE SPEAKER: That is correct, but the question has been divided.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. BAUMAN: Mr. Speaker, when must a request for division be made?

THE SPEAKER: Any time the motion is pending and before the question is put the question may be divided, and it is already divided.

MR. FLOOD: Mr. Speaker, if the question has been divided, then I have a preferential motion.

THE SPEAKER: The gentleman from Illinois has 15 minutes remaining, and the gentleman's motion may come later.

MR. MICHEL: Mr. Speaker, I yield myself such time as I may require, and yield to the gentleman from Massachusetts (Mr. Conte). . . .

MR. MICHEL: Mr. Speaker, I have no further requests for time.

MR. FLOOD: Mr. Speaker, I have no further requests for time.

THE SPEAKER: The question is, Will the House recede from its disagreement to the amendment of the Senate No. 72?

The House receded from its disagreement to Senate amendment No. 72.

PREFERENTIAL MOTION OFFERED BY MR. FLOOD

MR. FLOOD: Mr. Speaker, I offer a preferential motion.

The Clerk read the preferential motion as follows:

> Mr. Flood moves that the House concur in the amendment of the Senate numbered 72 with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:
>
> "SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest or next nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Pennsylvania (Mr. Flood).

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

MR. BAUMAN: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present. . . .

The vote was taken by electronic device, and there were—yeas 133, nays 259, answered "present" 15, not voting 27. . . .

So the preferential motion to the Senate amendment numbered 72 was rejected.

The result of the vote was announced as above recorded.

THE SPEAKER: The question is, Will the House concur in the Senate amendment?

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 146, answered "present" 1, not voting 27. . . .

So the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

THE SPEAKER: The Clerk will report the next amendment in disagreement.

Effect of Prior Action by Senate

§ 29.28 Where conferees report in disagreement, and the Senate then recedes and concurs in the House amendments with an amendment, the conference report is not acted on in the House and the Speaker directs the Clerk to report the Senate amendment to the House amendments for disposition by motion.

On Sept. 19, 1967,[16] the Senate, acting first on the conference report in complete disagreement on S. 953 (amending the Food Stamp Act of 1964), concurred in the House amendment in the nature of a substitute thereto, with an amendment. Later that day,[17] Mr. William R. Poage, of Texas, called up this conference report in the House. After the Clerk read the report the following occurred:

THE SPEAKER:[18] The Chair lays before the House the Senate amendments to the House amendment to S. 953, which the Clerk will read.

The Clerk read as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment insert: . . .

After the Clerk read the Senate substitute for the House amendment in the nature of a substitute for the Senate bill, Mr. Poage was again recognized.

Mr. Speaker, I offer a motion.

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16. 113 CONG. REC. 25968, 25969, 90th Cong. 1st Sess.
17. *Id.* at p. 26040.
18. John W. McCormack (Mass.).

The Clerk read as follows:

Mr. Poage moves that the House concur in the Senate amendments to the House amendment to S. 953.

The House adopted the motion offered by Mr. Poage.

Motion To Recommit

§ 29.29 A motion to recommit an amendment reported in disagreement by the conferees is not in order.

On Oct. 17, 1967,[19] the House was considering the amendments in disagreement reported from the conference on H.R. 11476, Department of Transportation appropriations, fiscal 1968. The following occurred:

MR. [EDWARD P.] BOLAND [of Massachusetts]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

THE SPEAKER:[20] The gentleman from Massachusetts is recognized for 1 hour. . . .

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, a parliamentary inquiry, if the gentleman will yield.

MR. BOLAND: I yield to the gentleman.

THE SPEAKER: The gentleman will state it. . . .

MR. YATES: Mr. Speaker, is it in order to move to recommit this particular amendment to conference?

THE SPEAKER: The Chair will state to the gentleman from Illinois that at this point it would not be in order to do so.

MR. YATES: Mr. Speaker, if the gentleman from Massachusetts will yield further for a parliamentary inquiry, is it in order, in the event the motion to recede and concur is voted down?

THE SPEAKER: After the House has taken some specific action with relation to the amendment of the other body, the Chair assumes that a further conference could be requested.

Inclusion in Second Conference Report of Concurrence in Nongermane Senate Amendment

§ 29.30 Where a House bill, with a Senate amendment to a House amendment to a nongermane Senate amendment reported in disagreement from an initial conference, is sent to a further conference, the House having separately concurred with an amendment in the nongermane Senate amendment following its approval of the first conference report, the subject of that nongermane

19. 113 CONG. REC. 29044, 29048, 29049, 90th Cong. 1st Sess.
20. John W. McCormack (Mass.).

Senate amendment becomes germane to the House bill, and may be included in the subsequent conference report.

On Oct. 17, 1972,[1] the House adopted House Report No. 92–1606, the conference report on H.R. 16810, to provide a temporary increase in the public debt limitation. Senate amendment No. 10 contained an unemployment benefits program, was therefore not germane to the House bill, and was for this reason reported by the conferees in disagreement. The House receded from its disagreement to this amendment and concurred therein with an amendment:

> THE SPEAKER: The Clerk will report the amendment in disagreement.
>
> The Clerk read as follows:
>
> Senate amendment No. 10: . . .
>
> MR. [WILBUR D.] MILLS of Arkansas: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. Mills of Arkansas moves that the House recede from its disagreement to Senate amendment numbered 10 and agree to the same with the following amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: . . .
>
> The motion was agreed to.
>
> A motion to reconsider was laid on the table.

Later that day,[2] the Senate rejected this conference report, concurred in the House amendment to the Senate amendment with a further nongermane amendment, and requested a further conference with the House in a message received by the House on Oct. 18, 1972.[3]

> The message also announced that the Senate disagrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16810) entitled "An act to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973."
>
> And that the Senate agrees to the amendment of the House of Representatives to the amendment of the Senate numbered 10, to the above-entitled bill, with an amendment.
>
> And that the Senate further insist upon its amendments to the above-entitled bill and request a further conference with the House of Representatives on the disagreeing votes of the two Houses thereon and appoints Mr. Long, Mr. Anderson, Mr. Talmadge, Mr. Bennett, and Mr. Jordan of Idaho be the conferees on the part of the Senate.

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1. 118 CONG. REC. 36951–53, 92d Cong. 2d Sess.
2. *Id.* at pp. 36854–58.
3. *Id.* at p. 37050.

Following receipt of the message, the House disagreed to the Senate amendments and agreed to the conference in the following exchange:[4]

MR. MILLS of Arkansas: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

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

MR. [JAMES J.] PICKLE [of Texas]: Mr. Speaker, reserving the right to object, I would ask the gentleman from Arkansas if this is the measure which also pertains to the extension of the unemployment benefits program.

MR. MILLS of Arkansas: If the gentleman will yield, it does. Yes.

MR. PICKLE: With great hesitation and reluctance, Mr. Speaker, I make the point of order that that portion of the bill is not germane.

THE SPEAKER: The Chair will advise that this is a matter of disagreeing to the Senate amendments and that issue is not before the House at this time, so a point of order is not available at this time.

MR. PICKLE: Then the same point of order may be reserved when it comes back from conference?

THE SPEAKER: Perhaps.

Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees . . . .

The next day[5] Mr. Wilbur D. Mills, of Arkansas, submitted and called up[6] the further conference report on H.R. 16810, House Report No. 92–1614, which recommended that the Senate recede from its amendment to the House amendment to Senate amendment No. 10. During the debate on this conference report, Mr. James J. Pickle, of Texas, raised a parliamentary inquiry:

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:[7] That point of order would come up too late now.

MR. MILLS of Arkansas: Mr. Speaker, just for the purpose of clarification, may I make a parliamentary inquiry?

THE SPEAKER: The gentleman will state it.

MR. MILLS of Arkansas: Since the House did approve the nongermane

4. *Id.*

5. *Id.* at pp. 37065–73.

6. *Parliamentarian's Note:* Immediate consideration of this conference report was in order since this was the day on which the 92d Congress adjourned *sine die. Id.* at p. 37200.

7. Carl Albert (Okla.).

proposal with an amendment, that then becomes, when the conference committee submits a second conference report, germane to the bill, and can be included in the conference report, can it not?

THE SPEAKER: The gentleman is correct.

Matters Beyond Scope of Disagreement

§ 29.31 In amending a Senate amendment reported from conference still in disagreement the House is not confined to the differences between the House bill and the Senate amendment; but the amendment to the Senate amendment must be germane.

On May 29, 1936,[8] the House adopted the conference report on H.R. 11418, agriculture appropriations, fiscal 1937. After the Clerk read Senate amendment No. 85, reported in disagreement, Mr. William M. Colmer, of Mississippi, offered a motion to recede and concur therein with an amendment. Mr. Thomas L. Blanton, of Texas, rose with a point of order:

Mr. Speaker, I make the point of order that the proposed amendment to the Senate amendment embraces provisions that are not in conference; that the gentleman can propose only such things as are embraced within the jurisdiction of the conference; and the amendment exceeds that matter by releasing restrictions that have already been agreed to by the conferees.

THE SPEAKER:[9] As the Chair reads the amendment offered by the gentleman from Mississippi, it contains exactly the same language as the first portion of the Senate amendment except the amount is $40,000 instead of $80,000.

MR. BLANTON: But, Mr. Speaker, it releases restrictions that have been agreed upon.

THE SPEAKER: In the opinion of the Chair the amendment is germane.

MR. BLANTON: Mr. Speaker, only those matters that were embraced within the jurisdiction of the conferees may be offered as amendments.

THE SPEAKER: This Senate amendment was reported back to the House still in disagreement, as a matter of fact, and is now before the House for such action as the House may see fit to take. The gentleman from Mississippi has offered a motion to recede and concur in the Senate amendment with an amendment. The Chair has held that the amendment is germane and therefore overrules the point of order.

The Senate amendment reported in disagreement from conference appropriated $80,000 with a proviso relating to authorizing appropriation of user fees collected

8. 80 CONG. REC. 8341–44, 74th Cong. 2d Sess.

9. Joseph W. Byrns (Tenn.).

under a related law. Mr. Colmer's amendment varied from the Senate amendment only in changing the amount appropriated to $40,000 and eliminating the proviso.

§ 29.32 While conferees are restricted by the differences in the bill and amendment before them, the House, when acting on a Senate amendment in disagreement, is not subject to the same limitation and may recede and concur in the Senate amendment with a further germane amendment which goes beyond the provisions of either the House or Senate versions.

On Dec. 11, 1967,[10] Thaddeus J. Dulski, of New York, the Chairman of the Committee on Post Office and Civil Service, called up the conference report on H.R. 7977, the Postal Revenue and Federal Salary Act of 1967. Mr. H. R. Gross, of Iowa, rose with a point of order:

> 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.
>
> Mr. Speaker, the precedents of the House, Cannon's Precedents, volume VIII, section 3264, have established that where two Houses fix different periods of time the conferees have latitude only between the two, but may not go beyond the longer nor within the shorter.

Mr. Dulski conceded the point of order, whereupon Speaker John

10. 113 CONG. REC. 35811–33, 35841, 35842, 90th Cong. 1st Sess.

W. McCormack, of Massachusetts, sustained the point of order. The Clerk then began to read the Senate amendment (in the nature of a substitute) in disagreement.

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: . . .

Mr. Dulski's substitute for the Senate amendment consisted of the conference report which had just been ruled out on Mr. Gross' point of order.

THE SPEAKER PRO TEMPORE:[11] 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. . . .

So the motion was agreed to.

Consideration of Senate Legislative Amendments to General Appropriation Bills

§ 29.33 When an amendment that might have been subject to a point of order in the House as in violation of Rule XXI clause 2,[12] if offered in the House, was adopted by the Senate, and the conferees reported such an amendment in disagreement, the House may consider the amendment.

On Oct. 6, 1949,[13] the House approved the conference report on H.R. 3838, Department of Interior appropriations, fiscal 1950. After the Clerk read Senate amendment No. 132, reported from conference still in disagreement, Mr. Wesley A. D'Ewart, of Montana, interposed a point of order on the ground that the amendment contained legislation and was therefore in violation of Rule XXI clause

11. Omar T. Burleson (Tex.).

12. See *House Rules and Manual* § 834 (1997).

13. 95 CONG. REC. 14028, 14038, 14039, 81st Cong. 1st Sess.

2. Speaker Sam Rayburn, of Texas, gave the following ruling:

> The Chair has listened to the gentleman from Montana very carefully. The Chair will state that if an amendment of this sort had been proposed in the House of Representatives when this bill was under consideration in all probability it would have been subject to a point of order. The Chair does not feel that in this case it is a violation of clause 2 of rule 21, for the simple reason that it has been held as early as 1921 by Mr. Speaker Gillette that when an amendment that might have been subject to a point of order in the House if offered here was adopted by the Senate, and the conferees reported such an amendment in disagreement the House may consider the amendment.
>
> Therefore, the Chair must overrule the point of order of the gentleman from Montana.

Consideration of Senate Amendments in Disagreement

§ 29.34 Rule XX clause 1[14] requires consideration of certain Senate amendments in the Committee of the Whole; but this requirement applies only before the state of disagreement is reached and it is too late to raise a point of order after the matter has been to conference and an amendment in disagreement is before the House.

During consideration of an amendment in disagreement to the conference report on the Department of Health, Education, and Welfare and related agencies appropriation bill for fiscal year 1976,[15] an amendment in disagreement restricting appropriations in the bill to bus students to a school other than that nearest his or her home was reported. Mr. Silvio O. Conte, of Massachusetts, raised a point of order of two parts: first, that the Senate amendment was legislative; second, that it required consideration in the Committee of the Whole.

The response of Speaker Carl Albert, of Oklahoma, put both arguments in perspective.

> THE SPEAKER: The Clerk will report the next amendment in disagreement.
>
> The Clerk read as follows:
>
> Senate amendment No. 72: Page 47, line 4, insert:
>
> "SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to

14. *House Rules and Manual* § 827 (1997).

15. 121 CONG. REC. 38714, 94th Cong. 1st Sess., Dec. 4, 1975.

comply with title VI of the Civil Rights Act of 1964."

POINT OF ORDER

MR. CONTE: Mr. Speaker, I raise a point of order on the amendment. This is legislation on an appropriation bill, and I would like to be heard on the point of order.

THE SPEAKER: The gentleman from Massachusetts may be heard on his point of order.

MR. CONTE: Mr. Speaker, I rise in support of a point of order against Senate amendment No. 72 to the Labor-HEW Appropriations Act of 1976.

At this point, I should like to direct the Chair to rule 21, section 2 of the House regarding the prohibition of legislation in an appropriations bill. The pertinent language states:

> Nor shall any provisions in any such bill or amendment thereto changing existing law be in order.

Clearly, the purpose of this rule prohibiting legislation in an appropriations bill is to prohibit the overt alteration of fundamental law. This is the case where an amendment is concealed by the subterfuge of a limitation on spending.

While the Senate amendment No. 72 might appear to only act as a limitation on spending, it will actually change basic law as I will now set out.

Section 215(a), title II of the Equal Educational Opportunities Act of 1974 provides the following language, which limits the specific distance a student may be transported in a schoolbusing program:

> No court, department or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would *require the transportation of any student to a school other than the school closest to his place of residence* which provides the appropriate grade level and type of education for such student. (Emphasis added.)

Notice that the distance a student can be transported is limited to the "school closest or next closest to his place of residence." I should now address myself to the language of the Senate amendment here in question:

> None of the funds contained in this act shall be used to *require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home,* and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964. (Emphasis added.)

As is readily apparent, where the Equal Educational Opportunities Act of 1974 (Public Law 93–380) limits busing to either the student's immediate or adjacent school district, the Senate amendment further limits the transportation to the student's immediate district. I am sure the Chair can see this apparent attempt to change the effect of section 215(a) of Public Law 93–380.

I should like to note that while this is a Senate amendment and may be consistent with the rules of that House—it is not controlling. It is clear that since this is an appropriations bill and naturally originates in the House, it is the House rules which are controlling and I cite rule 20 on this point:

> 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.

For these reasons, Mr. Speaker, I contend that this amendment carries the standard of a simple limitation in an appropriations bill, but in reality is a prima facie case of legislation in an appropriations bill, which on its face changes existing law.

Therefore, I urge that this point of order be sustained.

Thank you, Mr. Speaker.

THE SPEAKER: The Chair is ready to rule.

The Chair overrules the point of order raised by the gentleman from Massachusetts (Mr. Conte) because when that stage is reached that an amendment is in disagreement between the two Houses, the rule—clause 1 of rule XX—cited by the gentleman from Massachusetts no longer applies and the amendment may be disposed of in the House. The Senate amendment is reported back in disagreement and not as part of the conference report, therefore clause 2 of rule XX is not applicable and the Senate amendment may be considered by the House.

§ 29.35 Where a Senate amendment proposing legislation on a general appropriation bill is, pursuant to the edict of Rule XX clause 2,[16] reported back from conference in disagreement, a motion to recede and concur in the amendment with a further amendment is in order (albeit the further amendment is also legislative), and the only test is whether the further amendment is germane to the Senate amendment reported in disagreement.[17]

16. *House Rules and Manual* § 829 (1997).

17. *Parliamentarian's Note:* House consideration of Senate legislative amendments to general appropriation bills as illustrated by this precedent differs from Committee of the Whole consideration of House legislative provisions which had been permitted to remain in a general appropriation bill pursuant to a resolution waiving points of order against such provisions. In an example of the latter case, the Chairman has ruled that these legislative provisions could be perfected by germane amendments so long as they did not add further legislation. See 119 CONG. REC. 21388, 21389, 93d Cong. 1st Sess., June 26, 1973. These different rulings demonstrate the changing priority of two policy considerations at different stages of the legislative process. During the early stages great care is taken to separate the authorizing and appropriating functions of the House. Later, after both Houses have considered a matter and after the conferees have reported a disagreement, the requirement of expeditious disposal of the legislation supersedes

On Dec. 15, 1970,[18] the House was considering the amendments reported in disagreement from the conference on H.R. 17755, Department of Transportation appropriations, fiscal 1971. The following occurred:

THE SPEAKER:[19] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment numbered 14: On page 7 line 11, insert:

"That $28,000,000 of the foregoing amount shall be available only upon enactment into law of H.R. 19444, 91st Congress, or similar legislation: *Provided further,*".

MR. [EDWARD P.] BOLAND [of Massachusetts]: Mr. Speaker, I offer a motion.

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Speaker, I make a point of order on amendment No. 14.

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

MR. ECKHARDT: Mr. Speaker, I make the point of order that the receding from the position of the House and concurring with the Senate has the effect of attaching positive legislation to an appropriation bill in violation of rule 21, paragraph 2, and other provisions.

Mr. Speaker, may I be heard briefly on my point of order?

THE SPEAKER: The Chair will hear the gentleman.

MR. ECKHARDT: . . . The provision contained in this motion to concur would provide that the managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that $28 million of the appropriation for operations shall be derived from the airport and airways trust fund for combating hijacking.

So in effect this constitutes an amendment on H.R. 17755, an appropriation bill which alters existing law, Public Law 91–258. . . .

MR. BOLAND: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER: The gentleman is recognized.

MR. BOLAND: Mr. Speaker, the motion is, I believe, germane to the Senate amendment. . . .

There is no question about the amendment being legislation, but I submit that the House can legislate further, since this is in the bill, and the action of the Subcommittee on Appropriations for the Department of Transportation refers to the Senate amendment.

THE SPEAKER: The Chair is prepared to rule.

The Chair recognizes that the Senate amendment is legislation on an appropriation bill not authorized by law.

However, the conferees did not agree to it in conference, but reported it back in disagreement. The Senate amendment is not subject to a point of order in the House. The Chair calls attention to volume VII of the Cannon's Prece-

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this earlier policy, and the House is accorded greater latitude in amending the Senate amendment.

18. 116 CONG. REC. 41504, 41505, 91st Cong. 2d Sess.

19. John W. McCormack (Mass.).

dents, section 1572, the syllabus of which reads as follows:

> Senate amendments interdicted by clause 2, rule XXI, are not subject to a point of order under the rule providing for a separate vote on such amendments when considered in the House, as the rule applies to conferees and their reports only.

The Chair overrules the point of order.

Perfecting Senate Amendments in Disagreement in the House

§ 29.36 Where a Senate amendment containing legislation is reported in disagreement from a conference on a general appropriation bill, it may be perfected by a further House amendment, albeit legislative in effect, so long as the House amendment is germane to the Senate amendment.

Rule XX clause 2,[20] prohibits the managers on the part of the House from agreeing to a Senate amendment which would constitute legislation on a general appropriation bill under Rule XXI clause 2(b).[1] Such amendments of the Senate are routinely reported in disagreement to avoid making the conference report subject to a point of order.

During the proceedings of Aug. 1, 1979,[2] the point of order against the manager's motion to recede and concur with an amendment, the response of Speaker Pro Tempore James C. Wright, Jr., of Texas, and the subsequent action in dividing the question on the manager's motion were as follows:

> MR. [TOM] BEVILL [of Alabama]: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. Bevill moves to recede in the amendment of the Senate No. 37 and concur therein with an amendment as follows in lieu of the matter proposed to be inserted by the Senate insert:
>
> SEC. 502. There is appropriated, out of any money in the Treasury not otherwise appropriated, for an additional amount for "Construction of an Extension to the New Senate Office Building" $52,583,400 toward finishing such building and to remain available until expended: *Provided,* That the amount of $137,730,400 shall constitute a ceiling on the total cost for construction of the Extension to the New Senate Office Building.
>
> It is *further provided,* That such building and office space therein upon completion shall meet all needs for personnel presently supplied by the Carroll Arms, the Senate Courts, the Plaza Hotel, the Capitol Hill

20. See *House Rules and Manual* § 829 (1997).

1. See *House Rules and Manual* § 834b (1997).

2. 125 CONG. REC. 22007, 22008, 22010, 22011, 96th Cong. 1st Sess.

Apartments and such buildings shall be vacated.

POINT OF ORDER

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state the point of order.

MR. BAUMAN: Mr. Speaker, this amendment offered at this time would not have been in order had it been offered to the bill as originally before the House. The bill is an appropriation bill and this constitutes legislation on an appropriation bill.

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

MR. BEVILL: Mr. Speaker, I wish to point out this is merely a change of the report language that is in the appropriation bill and it is germane and it is a part of the bill.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. The Chair would like to state that the only requirement of the amendment in the motion offered by the gentleman from Alabama is that it be germane to the Senate amendment. The language is quite clearly germane to the Senate amendment No. 37 and, therefore, the motion is in order and the point of order is overruled.

PARLIAMENTARY INQUIRY

MR. BAUMAN: Mr. Speaker, I have a parliamentary inquiry.

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

MR. BAUMAN: Mr. Speaker, under the rules would not a demand by any Member to separate the questions to recede and concur with an amendment be permitted and then only a vote would occur on the first part of that, which would be the motion to recede?

THE SPEAKER PRO TEMPORE: The gentleman is correct, such a motion would be in order. The House could consider the first part if the two items were separated.

MR. BAUMAN: Mr. Speaker, I demand that the question be divided.

THE SPEAKER PRO TEMPORE: The gentleman is protected.

The gentleman from Alabama is recognized for 30 minutes in support of his motion, or such portion of that time as he may consume. . . .

MR. BEVILL: Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

THE SPEAKER PRO TEMPORE: The question is, will the House recede from its disagreement to the amendment of the Senate No. 37?

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

RECORDED VOTE

MR. BAUMAN: Mr. Speaker, I demand a recorded vote, and I request a fair count.

THE SPEAKER PRO TEMPORE: The Chair will state that the gentleman is fully within his rights to demand a recorded vote and to expect a fair count.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 184, not voting 36, as follows: . . .

So the House receded from its disagreement to Senate amendment No. 37.

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE: The question is, Will the House concur in Senate amendment No. 37 with an amendment?

The motion was agreed to.

A motion to reconsider was laid on the table.

Amendment to Senate Amendment in Disagreement Must Be Germane

§ 29.37 While a point of order against a motion to recede and concur with an amendment in a Senate amendment to a general appropriation bill reported from conference in disagreement will not lie merely because the proposed House amendment adds legislation, there is a requirement that it be germane to the Senate amendment.

An amendment reported in disagreement from the conference on defense appropriations, fiscal 1980, which restricted the use of funds for missile development was pending when a motion was offered to recede and concur with a further amendment authorizing certain new research and development funds. The point of order against the motion offered by the bill's manager and subsequent arguments thereon, as excerpted from the proceedings of Dec. 12, 1979,[3] are carried here.

THE SPEAKER:[4] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 29, line 7, insert: None of the funds appropriated under this paragraph to continue development of the MX Missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system.

MOTION OFFERED BY MR. ADDABBO

MR. [JOSEPH P.] ADDABBO [of New York]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

None of the funds appropriated under this paragraph to continue development of the MX missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system.

In addition to any other funds authorized to be appropriated under this heading, there is hereby authorized to be appropriated during fiscal year 1980 an additional amount of $5,000,000 only for research and development on the Perimeter Acquisition Radar Attack Characterization System (PARCS).

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3. 125 CONG. REC. 35520, 35521, 96th Cong. 1st Sess.
4. Thomas P. O'Neill, Jr. (Mass.).

POINT OF ORDER

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Speaker, I have a point of order.

THE SPEAKER: The gentleman will state it.

MR. ICHORD: Mr. Speaker, I make a point of order against the motion offered by the gentleman from New York (Mr. Addabbo) for the reason that this calls for an authorization. The amendment calls for an authorization in an appropriation bill.

For that reason, Mr. Speaker, the amendment is not germane, and I would point out for the edification of the Chair that the authorization for the PARCS radar was rejected by both the Committee on Armed Services of the House and the permanent Select Committee on Intelligence of the House, which are the authorizing committees for this particular weapons system.

MR. ADDABBO: Mr. Speaker, I wish to be heard on the point of order.

THE SPEAKER: The Chair will hear the gentleman.

MR. ADDABBO: . . . We realize that this is authorization on an appropriation bill, but it is insisted on by the Senate chairman of the conference committee, Senator Stennis of Mississippi, who is also the chairman of the Senate Armed Services Committee. . . .

So, Mr. Speaker, I do concede the point of order, but I would hope the gentleman from Missouri (Mr. Ichord) would not insist on his point of order.

THE SPEAKER: Does the gentleman from Missouri (Mr. Ichord) insist on his point of order?

MR. ICHORD: Mr. Speaker, I must insist on the point of order.

THE SPEAKER: The gentleman insists on his point of order.

MR. [JACK] EDWARDS of Alabama: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER: The Chair will hear the gentleman.

MR. EDWARDS of Alabama: Mr. Speaker, I hate to find myself at odds with my subcommittee chairman, but I do not believe that I can concede the point of order.

This is a point of order raised against an amendment brought back in disagreement. It is not a point of order raised to a bill, and my understanding of the rules is that a point of order would not lie to an amendment brought back in disagreement.

THE SPEAKER: The Chair will rule that the germaneness point of order is well taken. It is very obvious that the motion is not germane as it relates to the Senate amendment 56, and the Chair sustains the point of order.

Adding Legislative Provisions to Appropriation Bill

§ 29.38 The House adopted a resolution waiving points of order against a conference report on an appropriation bill, and making in order motions to recede from disagreement to any Senate amendment (reported from conference still in disagreement) and concur therein with an amendment inserting in this bill any or all pro-

visions of a legislative bill (and amendments thereto) as agreed to by the House conferees on the appropriation bill.

On Aug. 2, 1955,[5] Mr. James W. Trimble, of Arkansas, by direction of the Committee on Rules reported and called up House Resolution 337, providing for the consideration of the conference report on H.R. 7117, appropriations for the legislative branch for fiscal 1956.

> *Resolved,* That upon the adoption of this resolution it shall be in order to consider the conference report on the bill H.R. 7117, making appropriations for the legislative branch for the fiscal year ending June 30, 1956, and for other purposes, and all points of order against the conference report are hereby waived; that during the consideration of the amendments of the Senate to the bill H.R. 7117 reported from the conference committee in disagreement it shall be in order, notwithstanding any rule of the House to the contrary, to move that the House recede from its disagreement to any such amendment and concur therein with an amendment inserting in the proper place in the bill any or all of the parts of the provisions of the bill H.R. 7440 and any amendments thereto as agreed upon by the House conferees on the bill H.R. 7117. . . .

Mr. Trimble explained the purpose of the resolution:

> This rule waives points of order on the conference report on the legislative appropriation bill. Briefly, it simply waives points of order for the substitution of certain features of H.R. 7440.

Mr. Karl M. LeCompte, of Iowa, added:

> This resolution will make in order the consideration of legislation on a conference report.

The House debated the extent to which this resolution would incorporate provisions of H.R. 7440 in the conference report on H.R. 7117, and then adopted the resolution.

Mr. John J. Rooney, of New York, then submitted and called up the conference report on H.R. 7117. The House adopted the report without debate, and the Speaker instructed the Clerk to read the only amendment reported in disagreement. After the Clerk read Senate amendment No. 52, the following occurred:

> MR. ROONEY: Mr. Speaker, I move that the House recede and concur in the Senate amendment with an amendment.
>
> The Clerk read as follows:
>
> Mr. Rooney moves that the House recede from its disagreement to the amendment of the Senate numbered 52, and concur therein with an

5. 101 CONG. REC. 13051–56, 84th Cong. 1st Sess.

amendment, as follows: In lieu of the matter proposed by said amendment insert: . . .

After the Clerk read his motion, Mr. Rooney explained,

Mr. Speaker, this is the amendment which was discussed just prior to the adoption of the rule. This is where the provisions of H.R. 7440 reported by the House Administration Committee and for which a rule was granted about a week ago, as amended by the House conferees, are inserted in this appropriation bill. . . .

After a brief discussion of this motion, the consideration of the Senate amendment was concluded in the following manner:

THE SPEAKER:[6] The question is on the motion.

The motion was agreed to.

A motion to reconsider was laid on the table.

Parliamentarian's Note: During July 1955, the Committee on House Administration held hearings on a proposal to authorize increases in the salaries of certain House employees. Tentative arrangements were made with the legislative subcommittee of the Committee on Appropriations to include these recommendations in the legislative appropriation bill (H.R. 7117) when such recommendations were referred to it by the Committee on House Administration. Leaders of the Committee on Appropriations rejected this arrangement. The Committee on House Administration then reported its recommendations to the House as embodied in H.R. 7440. The legislative appropriation bill passed the House, was amended in the Senate to provide for many salary increases for its employees, and was sent to conference. The House leadership requested that the provisions of H.R. 7440, authorizing raises for certain House employees, be inserted in H.R. 7117 in conference (since this was the last appropriation bill for the year). The Senate conferees refused to do this, so it was decided by the House leadership to resort to the resolution referred to above. The procedure outlined in the resolution was followed, the Senate agreed to the House amendment to the Senate amendment, and the provisions of H.R. 7440, authorizing the desired appropriations, became a part of the bill H.R. 7117, and were enacted into law.

Changing Text Not in Disagreement

6. Sam Rayburn (Tex.).

§ 29.39 When considering a Senate amendment reported from a conference in disagreement, the House may not recede and concur therein with an amendment which changes a provision of the bill which is not in disagreement.

On Mar. 9, 1939,[7] Mr. Clifton A. Woodrum, of Virginia, called up the conference report on H.R. 2868, the deficiency appropriations bill, fiscal 1939. After the Clerk read the first amendment in disagreement, Mr. Woodrum offered a motion to recede and concur therein with an amendment. Speaker Pro Tempore Lindsey C. Warren, of North Carolina, recognized Mr. John Taber, of New York, who raised a point of order:

> Mr. Speaker, I make a point of order against the amendment on the ground that it attempts to amend an item that has not been in disagreement.
>
> MR. WOODRUM of Virginia: Will the gentleman reserve his point of order to permit me to make a brief explanation?
>
> MR. TABER: Yes; I will reserve it.
>
> THE SPEAKER PRO TEMPORE: The gentleman from New York reserves a point of order against the amendment.
>
> MR. WOODRUM of Virginia: Mr. Speaker, undoubtedly the portion of the amendment to which the gentleman objects is subject to a point of order; but the situation that confronts the House and the Wage and Hour Division of the Department of Labor is that we carry in this deficiency bill a deficiency appropriation for the Wage and Hour Division, but they are actually out of money now and have been for several days. Under the law the deficiency appropriation, when finally signed by the President, will be available only from the time of its becoming law; so there is a period of some 8, 10, or 12 days during which the obligations and expenses of this Bureau have been running which are not provided for unless language is put in here or a joint resolution is passed. The language, of course, is subject to a point of order if the gentleman desires to press it, but if he does that we shall have to go through the formality of passing a joint resolution.
>
> I hope with this explanation the gentleman will be willing to withdraw his point of order. The amendment does not increase the appropriation or do anything except to make the money available to pay the expenses which have been incurred during this interim I mentioned.
>
> MR. TABER: Mr. Speaker, I do not feel I can accept the gentleman's proposition. I feel that I should insist on my point of order. I do not know whether I would insist on it if unanimous consent were asked to amend page 5 by itself as the gentleman has suggested, but I shall have to insist on the point of order if it is coupled with the census bill.
>
> MR. WOODRUM of Virginia: Mr. Speaker, I acknowledge the point of order and will reoffer the amendment with the latter part of it stricken.

7. 84 CONG. REC. 2525, 2526, 76th Cong. 1st Sess.

THE SPEAKER PRO TEMPORE: The point of order made by the gentleman from New York [Mr. Taber] is sustained.

Interruption of Series of Motions on Amendments in Disagreement by Other Business

§ 29.40 While the House was considering a series of amendments in disagreement on one measure, it interrupted the consideration to call up amendments in disagreement on another appropriation bill.

Consideration of amendments on two different appropriation bills are matters of equal privilege. In this situation,[8] the leadership was anxious to complete consideration of H.R. 4781, the Defense appropriation bill, where only two amendments remained in disagreement, before adjourning for the evening. Unanimous consent to interrupt consideration of the various amendments in disagreement and the motions pertaining thereto to H.R. 4637, the foreign operations appropriations bill, was not required, since in the House, between motions, other business of the same or higher precedence can be raised.

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Speaker, the reason I sought recognition is that there is the possibility of asking unanimous consent that the House move out of the present order of debate to consider motions to be offered by the distinguished gentleman from Florida [Mr. Chappell] with respect to the Department of Defense appropriation bill prior to final action with respect to this amendment.

THE SPEAKER PRO TEMPORE:[9] Is the gentleman from Washington [Mr. Foley] making a request?

MR. FOLEY: Mr. Speaker, I yield to the gentleman from Florida [Mr. Chappell].

MR. [WILLIAM V.] CHAPPELL [Jr., of Florida]: Mr. Speaker, I make a request. I ask unanimous consent that we call up from the Speaker's table the remaining amendments in disagreement on the bill, H.R. 4781, making appropriations for the Department of Defense for the fiscal year 1989 and for other purposes.

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

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, reserving the right to object, I am just trying to figure out what we are doing here.

Do I understand that we are rising on the bill that we are presently considering, going to another bill, and then

8. See 134 CONG. REC. 27321, 27322, 100th Cong. 2d Sess., Sept. 30, 1988.

9. Kenneth J. Gray (Ill.).

coming back to the bill that we were considering?

THE SPEAKER PRO TEMPORE: The House is not in the Committee of the Whole. We would not have to rise. We are in the House.

MR. WALKER: . . . Can we get some explanation as to why? . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, we are going to take up the Defense conference report. The Senate is taking it up. They have two amendments. We feel we can clean this up in about 5 minutes and then get right back onto this bill here. . . .

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

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

There was no objection.

MR. CHAPPELL: Mr. Speaker, there are two amendments yet to be disposed of in this conference. One is amendment No. 89, and the other one is amendment No. 252.

THE SPEAKER PRO TEMPORE: Does the gentleman from Florida [Mr. Chappell] call up the amendments?

CONFERENCE REPORT ON H.R. 4781, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

MR. CHAPPELL: Mr. Speaker, I call up from the Speaker's table the remaining amendments in disagreement on the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

AMENDMENTS IN DISAGREEMENT

THE SPEAKER PRO TEMPORE: The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

> Senate amendment No. 89:
> *Resolved*, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 89 with an amendment as follows: . . .

MOTION OFFERED BY MR. CHAPPELL

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

The Clerk read as follows:

> Mr. Chappell moves that the House concur in the Senate amendment to the House amendment to the Senate Amendment No. 89.

The motion was agreed to.

THE SPEAKER PRO TEMPORE: The Clerk will report the remaining amendment in disagreement.

The Clerk read as follows:

> Senate amendment No. 252:
> *Resolved*, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 252 with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment insert: . . .

MOTION OFFERED BY MR. CHAPPELL

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

The Clerk read as follows:

> Mr. Chappell moves that the House concur in the Senate amendment to the House amendment to the Senate amendment No. 252.

The motion was agreed to.

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

En Bloc Consideration

§ 29.41 The House may grant unanimous consent for the en bloc consideration of all but one amendment reported in disagreement from a conference, and consider that amendment separately.

On Mar. 1, 1939,[10] the House was considering the conference report on the independent offices appropriation bill, fiscal 1940. The Speaker, William B. Bankhead, of Alabama, recognized Mr. John Taber, of New York, to pose a parliamentary inquiry:

> If the conference report should be voted down, would it be in order to ask unanimous consent to dispose of the other amendments than the T.V.A. all in one block in accordance with the conference report so that they might be disposed of and we might get at the T.V.A. question by itself?
>
> THE SPEAKER: In answer to the parliamentary inquiry of the gentleman from New York, the Chair will state that if unanimous consent should be given by the House to vote on the amendments en bloc, aside from the one in dispute, that such action could properly be taken and would dispose of all items except the ones in dispute.

Considering Amendments in Disagreement En Bloc

§ 29.42 In the consideration of a myriad of amendments reported in disagreement from a conference on a general appropriation bill, the manager often asks that those amendments to which the House proposes to recede and concur be considered (by unanimous consent) as read, and disposed of en bloc.

The procedure used in disposing of the amendments in disagreement to the State, Justice, Commerce, and Judiciary appropriation bill, fiscal 1979, is often employed to expedite consideration of non-controversial amendments. Note that those amendments in disagreement that were to be disposed of by a motion to recede and concur with an amendment were also considered as read. When reached in the consideration, the Clerk reported the amendments by number, and then the manager offered the appropriate motion to dispose of the pending amendment. The proceedings

10. 84 CONG. REC. 2085, 2086, 76th Cong. 1st Sess.

in the House of Sept. 28, 1978,[11] are carried below:

So the conference report was agreed to.

The result of the vote was announced as above recorded.

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

AMENDMENTS IN DISAGREEMENT

MR. [NEAL] SMITH of Iowa: Mr. Speaker, there are 65 amendments in technical disagreement, and may I inform the Members, if they will bear with me, we will be able to take care in about 7 or 8 minutes of all except amendments 9 and 123, which we will postpone until tomorrow. . . .

Mr. Speaker, in order to expedite the disposition of these amendments, I would like to suggest that all such amendments on which we are asking that the House recede and concur be considered en bloc. Accordingly, Mr. Speaker, I ask unanimous consent that Senate amendments numbered 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 26, 27, 28, 29, 33, 35, 36, 37, 38, 40, 41, 56, 73, 78, 88, 91, 92, 96, 101, 102, 103, 104, 105, 110, and 114 be considered as read, printed in the Record, and that they be considered en bloc.

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

There was no objection. . . .

MOTION OFFERED BY MR. SMITH OF IOWA

MR. SMITH of Iowa: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. Smith of Iowa:

Mr. Smith of Iowa moves that the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 26, 27, 28, 29, 33, 35, 36, 37, 38, 40, 41, 56, 73, 78, 88, 91, 92, 96, 101, 102, 103, 104, 105, 110 and 114 and concur therein.

The motion was agreed to.

MR. SMITH of Iowa: Now, Mr. Speaker, I ask unanimous consent that the consideration of the amendments 9 and 123 be postponed until tomorrow, and be considered the unfinished business for tomorrow.

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

MR. [ROBERT E.] BAUMAN [of Maryland]: Reserving the right to object, Mr. Speaker, I do so to make in inquiry of the Chair. If this postponement is granted, will these be the first order of unfinished business in the morning?

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman from Maryland that as unfinished business, the answer to the question is yes. . . .

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

There was no objection.

AMENDMENTS IN DISAGREEMENT

MR. SMITH of Iowa: Mr. Speaker, I ask unanimous consent that the remaining amendments in disagreement,

11. 124 CONG. REC. 32449, 32452, 95th Cong. 2d Sess.

that is, Senate amendments numbered 2, 22, 24, 25, 30, 31, 34, 51, 66, 67, 90, 100, 106, 109, 111, 113, 115, 116, 117, and 124 be considered as read, printed in the Record, and that they be identified by the Chair by number so that I may offer motions for their disposition.

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

There was no objection.

§ 29.43 The House may adhere to its disagreement to certain Senate amendments en bloc.

On June 30, 1937,[12] after the House considered the conference report and several amendments in disagreement on H.R. 6692, military appropriations, fiscal 1938, the following occurred:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I ask unanimous consent that the reading of the remaining amendments in disagreement be dispensed with and that they be considered en bloc.

THE SPEAKER:[13] Is there objection to the request of the gentleman from Missouri?

There was no objection.

MR. CANNON of Missouri: Mr. Speaker, I offer a motion, which I send to the Clerk's desk.

The Clerk read as follows:

Mr. Cannon of Missouri moves that the House adhere to its disagreement to the amendments of the Senate to the bill H.R. 6692, the military appropriation bill, 1938, nos. 1, 47 to 77, inclusive, and 80, and the amendment of the Senate to the title of said bill.

MR. CANNON of Missouri: Mr. Speaker, I ask for a vote on the motion.

The motion was agreed to.

Varying Order of Consideration of Amendments

§ 29.44 The disposition of Senate amendments in disagreement normally proceeds in the order in which they appear in the House text; but the House may vary the order of consideration by a unanimous-consent agreement.

Where controversy is expected on a particular motion to dispose of a Senate amendment in disagreement, its disposition can be postponed until a more convenient time on the following day by a proper unanimous-consent request.[14]

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I ask unanimous consent that amendments numbered 147 and 148 be passed over this evening and that they be considered tomorrow, Wednesday, October 20, 1993, immediately prior to

12. 81 CONG. REC. 6611, 75th Cong. 1st Sess.
13. William B. Bankhead (Ala.).
14. See 139 CONG. REC. 25388, 25390, 103d Cong. 1st Sess., Oct. 19, 1993 (H.R. 2519).

the consideration of amendment No. 171.

THE SPEAKER PRO TEMPORE:[15] Is there objection to the request of the gentleman from Iowa?

There was no objection.

THE SPEAKER PRO TEMPORE: The Clerk will designate the next amendment in disagreement. . . .

The motion was agreed to.

THE SPEAKER PRO TEMPORE: The Chair rules that further consideration of this bill will continue tomorrow.

Corrections in Dollar Amounts

§ 29.45 The House by unanimous consent authorized the enrolling clerk to correct dollar amounts contained in several amendments reported from conference in disagreement pursuant to a series of motions specifying these corrections.

On June 22, 1939, after the House adopted the conference report on H.R. 5269, Department of Agriculture appropriations, fiscal 1940, and considered several amendments reported from conference still in disagreement, the following occurred:[16]

THE SPEAKER:[17] The Clerk will report the next amendment in disagreement.

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I ask unanimous consent that the Clerk be authorized on Senate amendments Nos. 21, 26, 27, 33, 105, 115, 116, 142, and 148 to correct the totals contained in said foregoing amendments and to formulate the proper motions and messages in respect thereto in accordance with the action of the House on the remaining Senate amendments reported in disagreement, and such motions so formulated shall be considered as agreed to by the House.

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

There was no objection.

Mr. Cannon then offered and the House adopted motions correcting the dollar amounts contained in the amendments mentioned above.

Timing of Message to Senate

§ 29.46 House action on amendments reported back in disagreement is not messaged to the Senate until final action has been taken on adoption of the conference report.

15. Kweisi Mfume (Md.).
16. See 84 CONG. REC. 7740, 76th Cong. 1st Sess.
17. William B. Bankhead (Ala.).

On Sept. 18, 1962,[18] the House deferred the vote on the conference report on H.R. 12648, Department of Agriculture appropriations, fiscal 1963, until the following day,[19] and then immediately disposed of the amendments reported from conference still in disagreement. On Sept. 20, the Senate received a message from the House which included the following:[20]

> The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12648) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1963, and for other purposes; that the House receded from its disagreement to the amendments of the Senate Nos. 4, 25, and 40 to the bill, and concurred therein, that the House receded from its disagreement to the amendment of the Senate No. 38 to the bill, and concurred therein with an amendment, in which it requested the concurrence of the Senate, and that the House insisted upon its disagreement to the amendments of the Senate Nos. 1, 2, 6, 19, 44, 47, 48, 49, 50, 51, 52, 53, and 54 to the bill.

18. 108 CONG. REC. 19708, 19720, 87th Cong. 2d Sess.
19. 108 CONG. REC. 19945, 87th Cong. 2d Sess., Sept. 19, 1962.
20. *Id.* at p. 19992.

House Recedes From Its Amendment

§ 29.47 When a House amendment to a Senate bill is reported back from conference in disagreement and the House insists on its amendment, the bill returns to the Senate with such message for further action; but should the House recede from its amendment the bill retains its original form.

On Mar. 16, 1942,[1] the House was considering the amendments reported in disagreement from the conference on S. 2208, the second war powers bill, 1942. The following occurred:

> MR. [HATTON W.] SUMNERS of Texas: Mr. Speaker, I move that the House insist upon its amendment numbered 32, and yield myself 10 minutes. . . .
>
> MR. [CHARLES F.] MCLAUGHLIN [of Nebraska]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE:[2] The gentleman will state it.
>
> MR. MCLAUGHLIN: If the House votes not to insist upon its amendment, then there is nothing before the conferees, because the House will then have yielded to the position taken by the

1. 88 CONG. REC. 2508, 2512, 2513, 77th Cong. 2d Sess.
2. Richard M. Duncan (Mo.).

Senate, as I understand the situation. Am I correct?

THE SPEAKER PRO TEMPORE: If the House recedes from its amendment, then there would be no reason to go to conference.

MR. MCLAUGHLIN: That is what I intended to ask. So that the situation is, Mr. Speaker, if I understand it correctly, we have two alternatives—one to insist and one to recede.

THE SPEAKER PRO TEMPORE: That is correct.

MR. MCLAUGHLIN: If we recede, we vote to pass without further action by the conferees the bill in the form in which it was prior to the time the Judiciary Committee, by committee amendment, moved that this title be stricken out, and prior to the time the House adopted that amendment. If we vote to insist, then we send it back to conference for action by the conferees. Is that not the situation?

THE SPEAKER PRO TEMPORE: If the House adopted the pending motion, then it goes back to the Senate for further consideration. It goes to the Senate first before it goes to conference.

MR. MCLAUGHLIN: If the Senate does not agree with our action in accepting the Sumners motion insisting on the House amendment, then the matter will have to go to conference?

THE SPEAKER PRO TEMPORE: That is correct.

Senate Amendment Reported in Disagreement is One Entity and Not Divisible

§ 29.48 A Senate amendment reported in disagreement from a conference committee is considered in its entirety, and it is not in order to consider individually separate items contained therein.

On May 20, 1936,[3] the House was considering a Senate amendment reported in disagreement from the conference on the Department of Interior appropriation bill, fiscal 1937. The amendment authorized the construction of seven separate reclamation projects. Mr. Edward T. Taylor, of Colorado, offered a motion to recede and concur in this amendment with an amendment which related to one of the seven projects contained in the Senate amendment. Mr. Fred Cummings, of Colorado, then raised a parliamentary inquiry:

> Will a motion be in order to consider these items separately?
>
> THE SPEAKER:[4] No; there is only one Senate amendment.

Requesting a Further Conference

§ 29.49 When both Houses have adopted a conference report on a bill and amendments

3. 80 CONG. REC. 7623, 7624, 74th Cong. 2d Sess.
4. Joseph W. Byrns (Tenn.).

thereto, but certain amendments are still in disagreement between them, a further conference may be asked on these remaining amendments.

On Sept. 24, 1962,[5] Speaker John W. McCormack, of Massachusetts, recognized Mr. Albert Thomas, of Texas, and the following occurred:

> Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12711) making appropriations for sundry independent executive bureaus . . . and offices, for the fiscal year ending June 30, 1963, and for other purposes, further insist on disagreement to the Senate amendments and agree to the further conference asked by the Senate.
>
> May I explain that the other body adopted all of the conference report on the independent offices appropriation bill except three items, and we are asking unanimous consent to go back to conference on those three items.
>
> The Clerk read the title of the bill. . . .
>
> THE SPEAKER: Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Thomas, Yates, Cannon, Ostertag, and Taber.

5. 108 CONG. REC. 20489, 87th Cong. 2d Sess.

§ 29.50 A motion to request further conference on an amendment reported in disagreement by conferees is not in order as long as preferential motions (to recede, recede and concur, insist or adhere) are pending.

On Oct. 17, 1967,[6] Mr. Edward P. Boland, of Massachusetts, offered a motion to recede and concur in Senate amendment No. 13, which had been reported in disagreement from the conference on H.R. 11476, Department of Transportation appropriations, fiscal 1968.

> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, a parliamentary inquiry, if the gentleman will yield.
>
> MR. BOLAND: I yield to the gentleman.
>
> THE SPEAKER:[7] The gentleman will state it.
>
> MR. YATES: This is a motion to recede and concur in the Senate amendment. What would be the effect of voting down such a motion? Will it have the effect of sending the conferees back to conference for the purpose of ironing out this particular item again?
>
> THE SPEAKER: The amendment would still be before the House subject to another form of a motion.

6. 113 CONG. REC. 29044, 29048, 29049, 90th Cong. 1st Sess.
7. John W. McCormack (Mass.).

MR. YATES: What would be the nature of that motion, Mr. Speaker?

THE SPEAKER: The motion could be that the House insist on its disagreement.

MR. YATES: I thank the Speaker.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, will the gentleman yield?

MR. BOLAND: I yield to the gentleman.

MR. HALL: If the gentleman from Massachusetts' motion that the House recede from its disagreement to the amendment of the Senate No. 13 and concur therein was voted down, then another motion would be in order, would it not, I would ask as a parliamentary inquiry, to instruct the conferees to maintain the position of the House or that the House insist upon its disagreement with the other body?

THE SPEAKER: The Chair will state in response to the parliamentary inquiry propounded to the Chair by the distinguished gentleman from Missouri that if the House should insist upon its disagreement, then the matter could go back to conference.

§ 30. Voting; Final Disposition of Report

Conference reports are voted on before any amendments in disagreement are considered,[8] although under certain circumstances the vote on the report may follow the consideration of these amendments.[9]

They are voted on as a whole,[10] and, in accordance with Jefferson's Manual, they are not subject to amendment.[11] Although it is not in order to adopt only certain amendments contained in a report,[12] it has been in order, since the onset of the 93d Congress, to debate for 40 minutes and vote separately on any specified portion of a conference report which the Speaker, in response to a point of order, holds to contain material which would have been ruled nongermane if offered as an amendment in the House.[13] In this case the report must nonetheless be adopted as a whole, and the rejection of any portion of the report pursuant to this procedure results in the rejection of the entire report. However, in this event the pending question before the House is a motion to recede and concur with an amendment consisting of the portions of the con-

8. § 29.3, supra, and § 30.1, infra.

9. § 29.4, supra.

10. §§ 30.4, 30.5, infra.

11. *House Rules and Manual*, Jefferson's Manual § 542 (1997); and §§ 30.6, 30.7, infra.

12. § 30.4, infra.

13. See Rule XXVIII clause 4, *House Rules and Manual* § 913(b) (1997); and §§ 30.10, 30.11, infra.