A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. ECKHARDT

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

The Clerk read as follows:

Mr. Eckhardt moves that the House insist on its disagreement to the Senate amendment.

PREFERENTIAL MOTION OFFERED BY MR. BROYHILL

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Broyhill moves to lay on the table the amendment of the Senate to the bill, H.R. 3816.

THE SPEAKER: The question is on the preferential motion to lay on the table offered by the gentleman from North Carolina (Mr. Broyhill).

The preferential motion to table was agreed to.

A motion to reconsider was laid on the table.

So the Senate amendment and the bill H.R. 3816 were laid on the table.

### *Referred to Standing Committee*

**§ 31.14 A House bill with Senate amendments was by unanimous consent referred to the committee which originally reported it after the House agreed to a conference report thereon and the Senate rejected the conference report.**

On Mar. 27, 1945,[16] the House adopted the conference report on H.R. 1752, to amend the Selective Training and Service Act of 1940. On Apr. 3 of that year[17] the Senate rejected this conference report. On Apr. 23,[18] the following occurred in the House:

MR. [ANDREW J.] MAY [of Kentucky]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1752) to amend the Selective Training and Service Act of 1940 and for other purposes, with Senate amendments thereto, and ask that the same be referred to the Committee on Military Affairs.

THE SPEAKER:[19] Is there objection to the request of the gentleman from Kentucky?

There was no objection.

## § 32. Recommittal; Motions To Recommit

A motion to recommit a conference report to the committee of conference is in order in the House which first considers the report.[20]

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16. 91 CONG. REC. 2837–57, 79th Cong. 1st Sess.
17. *Id.* at p. 3074.
18. *Id.* at p. 3664.
19. Sam Rayburn (Tex.).
20. § 32.1, infra.

The adoption or rejection of the report by this House results in the discharge of its managers, which dissolves the committee of conference, and generally precludes the second House from recommitting the report.[1] However, a report may be recommitted after one House has acted on it, pursuant to a concurrent resolution approved by both Houses;[2] but such a resolution is not privileged for consideration in the House and must be called up by unanimous consent.[3]

When a conference produces an agreement, the managers on the part of the House which had agreed to the conference are directed by Jefferson's Manual to take possession of the official papers from the managers of the asking House[4] thereby providing for prior consideration of the report in the agreeing House, thereby preserving to it the opportunity to recommit. However, if the managers on the part of the agreeing House fail to take possession of the papers, the House which requested the conference may act first on the report and preclude the agreeing House from recommitting it.[5]

Conference reports may be recommitted by unanimous consent,[6] and in one instance a report in total disagreement was by unanimous consent recommitted to the committee of conference despite the fact that conferees are generally considered to be discharged when they report in this manner.[7] They may also be recommitted pursuant to a motion to suspend the rules.[8]

A conference report may not be recommitted to a standing committee.[9]

The motion to recommit a conference report is not in order until after the previous question has been ordered on the report,[10] and comes too late once the report has been agreed to.[11]

Recognition to offer the motion to recommit is reserved for Mem-

1. §§ 32.4–32.6, infra.
2. 8 Cannon's Precedents § 3316. See also § 32.46, infra.
3. 8 Cannon's Precedents § 3309, and 5 Hinds' Precedents §§ 6554, 6557.
4. *House Rules and Manual,* Jefferson's Manual § 555 (1997). See generally § 24, supra.
5. § 32.5, infra.
6. §§ 32.40–32.43, infra.
7. § 32.7, infra.
8. § 32.45, infra.
9. 5 Hinds' Precedents § 6558.
10. §§ 32.10, 32.11, infra.
11. § 32.13, infra.

bers opposed to the conference report,[12] and one opposed to the report unequivocally has priority over one merely opposed to the report in its present form.[13] Members of the minority party are accorded preference in recognition to offer the motion,[14] although the Speaker will recognize a member of the majority if no minority member seeks recognition.[15]

Neither the straight motion to recommit a conference report nor the motion to recommit with instructions to the House managers may be debated.[16] After the motion has been read, the previous question thereon is considered pending. However, should the previous question be defeated, the motion may be amended[17] to add instructions to the House conferees[18] or to modify the instructions proposed in the original motion. The motion may not be divided to provide a separate vote on the instructions or parts thereof.[19]

The managers on the part of the House function as agents of the House. Therefore, their authority may be no greater than that possessed by the House itself. Thus, instructions contained in a motion to recommit may not authorize the managers to do something the House itself could not do—amend its own bill after its passage.[20] However, a motion to recommit may instruct the House managers to agree to a Senate amendment containing an appropriation not authorized by law, since the vote on this motion satisfies the requirement of Rule XX clause 2[1] that specific authority to agree to such amendments be given by the

**12.** § 32.15, infra.
**13.** § 32.16, infra.
**14.** § 32.17, infra.
**15.** §§ 32.19, 32.20, infra.
**16.** *Parliamentarian's Note:* Although the third sentence of Rule XVI clause 4, *House Rules and Manual* § 782 (1997), states that 10 minutes of debate may be had on any motion to recommit with instructions, it has been held that the second sentence of that clause limits its application to bills and joint resolutions. Thus, on Nov. 15, 1973, the Speaker ruled that there could be no debate on a motion to recommit a simple resolution with instructions to a standing committee. 119 CONG. REC. 37141, 37142, 37149–51, 93d Cong. 1st Sess. This had been construed to preclude debate on a motion to recommit a conference report with instructions to the managers on the part of the House.
**17.** § 32.22, infra.
**18.** § 32.23, infra.
**19.** §§ 32.27, 32.28, infra.
**20.** § 32.32, infra.
**1.** *House Rules and Manual* § 829 (1997).

House before the managers go to conference.[2] Although a motion to recommit may instruct the managers to agree to such an amendment or other legislative amendments to a general appropriation bill, it may not instruct them to concur therein with an amendment which adds further legislation.[3] This objective may be accomplished by reporting to the House a disagreement to the Senate legislative amendment. When this occurs, the House may consider the amendment[4] and may at this stage add further legislative provisions thereto, providing they are germane to the Senate amendment.[5]

Recommittal of a conference report places the entire matter before the conferees.[6] This is the case even when the report has been recommitted with instructions affecting some but not all of the provisions sent to conference.[7] The conferees must reach a new agreement and file a new report[8] which is given a new number and considered as a new and separate report.[9]

Although only one valid motion to recommit a conference report is in order at any particular stage in the proceedings,[10] a subsequent report filed upon recommitment of the original report is also subject to recommittal.[11]

### *When in Order; Effect of Discharge of Managers*

**§ 32.1 A motion to recommit a conference report is in order if the other House has not acted on the report and thus discharged its managers.**

On Mar. 29, 1961,[12] pending a unanimous-consent request to send to conference H.R. 5463, to amend the Sugar Act of 1948, Mr. Charles A. Halleck, of Indiana, posed a parliamentary inquiry:

> MR. HALLECK: When the conference report comes back, would a motion to recommit be in order at that time?

2. § 32.36, infra.
3. § 32.37, infra.
4. § 29.33, supra.
5. § 29.35, supra, especially *Parliamentarian's Note.*
6. § 32.47, infra.
7. § 32.50, infra.
8. § 32.49, infra.
9. § 32.48, infra.
10. 8 Cannon's Precedents § 2737, and 5 Hinds' Precedents § 5582.
11. 8 Cannon's Precedents § 3325.
12. 107 CONG. REC. 5288, 87th Cong. 1st Sess.

THE SPEAKER:[13] If the House acts first.

MR. HALLECK: In other words, if the House acts first, when the conference report comes back, then a motion to recommit would be in order?

THE SPEAKER: If the House acts first, a motion to recommit a conference report would be in order.[14]

### *Recommittal to Same Conference Committee*

**§ 32.2 Where a conference report is recommitted in the House, the same conferees remain appointed; but when a new conference report is filed, the managers must again sign the new report and statement.**

The conference report on the Omnibus Budget Reconciliation Act of 1982 was recommitted, by motion, where it was discovered that a new provision had been inserted, not in either version, relating to federal pay. Since the Senate had not acted, the conference committee was still viable, and the Chair announced to the House that the same conferees would continue their deliberations. He informally advised the managers that all conferees on the part of the House must sign the new report before it could be received.

The relevant proceedings in the House on Aug. 17, 1982,[15] were as follows:

MR. [JAMES R.] JONES of Oklahoma: Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

ANNOUNCEMENT BY THE SPEAKER

THE SPEAKER:[16] The Chair, without getting into any debate, wants the House to be aware of the parliamentary situation. It is understood that there will be a motion to recommit. If the motion to recommit prevails, then the bill will have to go back to the conference committee and the Chair struggles to see how we could possibly bring this bill up again before the tax bill. The leadership has scheduled the tax bill for Thursday, but this conference committee would have to go back, it would have to get unanimous consent to have it brought up when filed; so the Chair just wants Members to have in mind the technicality of what is happening.

MOTION TO RECOMMIT OFFERED BY MR. DERWINSKI

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the conference report?

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13. Sam Rayburn (Tex.).
14. See also 109 CONG. REC. 25249, 88th Cong. 1st Sess., Dec. 19, 1963.
15. 128 CONG. REC. 21397, 21398, 97th Cong. 2d Sess.
16. Thomas P. O'Neill, Jr. (Mass.).

MR. DERWINSKI: I am in its present form, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Derwinski moves to recommit the conference report to accompany the bill, H.R. 6955, to the committee of conference.

THE SPEAKER: Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

THE SPEAKER: The question is on the motion to recommit. . . .

The vote was taken by electronic device, and there were—yeas 266, nays 145, not voting 23. . . .

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6955

MR. JONES of Oklahoma: Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file a conference report, and that this conference report may be taken up tomorrow or any day thereafter, and again that we would waive all points of order.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

THE SPEAKER: For the information of the House, the conferees automatically remain appointed to the same conference.

*Parliamentarian's Note:* The managers were advised that all must sign the new report, even though there were "general conferees on the whole bill" from the Committee on the Budget, and jurisdictional conferees from many House committees. The offending insert was in the portion of the report written by the Committee on Government Operations; this was the only segment of the complex report actually changed in the new report.

The Senate position, as reflected in the signature sheets, was to require signatures only of the general conferees and those from its Committee on Governmental Affairs. The signatures affixed to the first conference report filed were also attached as part of the official papers.[17]

### *Where Conference Report Was Recommitted for a Second Time*

**§ 32.3 The House twice recommitted a conference report on a general appropriation bill but finally agreed to the third report of the conferees.**

Both the first and second conference reports were called up under the protection of special orders which waived points of

17. See 128 CONG. REC. 21453, 21454, 97th Cong. 2d Sess., Aug. 17, 1982.

order against the reports and their consideration.[18] Such blanket protection was required since all amendments in disagreement were brought back inside the reports.

The motion offered by the ranking minority member of the Subcommittee on the Interior, Sidney R. Yates, of Illinois, is shown below in a portion of the debate defining the matters of major controversy which motivated the motion to recommit.[19]

> MR. YATES: Mr. Speaker, 7 weeks ago I offered a motion to recommit this conference report in order to improve this dreadful bill and restore the mining moratorium. Well, the conference committee reconvened. Instead of improving the bill, they made it worse. If my colleagues voted for my motion to recommit the Interior appropriations conference report in September, they must vote for the motion to recommit that I will offer at the appropriate time today for two reasons: one, that the mining moratorium has not met the expectations of the House; and, second, because of what has been, what is being proposed for the Tongass National Forest. . . .

MOTION TO RECOMMIT OFFERED BY MR. YATES

MR. YATES: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER PRO TEMPORE:[20] Is the gentleman opposed to the conference report?

MR. YATES: I am, Mr. Speaker.

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

The Clerk read as follows:

> Mr. Yates moves to recommit the conference report on the bill H.R. 1977 to the committee of conference with instructions to the managers on the part of the House to insist on the House position on the amendments of the Senate numbered 108 and 158.

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

There was no objection.

THE SPEAKER PRO TEMPORE: The question is on the motion to recommit.

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

MR. [RALPH] REGULA [of Ohio]: Mr. Speaker, I object to the vote on the ground that a quorum is not present

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**18.** The first conference report (H. Rept. 104–259) was recommitted on Sept. 29, 1995 (141 CONG. REC. 26940, 26941, 104th Cong. 1st Sess.). The second report (H. Rept. 104–300) was recommitted on Nov. 15, 1995 (141 CONG. REC. 32625, 32626, 104th Cong. 1st Sess.). The third and final report (H. Rept. 104–402) was agreed to on Dec. 13, 1995 (141 CONG. REC. 36322, 36323, 104th Cong. 1st Sess.).

**19.** See 141 CONG. REC. 32619, 32625, 32626, 104th Cong. 1st Sess., Nov. 15, 1995 (H.R. 1977, Interior appropriations for fiscal year 1996).

**20.** Scott McInnis (Colo.).

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 230, nays 199, not voting 4. . . .

### *When Motion To Recommit Is Precluded*

**§ 32.4 A motion to recommit a conference report is not in order when the other House has, by acting on the report, discharged its managers.**

On June 5, 1968,[1] at the end of debate on the conference report on H.R. 11308 (amending the National Foundation of Arts and Humanities Act of 1965) the following occurred:

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MR. [WILLIAM J.] SCHERLE [of Iowa]: Mr. Speaker, I offer a motion to recommit.

MR. THOMPSON of New Jersey: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE:[2] The gentleman will state the point of order.

MR. THOMPSON of New Jersey: Mr. Speaker, I make a point of order against the motion to recommit on the ground that the other body has already acted.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

The question is on the conference report.[3]

**§ 32.5 If the managers on the part of the House, which had agreed to a conference, fail to take possession of the papers at the close of that conference, the Senate may act first on the conference report and thereby preclude a motion to recommit in the House.**

On July 3, 1952,[4] the Senate requested a conference with the House on the disagreeing votes on S. 3066, to amend the defense housing laws. Later that day[5] the Senate agreed to the conference report on S. 3066. The next day[6] the report was called up in the House. At the conclusion of the debate thereon the following occurred:

1. 114 CONG. REC. 16058, 90th Cong. 2d Sess.
2. Carl Albert (Okla.).
3. See also 102 CONG. REC. 13755, 13764, 84th Cong. 2d Sess., July 20, 1956.
4. 98 CONG. REC. 9048, 9049, 82d Cong. 2d Sess.
5. *Id.* at p. 9169.
6. *Id.* at pp. 9379, 9380.

MR. [BRENT] SPENCE [of Kentucky]: Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MR. [ABRAHAM J.] MULTER [of New York]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:[7] The Chair will state to the gentleman from New York that a motion to recommit is not in order, the Senate having acted on the conference report.

MR. MULTER: Mr. Speaker, if they did, they acted improperly, because this should have been acted on in the House first.

THE SPEAKER: The Chair is not aware that the Senate has acted improperly. We have received a message that they agreed to the conference report.

The question is on the conference report. . . .

The question was taken; and there were—yeas 296, nays 22, not voting 112.

**§ 32.6 Where one House has acted first on a conference report (notwithstanding the fact that it had requested the conference) and thereby discharged its managers, the other House cannot recommit the report, but only has the option of accepting or rejecting it.**

On Oct. 19, 1965,[8] the Senate agreed to the conference report on S. 2300, the Rivers and Harbors Act of 1965. On Oct. 20, 1965,[9] Speaker John W. McCormack, of Massachusetts, recognized Mr. George H. Fallon, of Maryland, to call up this conference report in the House. Mr. William C. Cramer, of Florida, noted that although the Senate had requested the conference[10] its managers had refused to surrender the papers to their House counterparts, contrary to the customary practice of the two Houses.

MR. CRAMER: . . . So far as I am concerned, the action taken leaves, in my opinion, if the proper rights of the House and the prerogatives of this great coequal legislative body, coequal with the Senate, if we are to sustain our rights as conferees and as a coequal body, little alternative but to vote down the conference report. . . .

If we thus let them subvert the rules of this House, which are very clear, that the party asking for the conference, the other body has the right to act first on the conference report—and if that had been done, we would have had an opportunity to vote on a motion to recommit, for or against the Dickey-Lincoln School project a second time and so instruct the conferees—we will

7. Sam Rayburn (Tex.).

8. 111 CONG. REC. 27346–60, 89th Cong. 1st Sess.

9. *Id.* at pp. 27698–717.

10. *Id.* at pp. 24841–49.

see that the other body is acting to prevent us from acting. . . .

In conference a member of the conferees asked the chairman the question: "Is it not true that the other body, the Senate, having asked for this conference, we, the House, have a right to the papers and to act first?" The answer was "Yes" by the chairman of the conference, the distinguished Senator from Michigan, Mr. McNamara.

The House adopted the conference report.

*Parliamentarian's Note:* The Senate was anxious to act first on this conference report so that it could enforce its position with respect to the controversial Dickey-Lincoln School project on the St. John's River. The House had, on Sept. 22, 1965, rejected this project, but it had been restored, at the insistence of the Senate conferees, in the conference. Had the House acted first on the report, a motion to recommit would have been in order. The House conferees were advised to insist on their right to possession of the papers before they signed the report. In the conference, however, Senator Patrick V. McNamara, of Michigan, insisted on retaining the papers, notwithstanding the objections of the House conferees.

### *Effect of Report in Total Disagreement*

**§ 32.7 By unanimous consent, the House recommitted a conference report which had been filed but not called up and in which the conferees had reported in total disagreement, although under the usual procedure House conferees are discharged upon reporting their inability to agree.**

On Oct. 19, 1971,[11] Mr. Paul G. Rogers, of Florida (on behalf of Mr. Harley O. Staggers, of West Virginia), filed the conference report in total disagreement on Senate Concurrent Resolution 6, closing Public Health Service hospitals and clinics. The House took no action on the report until Dec. 1 of that year[12] when the following occurred:

MR. STAGGERS: Mr. Speaker, I ask unanimous consent that the conference report on the Senate concurrent resolution, Senate Concurrent Resolution 6, be recommitted to the committee of conference.

11. 117 CONG. REC. 36867, 92d Cong. 1st Sess.
12. *Id.* at p. 43835.

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

There was no objection.

*Parliamentarian's Note:* The usual rule is illustrated at 8 Cannon's Precedents § 3240, where Speaker Champ Clark, of Missouri, held that the managers on the part of the House had been discharged when they filed their report in total disagreement.

### *No Debate on Motion To Recommit Conference Report*

### § 32.8 A motion to recommit a conference report with instructions is not subject to debate.

Rule XVI clause 4,[14] relating to the motion to recommit a bill or joint resolution after the previous question is ordered, specifies that such a motion is subject to limited debate. However, a conference report does not fall under this clause, a report not being a "bill or joint resolution." The motion to recommit a conference report pending the previous question, or after the previous question is ordered, is authorized not by Rule XVI but by Rule XVII clause 1.[15]

There is often confusion about which of these rules is applicable and for this reason the Chair sometimes clarifies the matter without waiting for an inquiry from the floor:[16]

THE SPEAKER PRO TEMPORE:[17] Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF CALIFORNIA

MR. [GEORGE] MILLER of California: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER PRO TEMPORE: Is the gentleman opposed to the conference report?

MR. MILLER of California: Mr. Speaker, yes; I am.

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

The Clerk read as follows:

Mr. Miller of California moves to recommit the conference report on the bill S. 395 to the committee of conference with instructions to the managers on the part of the House to insist on the provisions of the House amendment No. 5 which strike title III of S. 395.

THE SPEAKER PRO TEMPORE: This motion is not debatable.

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13. Carl Albert (Okla.).
14. *House Rules and Manual* § 782 (1997).
15. *Id.* at § 804.
16. See 141 CONG. REC. 31761, 104th Cong. 1st Sess., Nov. 8, 1995.
17. Scott McInnis (Colo.).

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

### *Effect of Debate Subsequent to Adoption of Report; Effect on Motion To Recommit*

**§ 32.9 An agreement to permit debate of a conference report, even though the report had already been agreed to, and to insert this debate in the Record preceding that point where the conference report was agreed to, does not reopen the report to permit the making of any motions, such as the motion to recommit, the adoption of which would alter the prior action of the House in agreeing to the report.**

On May 22, 1968,[18] Mr. Wright Patman, of Texas, called up the conference report on S. 5, the Consumer Credit Protection Act, which the House then adopted without debate. Several Members expressed a desire to reopen these proceedings so that debate on the report might be in order. To accommodate the wishes of these Members, Speaker John W. McCormack, of Massachusetts, recognized the Majority Leader, Carl Albert, of Oklahoma.

MR. ALBERT: Mr. Speaker, I ask unanimous consent that 40 minutes of debate may be had on this matter, to be equally divided between the gentleman from Texas and the gentleman from New Jersey, and that it appear in the Record prior to the adoption of the conference report.

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

The Chair will always preserve the dignity of the proceedings of the House in protecting the rights of the Members.

The question now is: Is there objection to the request of the gentleman from Oklahoma?

MR. [RICHARD H.] POFF [of Virginia]: Mr. Speaker, I reserve the right to object.

THE SPEAKER: The gentleman from Virginia reserves the right to object.

MR. POFF: Mr. Speaker, I reserve the right to object in order to propound a question to the distinguished majority leader. In the event the House agrees to the request of the gentleman, would the minority maintain the right under the rules of the House to offer motions to recommit if it were so disposed?

THE SPEAKER: The gentleman ought to address his question to the Chair. That question should be addressed to the Chair, and, assuming that the gentleman did address the Chair, the Chair will state that point has gone by, and a motion to recommit under those circumstances would not be in order.

18. 114 CONG. REC. 14375–96, 14398, 14402–05, 90th Cong. 2d Sess.

### *Time For Motion*

**§ 32.10 A motion to recommit a conference report is not in order until the previous question has been ordered on the conference report.**

On Dec. 15, 1970,[19] the House had debated the conference report on H.R. 17755, Department of Transportation appropriations, fiscal 1971, and Mr. Edward P. Boland, of Massachusetts, had moved the previous question thereon. Mr. Sidney R. Yates, of Illinois, rose.

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

THE SPEAKER PRO TEMPORE:[20] The gentleman will state his parliamentary inquiry.

MR. YATES: Mr. Speaker, as I understand, in order to have specific instructions given to the conferees it is necessary that the previous question be voted down; is that correct? I mean on the motion to recommit?

THE SPEAKER PRO TEMPORE: The Chair will state that the gentleman from Illinois is in error. The previous question on the conference report has to be ordered before there can be a motion to recommit.

19. 116 CONG. REC. 41502, 91st Cong. 2d Sess.
20. Wilbur D. Mills (Ark.).

**§ 32.11 A motion to recommit a conference report is in order after the previous question has been ordered on the adoption of the report.**

On June 28, 1955,[1] after the House ordered the previous question on the conference report on H.R. 3005, amending the Universal Military Training and Service Act, Mr. Noah M. Mason, of Illinois, raised a parliamentary inquiry.

MR. MASON: When is the proper time to offer a motion to recommit?

THE SPEAKER:[2] The proper time to offer a motion to recommit is after the ordering of the previous question.[3]

### *Timing of Motion To Recommit*

**§ 32.12 A motion to recommit a conference report is in order after debate and the ordering of the previous question and is not affected by a special order waiving the reading.**

The Speaker's response to the following parliamentary inquiry

1. 101 CONG. REC. 9379, 84th Cong. 1st Sess.
2. Sam Rayburn (Tex.).
3. See also 109 CONG. REC. 25409, 88th Cong. 1st Sess., Dec. 21, 1963; and 107 CONG. REC. 20533, 20534, 87th Cong. 1st Sess., Sept. 21, 1961.

made on Aug. 2, 1977,[4] relates to the proper time to make a motion to recommit a conference report.

MR. [ELLIOTT] LEVITAS [of Georgia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[5] The gentleman will state the parliamentary inquiry.

MR. LEVITAS: Mr. Speaker, will it be in order, since the rule waives a reading of the conference report, will it be in order to offer a motion to recommit and, if so, at what point would it be in order?

THE SPEAKER: It would be in order after the debate on the conference report. A motion to recommit is in order after the previous question is ordered.

### § 32.13 A motion to recommit comes too late after a conference report has been agreed to.

On May 22, 1968,[6] the House adopted without debate the conference report on S. 5, the Consumer Credit Protection Act, and laid on the table a motion to reconsider that action. After several Members expressed a desire to reopen these proceedings, the Majority Leader, Carl Albert, of Oklahoma, asked unanimous consent that 40 minutes of debate be allowed on the report, and that this debate appear in the Record prior to the adoption of the report. Speaker John W. McCormack, of Massachusetts, recognized Mr. Richard H. Poff, of Virginia, under a reservation of the right to object.

MR. POFF: Mr. Speaker, I reserve the right to object in order to propound a question to the distinguished majority leader. In the event the House agrees to the request of the gentleman, would the minority maintain the right under the rules of the House to offer motions to recommit if it were so disposed?

THE SPEAKER: The gentleman ought to address his question to the Chair. That question should be addressed to the Chair, and assuming that the gentleman did address the Chair, the Chair will state that point has gone by, and a motion to recommit under those circumstances would not be in order.

## *Recognition To Offer Motion*

### § 32.14 The mere fact that a Member states he has a motion to recommit a conference report does not extend recognition by the Chair for such motion.

On June 28, 1955,[7] after the House ordered the previous question on the conference report on H.R. 3005, amending the Univer-

4. 123 CONG. REC. 26105, 95th Cong. 1st Sess.
5. Thomas P. O'Neill, Jr. (Mass.).
6. 114 CONG. REC. 14375–96, 14398, 14402–05, 90th Cong. 2d Sess.
7. 101 CONG. REC. 9379, 84th Cong. 1st Sess.

sal Military Training and Service Act, the following occurred:

THE SPEAKER:[8] The question is on agreeing to the conference report.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I have a motion to recommit.

MR. [NOAH M.] MASON [of Illinois]: Mr. Speaker, I have a motion to recommit. . . .

MR. SMITH of Virginia: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. SMITH of Virginia: I offered a motion to recommit and I was recognized.

THE SPEAKER: The gentleman had not been recognized by the Chair.

MR. SMITH of Virginia: I had been recognized. I was looking at the Speaker and the Speaker was looking at me.

THE SPEAKER: The point of order is overruled. The Clerk will report the motion to recommit of the gentleman from Illinois.

**§ 32.15 In recognizing Members to move to recommit a conference report the Chair gives preference to Members opposed to the report.**

On Sept. 11, 1940,[9] the House ordered the previous question on the conference report on S. 3550, prohibiting the transportation of convict-made goods in interstate commerce, after which the following occurred:

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER PRO TEMPORE:[10] Is the gentleman opposed to the conference report?

MR. MICHENER: Certainly.

THE SPEAKER PRO TEMPORE: The gentleman qualifies.

The Clerk read as follows:

Mr. Michener moves to recommit the conference report to the conference committee. . . .

THE SPEAKER PRO TEMPORE: . . . The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. Michener) there were—ayes 28, noes 94.

### *Speaker's Discretion*

**§ 32.16 A Member opposed to a conference report in its present form qualifies to move to recommit such report, but if another Member unequivocally opposed to the report desired recognition to make the motion, the Speaker indicated he would be given priority.**

8. Sam Rayburn (Tex.).
9. 86 CONG. REC. 11938, 76th Cong. 3d Sess.
10. Sam Rayburn (Tex.).

On Oct. 18, 1949,[11] after the previous question was ordered on the conference report on H.R. 5856, Fair Labor Standards Amendments of 1949, the following occurred:

MR. [A. S. MIKE] MONRONEY [of Oklahoma]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:[12] Is the gentleman opposed to the conference report?

MR. MONRONEY: I am, Mr. Speaker, in its present form.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Monroney moves to recommit the conference report to the conference committee with instructions to the managers on the part of the House to further insist upon the House provisions for the exemption of employees of newspapers of circulation of 5,000 or under.

MR. [WALTER E.] BREHM [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BREHM: If I understood the gentleman from Oklahoma correctly, he said he was opposed to the bill in its present form. If I understand the rules correctly, that is incorrect. He is either opposed to it or he is for it. I wonder if the gentleman will state his position?

THE SPEAKER: If the gentleman is opposed to the bill in its present form he would be opposed to it. However, if some other Member had asked to qualify to submit a motion to recommit, and said he was absolutely opposed to the bill, unequivocally, as a gentleman said the other day, then of course the Speaker would recognize him.

The question is on the motion to recommit.

The motion to recommit was rejected.

## § 32.17 Members of the minority party have preference in recognition for a motion to recommit.

On June 28, 1955,[13] the previous question had been ordered on the conference report on H.R. 3005, amending the Universal Military Training and Service Act. The following occurred:

THE SPEAKER:[14] The question is on agreeing to the conference report.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I have a motion to recommit.

MR. [NOAH M.] MASON [of Illinois]:[15] Mr. Speaker, I have a motion to recommit. . . .

THE SPEAKER: . . . Is the gentleman from Illinois opposed to the bill?

MR. MASON: I am, definitely.

MR. SMITH of Virginia: Mr. Speaker, a point of order.

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**11.** 95 CONG. REC. 14943, 81st Cong. 1st Sess.

**12.** Sam Rayburn (Tex.).

**13.** 101 CONG. REC. 9379, 84th Cong. 1st Sess.

**14.** Sam Rayburn (Tex.).

**15.** *Parliamentarian's Note:* Mr. Smith was a member of the majority party, the Democrats. Mr. Mason was a Republican.

THE SPEAKER: The gentleman will state it.

MR. SMITH of Virginia: I offered a motion to recommit and I was recognized.

THE SPEAKER: The gentleman had not been recognized by the Chair.

MR. SMITH of Virginia: I had been recognized. I was looking at the Speaker and the Speaker was looking at me.

THE SPEAKER: The point of order is overruled. The Clerk will report the motion to recommit of the gentleman from Illinois.

### *Recognition for Motion To Recommit Conference Report*

**§ 32.18 The Chair's recognition for a motion to recommit a conference report, while guided by precedent, is not subject to challenge and there is no appeal from his decision of whom to recognize where a choice has to be made between a minority conferee and a more senior member of the committee of jurisdiction who is not a conferee.**

The proceedings of June 27, 1980,[16] during consideration of the conference report on S. 1308, the Energy Mobilization Board Act, were as indicated below.

THE SPEAKER PRO TEMPORE:[17] All time has expired.

MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT

THE SPEAKER PRO TEMPORE: For what reason does the gentleman from Ohio (Mr. Devine) rise?

MR. [SAMUEL L.] DEVINE [of Ohio]: Mr. Speaker, I offer a motion to recommit.

MR. [MANUEL] LUJAN [Jr., of New Mexico]: Mr. Speaker, I am a member of the conference committee, and I am opposed to the bill.

THE SPEAKER PRO TEMPORE: The Chair recognizes the gentleman from Ohio (Mr. Devine).

MR. DEVINE: Mr. Speaker, I offer a motion to recommit, and I am opposed to the bill.

THE SPEAKER PRO TEMPORE: The gentleman qualifies.

PARLIAMENTARY INQUIRY

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

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. LUJAN: Mr. Speaker, does not a member of the conference committee have preference in recognition to the ranking minority member on the

16. 126 CONG. REC. 17371, 96th Cong. 2d Sess.

17. John P. Murtha (Pa.).

standing committee working on the bill?

THE SPEAKER PRO TEMPORE: The gentleman from Ohio (Mr. Brown) was on his feet at the time of the recommittal motion. Does the gentleman from Ohio, the second ranking minority member of the conference committee, have a motion?

MR. [CLARENCE J.] BROWN of Ohio: I am unqualified for the motion to recommit. I was standing, however, to make sure that the motion to recommit was protected for the minority, and when the Chair recognized the gentleman from Ohio (Mr. Devine), the ranking minority member of the Commerce Committee, I took my seat.

THE SPEAKER PRO TEMPORE: The gentleman from Ohio (Mr. Devine) is recognized as the senior Member.

MR. LUJAN: Mr. Speaker, I did not hear an answer to my parliamentary inquiry.

THE SPEAKER PRO TEMPORE: As the gentleman knows, the Chair's control over recognition is not subject to challenge and the Chair recognized the gentleman from Ohio (Mr. Devine).

The gentleman from Ohio (Mr. Devine) is recognized for a motion.

MR. DEVINE: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER PRO TEMPORE: Is the gentleman opposed to the conference report?

MR. DEVINE: I am opposed to the bill, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Devine moves to recommit the conference report to accompany the Senate bill, S. 1308, to the committee of conference.

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

There was no objection.

THE SPEAKER PRO TEMPORE: The question is on the motion to recommit.

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

MR. [ROBERT E.] BAUMAN [of Maryland]: 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 232, nays 131, answered "present" 1, not voting 69.

## § 32.19 Members of the minority have preference of recognition for motions to recommit and when such motion is offered by a Member of the majority the Speaker inquires as to whether any Member of the minority demands recognition.

On June 27, 1947,[18] after the House had completed debate on

18. 93 CONG. REC. 7845, 80th Cong. 1st Sess.

the conference report on H.R. 3737, providing revenue for the District of Columbia, the following occurred:

MR. [JOSEPH P.] O'HARA [of Minnesota]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:[19] Is the gentleman opposed to the bill?

MR. O'HARA: I am, Mr. Speaker.

THE SPEAKER: Does any Member of the minority demand recognition? If not, the gentleman is recognized.

The Clerk will report the motion to recommit.[20]

## § 32.20 The Speaker recognized a majority Member to offer a motion to recommit a conference report in the absence of a minority Member seeking recognition to offer the motion.

On July 23, 1970,[1] after the previous question was ordered on the conference report on H.R. 14705 (providing a federal-state unemployment compensation program) the following occurred:

MR. [JAMES G.] O'HARA [of Michigan]:[2] Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:[3] Is the gentleman opposed to the conference report?

MR. O'HARA: I am, in its present form, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

## § 32.21 Where his privilege of offering a motion to recommit a conference report was usurped by a designee of the Republican Minority Leader, the ranking minority manager voiced his objections during floor debate on the conference report.

The comments carried here were made during consideration of the conference report on H.R. 3345, the Federal Workforce Restructuring Act of 1994.[4]

MR. [JOHN T.] MYERS of Indiana: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today with somewhat mixed feelings and emotions. I hope I can express myself, where I stand. This is the third time that this same issue has come before this body. The other two times I have supported

19. Joseph W. Martin, Jr. (Mass.).
20. See also 92 CONG. REC. 9776, 79th Cong. 2d Sess., July 23, 1946.
1. 116 CONG. REC. 25616, 91st Cong. 2d Sess.
2. *Parliamentarian's Note:* Mr. O'Hara was a Democrat, the majority party in the 91st Congress.
3. John W. McCormack (Mass.).
4. See 140 CONG. REC. 6096, 6097, 103d Cong. 2d Sess., Mar. 23, 1994.

it, without any hesitation. However, the procedure that will probably be adopted today makes it very difficult for me to support the legislation. . . .

So reluctantly today I want to see what happens on the motion to recommit. And I admit, the procedure being used today is one that has been used not too often around here. I am not disagreeing with the procedure that the leader's designee will offer the motion to recommit. It has not been used too many times around here, but I understand the rules of the House and there is no way I can object to it. But it is a procedure that should not be used very often, only most reluctantly when there is something wrong with the legislation.

*Parliamentarian's Note:* The rules of the Republican Conference, in effect on the date of Mr. Myers' remarks, provided as follows: "Whenever more than one Republican Member proposes to offer such a motion [to recommit], the Republican leader (or if not present and in the absence of a stated position, the most senior elected Member of the Leadership available) shall determine the course of action that best reflects the position of the Conference and the Leadership. Any Republican Member having priority in recognition to offer such a motion shall act in accordance with that determination, including if necessary, yielding one's rights to offer such a motion to another Republican Member."

It should be noted that this conference declaration does not have the status of a House rule. The power of recognition, even on a motion to recommit, resides in the Speaker, who, where possible, follows precedent in determining which Member to recognize. A conference or caucus rule would not bind the Speaker but it is likely that he would show deference to the wishes of the Minority Leader in cases where there is a conflict among those seeking recognition to recommit.

### *Motion as Subject to Amendment*

**§ 32.22 The Speaker has indicated that a motion to recommit a conference report may be amended if the previous question is voted down on the motion to recommit.**

On Dec. 30, 1970,[5] after the previous question had been ordered on the conference report on H.R. 18582, amending the Food Stamp Act of 1964, Mr. George A. Goodling, of Pennsylvania, offered the following motion:

5. 116 CONG. REC. 44169, 91st Cong. 2d Sess.

Mr. Goodling moves to recommit the conference report on the bill H.R. 18582 to the Committee on Conference.

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Speaker, I move the previous question on the motion to recommit.

THE SPEAKER:[6] The question is on ordering the previous question on the motion to recommit. . . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. FOLEY: Mr. Speaker, if the vote on the previous question on the motion to recommit does not carry, would it then be in order for a Member to seek recognition for the purpose of offering an amendment to the motion to recommit?

THE SPEAKER: The answer to that is, it would be under the precedents and practices of the House.[7]

## § 32.23 Procedure in the House where the House rejects the motion for the previous question on a straight motion to recommit a conference report and amends the motion by the addition of instructions.

Where the previous question is rejected on a motion which is not subject to debate, the consideration of an amendment to the motion also proceeds without debate.

When considering the conference report on a general appropriation bill,[8] the House rejected a straight motion to recommit (which is not subject to debate) and then when an amendment was offered to add instructions that the managers insist on disagreement to a certain amendment, debated the amendment under a reservation of the right to object to dispensing with the reading of the amendment.[9]

MOTION TO RECOMMIT OFFERED BY MR. MYERS OF INDIANA

MR. [JOHN T.] MYERS of Indiana: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER PRO TEMPORE:[10] Is the gentleman opposed to the conference report?

MR. MYERS of Indiana: Mr. Speaker, in its present form, I am.

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

The Clerk read as follows:

6. John W. McCormack (Mass.).
7. See also 101 CONG. REC. 9379, 84th Cong. 1st Sess., June 28, 1955; and 96 CONG. REC. 12674, 12684, 81st Cong. 2d Sess., Aug. 16, 1950.
8. H.R. 2445 (energy and water appropriations for fiscal year 1994).
9. See 139 CONG. REC. 25330, 25331, 103d Cong. 1st Sess., Oct. 19, 1993.
10. William J. Hughes (N.J.).

Mr. Myers of Indiana moves to recommit the conference report on H.R. 2445 to the committee of conference.

THE SPEAKER PRO TEMPORE: The question is on ordering the previous question on the motion to recommit.

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

MR. [JIM] SLATTERY [of Kansas]: 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 159, nays 264, not voting 10. . . .

So the previous question on the motion to recommit was rejected. . . .

AMENDMENT OFFERED BY MR. SLATTERY TO THE MOTION TO RECOMMIT OFFERED BY MR. MYERS OF INDIANA

MR. SLATTERY: Mr. Speaker, I offer an amendment to the motion to recommit.

The Clerk read as follows:

Amendment offered by Mr. Slattery to the motion to recommit offered by Mr. Myers of Indiana: Insert before the period at the end the following: "with instructions to the managers on the part of the House to insist on disagreement to the amendment of the Senate numbered 33".

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

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

MR. [SHERWOOD L.] BOEHLERT [of New York]: Mr. Speaker, reserving the right to object, I will not object, but I would ask my colleague from Kansas to explain the motion to recommit, because there is some question as to whether or not this motion would affect projects other than the SSC.

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

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

There was no objection.

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the amendment offered by the gentleman from Kansas [Mr. Slattery] to the motion to recommit offered by the gentleman from Indiana [Mr. Myers] and on the motion to recommit.

There was no objection.

THE SPEAKER PRO TEMPORE: The question is on the amendment to the motion to recommit offered by the gentleman from Kansas [Mr. Slattery].

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

MR. SLATTERY: 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 282, nays 143, not voting 8. . . .

So the amendment to the motion to recommit was agreed to. . . .

THE SPEAKER PRO TEMPORE: The question is on the motion to recommit, as amended.

The motion to recommit, as amended, was agreed to.

A motion to reconsider was laid on the table.

## § 32.24 A motion to recommit a conference report may be amended to include instructions to the House conferees if the previous question is voted down on the motion to recommit.

On Dec. 15, 1970,[11] after the House had completed debating the conference report on H.R. 17755, Department of Transportation appropriations, fiscal 1971, the following occurred:

MR. [EDWARD P.] BOLAND [of Massachusetts]: Mr. Speaker, I move the previous question on the conference report.

THE SPEAKER PRO TEMPORE:[12] Without objection, the previous question is ordered.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I object. I was on my feet, and I request a rollcall on ordering the previous question.

THE SPEAKER PRO TEMPORE: The gentleman from Illinois wants a rollcall on ordering the previous question?

MR. YATES: I do, Mr. Speaker, on the ground that a quorum is not present. I make the point of order that a quorum is not present.

PARLIAMENTARY INQUIRY

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

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

MR. YATES: Mr. Speaker, as I understand, in order to have specific instructions given to the conferees it is necessary that the previous question be voted down; is that correct? I mean on the motion to recommit?

THE SPEAKER PRO TEMPORE: The Chair will state that the gentleman from Illinois is in error. The previous question on the conference report has to be ordered before there can be a motion to recommit.[13]

MR. YATES: Then, Mr. Speaker, I withdraw my point of order.

THE SPEAKER PRO TEMPORE: The question is on ordering the previous question.

The previous question was ordered.

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**11.** 116 CONG. REC. 41502, 41503, 91st Cong. 2d Sess.

**12.** Wilbur D. Mills (Ark.).

**13.** *Parliamentarian's Note:* The inquiry posed by Mr. Yates was premature. The question before the House at the time of the inquiry was on ordering the previous question on the conference report. This question required approval before any motion to recommit the conference report would have been in order. Mr. Yates attempted to clarify his inquiry to indicate that he was concerned with amending the motion to recommit if the previous question were voted down on that motion (which was still not in order). The Speaker Pro Tempore ignored this attempted clarification since the inquiry as clarified was nevertheless still premature. However, Mr. Yates' contention is supported at 8 Cannon's Precedents §§ 2695, 2762.

MR. [MARK] ANDREWS of North Dakota: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER PRO TEMPORE: Is the gentleman opposed to the conference report?

MR. ANDREWS of North Dakota: I am, Mr. Speaker, in its present form.

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

MR. YATES: Mr. Speaker, as I understand it, the gentleman from North Dakota has filed a motion to recommit. In view of the fact that the previous question has not been ordered——

THE SPEAKER PRO TEMPORE: The previous question on the conference report has been ordered.

MR. YATES: But it has not been ordered on the motion to recommit, Mr. Speaker, because I would object to it.

THE SPEAKER PRO TEMPORE: The Chair will state that the Clerk has not reported the motion to recommit as yet.

The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Andrews of North Dakota moves to recommit the conference report on H.R. 17755 to the Committee of Conference.

MR. BOLAND: Mr. Speaker, I move the previous question on the motion to recommit. . . .

The question was taken; and there were—yeas 205, nays 185, not voting 43. . . .

So the previous question was ordered. . . .

THE SPEAKER:[14] The question is on the motion to recommit.

The motion to recommit was rejected.

## § 32.25 A motion to recommit a conference report with instructions is not subject to amendment after the previous question is ordered on the motion.

On Sept. 20, 1962,[15] the House debated the conference report on H.R. 12391, the Food and Agricultural Act of 1962. After the previous question had been ordered on the conference report, Mr. Charles B. Hoeven, of Iowa, offered a motion to recommit the report with instructions to the managers on the part of the House.

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[16] The gentleman will state it.

MR. ABERNETHY: Mr. Speaker, is it in order to offer a substitute motion in the form of a simple motion to recommit the conference report?

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**14.** John W. McCormack (Mass.).

**15.** 108 CONG. REC. 20094–129, 87th Cong. 2d Sess.

**16.** John W. McCormack (Mass.).

THE SPEAKER: Not after the previous question has been ordered.

MR. ABERNETHY: Has the previous question been ordered?

THE SPEAKER: The previous question has been ordered.

### *Special Order Prohibiting Instructions in Motion To Recommit Conference Report*

**§ 32.26 The House considered and rejected a special order reported from the Committee on Rules which, *inter alia,* waived points of order against a conference report and prohibited instructions in any motion to recommit.**

The text of the special order, called up in the House on Apr. 19, 1988,[17] is carried here.

CONFERENCE REPORT ON H.R. 5, ELEMENTARY AND SECONDARY EDUCATION

MR. [MARTIN] FROST [of Texas]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 427 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 427

*Resolved,* That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5) to improve elementary and secondary education, and all points of order against the conference report and against its consideration are hereby waived, and the conference report shall be considered as having been read when called up for consideration. A motion to recommit the conference report may not contain instructions.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of a bill containing the text printed in section three of this resolution, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed thirty minutes, equally divided and controlled by a proponent and an opponent, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to commit, which may not contain instructions.

SEC. 3. The text of the bill as follows:

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

"Section 223(b) of the Communications Act of 1934 is amended—

"(1) in paragraph (1)(A), by striking out 'under eighteen years of age or to any other person without that person's consent';

"(2) by striking out paragraph (2);

17. 134 CONG. REC. 7345, 100th Cong. 2d Sess.

"(3) in paragraph (4), by striking out 'paragraphs (1) and (3)' and inserting in lieu thereof 'paragraphs (1) and (2)'; and

"(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.".

*Parliamentarian's Note:* The reported rule specified that all points of order were waived against the conference report and against its consideration. One reason for this waiver was that the conferees appointed to consider the nongermane issue, the so-called "dial-a-porn" provision added in the Senate and modified in conference, never actually met. They evidently conferred among themselves without holding a formal meeting in open session.

The second rare provision in the rule was the restriction on including instructions in the motion to recommit. This was the first instance where the Committee on Rules recommended such a limitation on a motion to recommit a conference report.

### *Divisibility of Motion*

**§ 32.27 A motion to recommit a conference report with instructions is not divisible.**

On June 27, 1947,[18] after the previous question had been ordered on the conference report on H.R. 3737, to provide revenue for the District of Columbia, Mr. Joseph P. O'Hara, of Minnesota, offered a motion to recommit the report with instructions to the managers on the part of the House. Mr. Everett M. Dirksen, of Illinois, rose.

MR. DIRKSEN: Mr. Speaker, a point of order.

THE SPEAKER:[19] The gentleman will state it.

MR. DIRKSEN: Would not the motion be divisible?

THE SPEAKER: A motion to recommit is not divisible.

**§ 32.28 On a motion to recommit a conference report with instructions, it is not in order to demand a separate vote on the instructions or various branches thereof.**

On Apr. 11, 1956,[20] Mr. Joseph W. Martin, Jr., of Massachusetts, offered a motion to recommit the conference report on H.R. 12, to amend the Agricultural Act of 1949, with five specific instruc-

18. 93 CONG. REC. 7845, 80th Cong. 1st Sess.
19. Joseph W. Martin, Jr. (Mass.).
20. 102 CONG. REC. 6157, 84th Cong. 2d Sess.

tions to the managers on the part of the House.

MR. [ARTHUR L.] MILLER of Nebraska: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[1] The gentleman will state it.

MR. MILLER of Nebraska: Since the motion to recommit applies to several titles and sections of the bill, is it possible under the rules of the House to get a separate vote on the various amendments that seek to strike certain matter from the bill?

THE SPEAKER: A motion to recommit is not subject to division.

### *Restrictions on Motion To Recommit*

**§ 32.29 The Committee on Rules has reported, and the House has adopted, a special order restricting the motion to recommit a conference report to one offered by the Minority Leader and specifying the debate time thereon.**

The special order, as excerpted from the *Congressional Record* of Apr. 21, 1988,[2] is carried in full here.

CONFERENCE REPORT ON H.R. 3, TRADE AND INTERNATIONAL ECONOMIC POLICY REFORM ACT OF 1987

MR. [CLAUDE] PEPPER [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 430 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 430

*Resolved,* That upon the adoption of this resolution the House shall proceed to consider, without intervening motion, the conference report on the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration. Debate on the conference report shall continue not to exceed four hours, equally divided between the majority party and the minority party. Any motion to recommit the conference report with instructions, if offered by Representative Michel of Illinois, or his designee, shall be debatable for not to exceed twenty minutes, equally divided and controlled by the proponent and a Member opposed.

THE SPEAKER:[3] The gentleman from Florida [Mr. Pepper] is recognized for 1 hour.

### *Motion To Instruct Not Subject to Demand for Division of Question*

**§ 32.30 The motion to recommit a bill to conference with various instructions is not**

1. Sam Rayburn (Tex.).
2. 134 CONG. REC. 8102, 100th Cong. 2d Sess.
3. James C. Wright, Jr. (Tex.).

**subject to a demand for a division of the question under Rule XVI clause 6; since only one proper motion to recommit is in order.**

In the 103d Congress,[4] Mr. George W. Gekas, of Pennsylvania, offered a motion to recommit the conference report on S. 349, the Lobbying Disclosure Act of 1994. The motion included instructions pertaining to several sections of the conference agreement. After a series of parliamentary inquiries, the proponent of the motion directed the following inquiry to the Speaker:

MR. GEKAS: Madam Speaker, I have a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[5] The gentleman will state it.

MR. GEKAS: Madam Speaker, is the motion in order insofar as it seeks to clarify the ambiguous language that we feel is contained in this legislation on grassroots lobbying?

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule on the point of order of the gentleman from Texas.

MR. GEKAS: Madam Speaker, I have a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GEKAS: Madam Speaker, I think I know the answer to this, but I must pose it for the record.

Is the motion that I have made divisible in any way?

THE SPEAKER PRO TEMPORE: The gentleman's motion is not divisible. The gentleman may offer one, proper motion to recommit.

MR. GEKAS: I understand that. I will yield to the decision of the Chair on this matter.

### *Waiver of Points of Order Against Conference Report Does Not Protect Motion To Instruct*

**§ 32.31 A waiver of all points of order against a conference report does not protect a motion to recommit the conference report with instructions.**

The conference report on S. 349, the Lobbying Disclosure Act of 1994, had been called up after the adoption of a special order[6] waiving all points of order against the report and its consideration. The Speaker was asked, by way of a parliamentary inquiry, whether the waivers granted in the rule

4. 140 CONG. REC. 26781, 103d Cong. 2d Sess., Sept. 29, 1994.
5. Nancy Pelosi (Calif.).
6. H. Res. 550, adopted by the House on Sept. 29, 1994. See 140 CONG. REC. 26753, 103d Cong. 2d Sess.

protected the motion to recommit.[7]

MR. [DICK] ARMEY [of Texas]: Madam Speaker, I have a parliamentary inquiry.

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

MR. ARMEY: Madam Speaker, I see by the rule just passed that allows this bill to be under consideration that in this rule, it says all points of order against conference report and against its consideration are waived except the provisions of clause 2. If in fact the majority is able to bring the bill to the floor by waiving all points of order against the bill, would that waiver not also cover the gentleman's motion to recommit?

THE SPEAKER PRO TEMPORE: The waiver does not inure to the motion to recommit.

MR. ARMEY: The waiver only applies to the bill brought to the floor by the majority, not to the motion to recommit offered by the minority?

THE SPEAKER PRO TEMPORE: To the conference report.

### *Scope of Instructions Permitted in Motion*

**§ 32.32 A motion to recommit a conference report to the committee of conference with instructions to do something which the House itself does not have the power to do—to amend its own bill after its passage—is not in order.**

On Aug. 25, 1950,[9] after the House had finished considering the conference report on H.R. 7786, the general appropriation bill for fiscal 1951, Mr. Vito Marcantonio, of New York, offered a motion to recommit.

THE SPEAKER:[10] The Clerk will report the motion of the gentleman from New York [Mr. Marcantonio].

The Clerk read as follows:

Mr. Marcantonio moves to recommit the conference report on H.R. 7786 to the committee of conference with instructions to the managers on the part of the House to incorporate in the conference report the following provision: At the end of chapter XI, titled "General Provisions," add the following:

"None of the funds appropriated in this act shall be paid to any person, firm, partnership, or corporation which refuses equality in employment to any person because of race, or creed."

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I make a point of order against the motion.

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

MR. CANNON: Mr. Speaker . . . the provision which the gentleman from New York seeks to add to the confer-

7. See 140 CONG. REC. 26781, 103d Cong. 2d Sess., Sept. 29, 1994.
8. Nancy Pelosi (Calif.).
9. 96 CONG. REC. 13476, 81st Cong. 2d Sess.
10. Sam Rayburn (Tex.).

ence report does not appear in either the House bill or the Senate bill. It is therefore not in conference. It is not in difference between the two Houses. . . . [T]he motion to recommit is not in order. . . .

THE SPEAKER: The Chair is ready to rule. . . . The motion to recommit calls upon the committee of conference to do something which the House itself does not have the power to do, namely to amend its own bill after its passage. This matter, not being in either the House version or the Senate version of the bill, the Chair holds that the point of order is well taken and sustains the point of order.[11]

## § 32.33 A motion to recommit a conference report with instructions to include a matter not in either the House or Senate version of the bill is not in order.

On Aug. 25, 1950,[12] the House was considering the conference report on H.R. 7786, the general appropriation bill, fiscal 1951. Mr. Vito Marcantonio, of New York, offered the following motion to recommit:

Mr. Marcantonio moves to recommit the conference report on H.R. 7786 to the committee of conference with instructions to the managers on the part of the House to incorporate in the conference report the following provision: At the end of chapter XI, titled "General Provisions," add the following:

"None of the funds appropriated in this act shall be paid to any person, firm, partnership, or corporation which refuses equality in employment to any person because of race, color, or creed."

Mr. Clarence Cannon, of Missouri, raised a point of order against this motion.

MR. CANNON: Mr. Speaker . . . the provision which the gentleman from New York seeks to add to the conference report does not appear in either the House bill or the Senate bill. It is therefore not in conference. It is not in difference between the two Houses. . . . [T]he motion to recommit is not in order. . . .

THE SPEAKER:[13] The Chair is ready to rule. . . . The motion to recommit calls upon the committee of conference to do something which the House itself does not have the power to do, namely to amend its own bill after its passage. This matter, not being in either the House version or the Senate version of the bill, the Chair holds that the point of order is well taken and sustains the point of order.[14]

## § 32.34 A motion to recommit a conference report may not

11. See also 101 CONG. REC. 5846, 5870, 5871, 84th Cong. 1st Sess., May 9, 1955.
12. 96 CONG. REC. 13476, 81st Cong. 2d Sess.
13. Sam Rayburn (Tex.).
14. See also 101 CONG. REC. 5846, 5870, 5871, 84th Cong. 1st Sess., May 9, 1955.

**include instructions to report matter beyond the differences committed to conference.**

On Nov. 22, 1981,[15] during consideration of a conference report on a continuing appropriation bill, Mr. Silvio O. Conte, of Massachusetts, who was concerned about the expiration date contained in the report, asked the following inquiry about how that date could be changed.

MR. CONTE: Mr. Speaker, I want to ask my chairman a question.

I do not feel that there is a scope problem. We could offer a motion to recommit for a continuing resolution to a date certain, December 15. As I see it, under amendment 71, section 140, it says:

> Notwithstanding any other provision of this joint resolution, this resolution, other than section 101, 142, 144, shall expire on March 30, 1982.

Therefore, that is standing there naked and it would be in order to amend that to make it December 15 or December 18, 1981. . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: In the first place, the gentleman is asking me about the rules. I am not an expert on the rules, but I presume any motion to recommit with instructions could go to any part of the instrument we are dealing with. . . .

MR. CONTE: Listen, I spoke on my feelings on this conference report and they have not changed a bit. But I think that we should know, and now I ask, in view of the fact that I did not get an answer, Mr. Speaker, I ask a parliamentary inquiry.

THE SPEAKER:[16] The gentleman from Massachusetts (Mr. Conte) will state his parliamentary inquiry.

MR. CONTE: Mr. Speaker, the parliamentary inquiry is that on a motion to recommit can the date for the continuing resolution, the expiration date of July 15, be changed to an earlier date before July 15?

THE SPEAKER: That motion could only be considered by unanimous request because it would not be within the scope of the differences between the two Houses which have been committed to conference regarding termination dates.

MR. CONTE: I thank the Chair. That is the answer I want.

## § 32.35 A motion to recommit a conference report with instructions to the House managers to report back an agreement which would include the provisions of the bill as reported by the House committee, rather than as passed by the House with changes, was held not in order.

On May 9, 1955, the House was considering the conference report

15. 127 CONG. REC. 28747, 97th Cong. 1st Sess.

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

on S. 1, the Postal Field Service Compensation Act of 1955.[17] After the previous question had been ordered on the conference report, Mr. Edward H. Rees, of Kansas, offered the following motion to recommit:

> Mr. Rees of Kansas moves to recommit the bill S. 1 as amended to the committee of conference with instructions to report back an agreement which would include the provisions of H.R. 4644 as reported by the House Post Office and Civil Service Committee, with the additional provision that the 6-percent increase be retroactive to March 1, 1955.
>
> MR. [THOMAS J.] MURRAY of Tennessee: Mr. Speaker, I make a point of order against the motion to recommit. As I understand, the motion instructs the conferees to do something less than the House voted. We are bound to follow the instructions of the House in the conference. That matter is not even in conference. . . .
>
> THE SPEAKER:[18] The Chair is ready to rule. The Chair thinks that this question has been passed upon many times in the past. An exactly similar question was raised on September 15, 1922, when a very distinguished gentleman by the name of John N. Garner made a similar motion to recommit with instructions to the conferees to lower the rates contained in either the bill or in the amendment. Mr. Edward Taylor, of the State of Colorado, made the point of order. Speaker Gillette sustained the point of order, and that decision may be found in Cannon's Precedents, volume VIII, section 3244. It is exactly on all fours with this. Therefore, the Chair sustains the point of order.

### *Instructions Concerning Legislative Amendments to Appropriation Bill*

**§ 32.36 While a motion to recommit a conference report generally may not include instructions which would be inadmissible if offered as an amendment in the House, instructions to agree to a Senate amendment containing an appropriation not authorized by law is in order since the vote on the motion satisfies the separate vote requirement of Rule XX clause 2.**[19]

On Dec. 19, 1973,[20] after the previous question had been ordered on the conference report on H.R. 11576 (supplemental appropriations, fiscal 1974), Mr. Silvio O. Conte, of Massachusetts, offered a motion to recommit.

> The Clerk read as follows:

17. See 101 CONG. REC. 5846, 5870, 5871, 84th Cong. 1st Sess.
18. Sam Rayburn (Tex.).
19. *House Rules and Manual* § 829 (1997).
20. 119 CONG. REC. 42565, 93d Cong. 1st Sess.

Mr. Conte moves to recommit the conference report on the bill (H.R. 11576) to the committee on conference with the following instructions to the managers on the part of the House: To agree to Senate amendment No. 5.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I make a point of order against the motion to recommit on the ground that it is legislative, it is not authorized in law. Under the precedents of the House a motion to instruct conferees or to recommit a bill to conference under instructions may not include instructions directing the House conferees to do that which would be inadmissible if offered as an amendment in the House, Cannon's Precedents, volume 8, section 3235.

THE SPEAKER:[1] The point of order is not in order at this time.

Under clause 2 of rule XX, a motion to recommit a conference report with instructions to House conferees to agree to a Senate amendment which violates clause 2, rule XXI is in order. The motion to recommit offered by the gentleman from Massachusetts does not instruct the conferees to add additional legislation or an additional unauthorized item, but merely to concur in Senate amendment 5.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

THE SPEAKER: The question is on the motion to recommit. . . .

The vote was taken by electronic device, and there were—yeas 216, nays 180, not voting 36. . . .

1. Carl Albert (Okla.).

So the motion to recommit was agreed to.

## § 32.37 A motion to recommit a conference report on a general appropriation bill may not, under Rule XX clause 2,[2] include instructions which would add legislation to that contained in a Senate amendment.[3]

On Nov. 13, 1973,[4] the House had just ordered the previous question on the conference report on H.R. 8877, appropriations for the Departments of Labor and Health, Education, and Welfare, when Mr. Albert H. Quie, of Minnesota, offered the following motion to recommit:

Mr. Quie moves to recommit the Conference Report on H.R. 8877 to the Committee of Conference with the following instructions to the Managers on the part of the House:

That the House recede from its disagreement to the amendment of the Senate numbered 32 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: "That the aggregate amounts made available to each State under title I–A of the Elementary and Secondary Education Act for

2. *House Rules and Manual* § 829 (1997).
3. Contrast § 29.24, supra.
4. 119 CONG. REC. 36847, 93d Cong. 1st Sess.

grants to local education agencies within that State shall not be more than 120 per centum of such amounts as were made available for that purpose for fiscal year 1973, and the amount made available to each local educational agency under said title I–A shall not be less than 90 per centum of the amount made available for that purpose for fiscal year 1973".

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Speaker, I make a point of order against the motion to recommit.

THE SPEAKER:[5] The gentleman will state his point of order.

MR. FLOOD: Mr. Speaker, I make the point of order against the motion to recommit on the ground that it instructs the conferees to include matter in the conference report which is not otherwise in order. This provision described in the instructions we just heard is clearly legislation on an appropriation act. Therefore, it is not eligible for inclusion in a conference report under provisions of clause 2, rule 20 and clause 2, rule 21.[6] . . .

THE SPEAKER: The Chair is prepared to rule. . . .

The motion to recommit directs the House conferees to recommend that the House recede from its disagreement to Senate amendment No. 32 and concur therein with an amendment. Senate amendment No. 32 was reported from conference in disagreement because, under clause 2 of rule XX, the House conferees had no authority to agree to that amendment, since it contained legislation on an appropriation bill and would have been subject to a point of order. The Chair notes that on June 26, 1973,[7] Chairman Holifield sustained a point of order against an amendment offered by the gentleman from Minnesota (Mr. Quie), on the grounds that the amendment added additional legislation to legislative language which had been permitted to remain in the bill by a resolution waiving points of order.

Under the precedents of the House, a motion to instruct conferees, or to recommit a bill to conference with instructions, may not include instructions directing House conferees to do that which would be inadmissible if offered as an amendment in the House—Cannon's Precedents, volume VIII, section 3235.

The Chair would like to point out two of the syllabi in section 3235:

> Instructions to managers of a conference may not direct them to do that which they might not do otherwise.
>
> A motion to instruct conferees may not include directions which would be inadmissible if offered as a motion in the House.

In the instant situation the Chair is of the opinion that the instructions included in the motion to recommit would, if offered in the House as an amendment to the language of the Senate amendment, add legislation thereto. As was the case in Chairman Holifield's ruling of June 26, 1973, the language would constitute a change in the allotment formula contained in the language of the Senate amendment.

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**5.** Carl Albert (Okla.).

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

**7.** 119 CONG. REC. 21388, 21389, 93d Cong. 1st Sess.

The Chair therefore holds that the motion to recommit is not a permissible motion within the meaning of clause 2, rule XX, and sustains the point of order.

### *Recommittal of Appropriation Bill*

**§ 32.38 Following remarks made by the Chairman of the Committee on Appropriations, a conference report on an appropriation bill was recommitted with instructions to the managers on the part of the House to insist on disagreement to certain Senate amendments.**

On Oct. 4, 1967,[8] Mr. Daniel J. Flood, of Pennsylvania, called up the conference report on H.R. 10196, appropriations for the Departments of Labor and Health, Education, and Welfare, fiscal 1968. During the debate on the report, George H. Mahon, of Texas, Chairman of the full Committee on Appropriations, took the floor to criticize spending increases contained therein. However, Mr. Mahon added,

> I do not condemn the report. I am going to vote for the conference report, because I think it is the best job that can be done at the moment. I am, however, telling the House that we are escalating spending and it is going to make it more and more difficult to lead the fight to rescind.

After the previous question had been ordered, the following occurred:

> MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, I offer a motion to recommit.
>
> THE SPEAKER PRO TEMPORE:[9] Is the gentleman opposed to the conference report?
>
> MR. BOW: Mr. Speaker, I am opposed to the conference report.
>
> THE SPEAKER PRO TEMPORE: The Clerk will report the motion to recommit.
>
> The Clerk read as follows:
>
> > Mr. Bow moves to recommit the conference report on H.R. 10196 to the committee on conference with instructions to the managers on the part of the House to insist upon its disagreement to Senate amendments which exceed the budget request therefore.
>
> MR. FLOOD: Mr. Speaker, I move the previous question on the motion to recommit.
>
> The previous question was ordered.
>
> THE SPEAKER PRO TEMPORE: The question is on the motion to recommit. . . .
>
> The question was taken; and there were—yeas 226, nays 174, not voting 32. . . .
>
> So the motion to recommit was agreed to.

8. 113 CONG. REC. 27727–30, 27734–38, 90th Cong. 1st Sess.

9. Hale Boggs (La.).

### *Recommittal Motion Instructing Conferees Not To Meet*

**§ 32.39 Example of a motion to recommit a conference report with instructions to the conferees not to meet again until subsequently directed to do so by the House.**

H.R. 1854, the legislative branch appropriations bill for fiscal year 1996, was the first to be considered in the budget cycle. The motion to recommit (which was rejected) was intended to delay final action on this appropriation bill until others had progressed through the process.(10)

MOTION TO RECOMMIT OFFERED BY MR. OBEY

MR. [DAVID R.] OBEY [of Wisconsin]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER PRO TEMPORE: Is the gentleman opposed to the conference report?

MR. OBEY: At the present time, Mr. Speaker, yes.

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

The Clerk read as follows:

Mr. Obey moves to recommit the conference report on H.R. 1854 (H. Rept. 104–212) to the Committee on Conference with instruction that the conferees not meet until subsequently instructed to do so by the House pursuant to clause 1(c) of rule XXVIII.

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

There was no objection.

### *Recommittal by Unanimous Consent*

**§ 32.40 A conference report may by unanimous consent be recommitted to the committee of conference.**

On June 30, 1965,(11) Speaker John W. McCormack, of Massachusetts, recognized Mr. Emanuel Celler, of New York.

MR. CELLER: Mr. Speaker, I ask unanimous consent that the conference report on Senate Joint Resolution 1, concerning the amendment involving Presidential inability, be referred to the committee on conference because of a technical error in copying. . . .

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

There was no objection.(12)

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10. See 141 CONG. REC. 23747, 104th Cong. 1st Sess., Sept. 6, 1995.

11. 111 CONG. REC. 15212, 89th Cong. 1st Sess.

12. For other illustrations involving recommittal by unanimous consent, see 113 CONG. REC. 17738, 90th Cong. 1st Sess., June 28, 1967; 104 CONG. REC. 12113, 85th Cong. 2d Sess., June 24, 1958; and 81 CONG.

**§ 32.41 A conference report was recommitted by unanimous consent to permit the conferees to make certain changes and to file a new report.**

On Nov. 7, 1973,[13] Mr. John Melcher, of Montana, submitted the following request in relation to the conference report on S. 1081, the Alaska pipeline authorization:

> Mr. Speaker, I ask unanimous consent that the conference report on S. 1081, to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment, be recommitted to the committee of conference for the purpose of directing the committee to make technical corrections.
>
> THE SPEAKER:[14] Is there objection to the request of the gentleman from Montana?
>
> There was no objection.

**§ 32.42 On one occasion, a Member was granted unanimous consent to recommit a conference report on a bill and immediately submitted another on the same bill.**

On Oct. 10, 1949,[15] Speaker Sam Rayburn, of Texas, recognized Mr. John E. Rankin, of Mississippi, and the following occurred:

> MR. RANKIN: Mr. Speaker, I ask unanimous consent to recommit the conference report on the bill (S. 2115) to authorize payment by the Administrator of Veterans' Affairs on the purchase of automobiles and other conveyances by certain disabled veterans, and for other purposes.
>
> THE SPEAKER: Without objection, it is so ordered.
>
> There was no objection.
>
> Mr. Rankin submitted the following conference report and statement on the bill (S. 2115) to authorize payment by the Administrator of Veterans' Affairs on the purchase of automobiles and other conveyances by certain disabled veterans, and for other purposes, for printing in the Record: . . .

**§ 32.43 *Parliamentarian's Note:* Where conferees had exceeded their authority in reporting new subject matter not in disagreement between them and had been advised that a point of order would be made against the report, the chairman of the House**

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REC. 5462, 75th Cong. 1st Sess., June 8, 1937.

13. 119 CONG. REC. 36222, 93d Cong. 1st Sess.

14. Carl Albert (Okla.).

15. 95 CONG. REC. 14163, 81st Cong. 1st Sess.

**conferees obtained unanimous consent for its recommittal.**

On June 28, 1967,[16] Emanuel Celler, of New York, the Chairman of the Committee on the Judiciary, made the following request:

> Mr. Speaker, I ask unanimous consent that the conference report on the bill (H.R. 2508) to require the establishment, on the basis of the 18th and subsequent decennial censuses, of congressional districts composed of contiguous and compact territory for the election of Representatives, and for other purposes, be recommitted to the committee of conference.
>
> Mr. Speaker, this has been cleared by the minority leader, the gentleman from Michigan [Mr. Gerald R. Ford], and by the ranking Member on the minority side, the gentleman from Ohio [Mr. McCulloch].
>
> THE SPEAKER:[17] Is there objection to the request of the gentleman from New York?
>
> There was no objection.

### *Conference Action Where Report Is Recommitted*

**§ 32.44 Where the House had rejected a special order waiving points of order against a conference report, the House later, by unanimous consent, recommitted the report, thus requiring the conferees to meet and file a new conference report, complete with new signatures by the conferees.**

On Aug. 11, 1994, the House rejected a special order waiving all points of order against the conference report on the Violent Crime Control and Law Enforcement Act of 1993.[18] On Aug. 19, 1994, the House, by unanimous consent, recommitted the bill to the existing conference. The Speaker did not have to reappoint the conferees, but did supplement his original appointment by adding three general conferees (raising the number of general conferees to 13, in a ratio of eight majority to five minority).[19] On Aug. 21, 1994, a new conference report was filed, and on the same day the Committee on Rules reported, and the House passed, another resolution protecting the new conference

16. 113 CONG. REC. 17738, 90th Cong. 1st Sess.
17. John W. McCormack (Mass.).
18. H. Res. 517 waived all points of order against the conference report and against its consideration, as well as the reading of the voluminous report. See 140 CONG. REC. 21541–69, 103d Cong. 2d Sess.
19. See 140 CONG. REC. 23316, 103d Cong. 2d Sess., Aug. 19, 1994.

report. This new rule[20] contained the same waivers that were in the rejected special order but did increase the debate time and permitted one motion to recommit, which could contain instructions only if offered by the Minority Leader. The new rule and the conference report were adopted on this date.

The recommittal, the appointment of conferees, and the form of the rule finally adopted are carried below.

RECOMMITTAL OF CONFERENCE REPORT ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

MR. [RICHARD A.] GEPHARDT [of Missouri]: Mr. Speaker, I ask unanimous consent that the conference report on the bill, H.R. 3355, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety, be considered and recommitted to conference.

THE SPEAKER:[1] The gentleman from Missouri [Mr. Gephardt] asks unanimous consent that the bill, H.R. 3355, be recommitted to conference.

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

There was no objection. . . .

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

THE SPEAKER: Pursuant to rule X, the Chair appoints as additional conferees to the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety, the following Members: Mrs. Schroeder, Mr. Frank of Massachusetts, and Mr. Castle.

The Clerk will notify the Senate of the change in conferees.

On Aug. 21, 1994,[2] the new conference report on H.R. 3355 was filed and a rule was then adopted waiving points of order.

FURTHER CONFERENCE REPORT ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Mr. Derrick, from the Committee on Rules, reported the following privileged resolution (H. Res. 526, Rept. No. 103–713), which was referred to the House Calendar and ordered to be printed.

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**20.** H. Res. 526. See 140 CONG. REC. 23567, 103d Cong. 2d Sess.

**1.** Thomas S. Foley (Wash.).

**2.** 140 CONG. REC. 23567, 23568, 103d Cong. 2d Sess.

H. RES. 526

*Resolved*, That upon adoption of this resolution it shall be in order to consider a further conference report to accompany the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for 80 minutes, with 20 minutes controlled by the chairman of the Committee on the Judiciary, 40 minutes controlled by the ranking minority member of the Committee on the Judiciary, and 20 minutes controlled by Representative Castle of Delaware. The previous question shall be considered as ordered on the conference report to final adoption without intervening motion except one motion to recommit, which may contain instructions only if offered by Representative Michel of Illinois or his designee.

MR. [BUTLER] DERRICK [of South Carolina]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 526 and ask for its immediate consideration. . . .

Mr. Speaker, House Resolution 526 waives all points of order against the conference report on H.R. 3355, the Violent Crime Control and Law Enforcement Act, and against its consideration. The rule further provides that the conference report shall be considered as read.

This rule will allow the House to consider the conference report for H.R. 3355, the omnibus crime control bill. The rule also allows for one motion to recommit. The motion to recommit may contain instructions, but only if offered by Representative Michel or his designee. The motion to recommit may not contain instructions under any circumstances unless offered by Representative Michel or his designee.

### *Recommittal Under Suspension of the Rules*

**§ 32.45 A conference report was recommitted to a conference committee under a motion to suspend the rules.**

On Apr. 1, 1935,[3] Speaker Joseph W. Byrns, of Tennessee, recognized Mr. James P. Buchanan, of Texas, and the following occurred:

MR. BUCHANAN: Mr. Speaker, I ask unanimous consent that the conference report on House Joint Resolution 117, making appropriations for relief purposes, be recommitted to the Committee of Conference.

MR. [JOHN] TABER [of New York]: Mr. Speaker, reserving the right to object, will the gentleman from Texas [Mr. Buchanan], explain why he wants to have the joint resolution recommitted?

MR. BUCHANAN: Mr. Speaker, there are several reasons.

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Speaker, I demand the regular order.

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3. 79 CONG. REC. 4761, 4765, 74th Cong. 1st Sess.

MR. TABER: Then I shall object, Mr. Speaker. . . .

MR. BUCHANAN: Mr. Speaker, I move to suspend the rules and recommit the conference report on House Joint Resolution 117, making appropriations for relief purposes, to the committee of conference.

THE SPEAKER: Is a second demanded?

MR. TABER: Mr. Speaker, I demand a second.

MR. BUCHANAN: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

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

There was no objection. . . .

THE SPEAKER: The question is on the motion of the gentleman from Texas [Mr. Buchanan] to suspend the rules and recommit the conference report to the committee of conference. . . .

The question was taken; and there were—yeas 257, nays 110, not voting 64. . . .

So the motion was agreed to.

### *Recommitting Bill in Enrollment Stage to Conference*

**§ 32.46 The House, by a motion to suspend the rules, agreed to a concurrent resolution (1) rescinding the signatures of the Speaker and the President Pro Tempore of the Senate on an enrolled bill, (2) vacating the adoption of the conference report in the two Houses, and (3) then recommitting the matter to a conference committee.**

Where congressional action had been completed on a major railroad bill, the delivery of the enrolled Senate bill was delayed pending consultations with the White House regarding changes in the bill which might prevent a Presidential veto. The concurrent resolution considered under suspension of the rules on Jan. 20, 1976,[4] was the mechanism used in the House to re-create the conference committee so the modifications could be made.[5]

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4. H. Con. Res. 527, vacating certain actions of the Senate and the House on S. 2718, the Rail Services Act of 1975. See 122 CONG. REC. 281, 282, 94th Cong. 2d Sess.

5. The bill had been enrolled by the Senate before the *sine die* adjournment of the two Houses on Dec. 19, 1975 (121 CONG. REC. 42014, 94th Cong. 1st Sess.). Hearing of an anticipated veto, the Senate held the bill until the second session convened on Jan. 20, 1976, when action could be taken to send the bill back to conference to make necessary modifications. The concurrent resolution considered in the House vacated the conference proceedings in both Houses in the reverse order to the actual actions in adopting the report in the two Houses, thereby returning to the stage of the bill prior to consideration of the conference report, thereby re-

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 527) vacating certain actions of the Senate and the House of Representatives with respect to the bill S. 2718, relating to railroad revitalization and regulatory reform, and for other purposes.

The Clerk read as follows:

H. CON. RES. 527

*Resolved by the House of Representatives (the Senate concurring)*, That the action of the Speaker of the House of Representatives and the acting President pro tempore of the Senate in signing the enrolled bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, is hereby rescinded; the proceedings by which the House adopted the conference report on such bill and laid on the table a motion to reconsider the vote thereon on December 19, 1975, are hereby vacated; the proceedings by which the Senate adopted the conference report on such bill and laid on the table a motion to reconsider the vote thereon on December 19, 1975, are hereby vacated; and the conference report on such bill is hereby recommitted to the committee of conference.

THE SPEAKER PRO TEMPORE:[6] Is a second demanded?

MR. [JOE] SKUBITZ [of Kansas]: Mr. Speaker, I demand a second.

THE SPEAKER PRO TEMPORE: Without objection, a second will be considered as ordered.

There was no objection.

MR. STAGGERS: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is necessary to resolve a situation which has arisen because of the rejection by the administration of some of the provisions contained in the bill, S. 2718, relating to railroad revitalization and regulatory reform, agreed to by both Houses on December 19, 1975.

The administration indicated that the bill would be vetoed because of the amount of money involved and because of the lack of administration control over the funding of ConRail, the corporation created to operate the bankrupt northeast railroads.

Because of this certain veto, the Senate did not send the bill to the White House in the usual manner. During the recess period over Christmas, the leadership of the two committees involved, the Committee on Interstate and Foreign Commerce and the Senate Commerce Committee, authorized representatives of both committees to sit down with representatives of the administration and discuss the possibility of developing a recommendation for modification of this legislation which might be acceptable to both the House and the Senate, as well as the administration.

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constituting the original conference to which the bill was then recommitted by action of H. Con. Res. 527. New conferees were therefor not named and no motion to instruct was available.

**6.** John J. McFall (Calif.).

The negotiations have been completed and this resolution is necessary to vacate the actions of both Houses in agreeing to the bill and to recommit the legislation to the conference committee where the conferees can examine the recommended proposal and file a new conference report with both Houses.

The Senate on the following day[7] adopted House Concurrent Resolution 527 and under the terms thereof the matter was recommitted to conference. When the House received a message from the Senate informing it of the Senate's concurrence, the Speaker appointed one conferee to fill a vacancy on the conference committee which had been caused by the resignation of a Member from the House.

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 527. Concurrent resolution vacating certain actions of the Senate and the House of Representatives with respect to the bill S. 2718, relating to railroad revitalization and regulatory reform, and for other purposes. . . .

The message also announced that the Senate vacates its adoption of the conference report on S. 2718 and recommits the same to the committee of conference, pursuant to the provisions of House Concurrent Resolution 527.

APPOINTMENT OF MEMBER OF THE COMMITTEE OF CONFERENCE ON S. 2718

THE SPEAKER PRO TEMPORE:[8] The Chair announces, without objection, the appointment of the gentleman from North Carolina (Mr. Broyhill) as a conferee on the Senate bill (S. 2718) to fill the existing vacancy on the committee of conference on that bill.

There was no objection.

### *Effect of Recommittal*

**§ 32.47 When a conference report is recommitted to the committee of conference the entire matter is again before that committee for consideration.**

On Sept. 11, 1940,[9] the House was considering the conference report on S. 3550, prohibiting the transportation of convict-made goods in interstate commerce. Mr. Earl C. Michener, of Michigan, offered a motion to recommit.

The Clerk read as follows:

Mr. Michener moves to recommit the conference report to the conference committee.

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

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7. 122 CONG. REC. 526, 94th Cong. 2d Sess., Jan. 21, 1976.

8. John J. McFall (Calif.).

9. 86 CONG. REC. 11938, 76th Cong. 3d Sess.

THE SPEAKER PRO TEMPORE:[10] The gentleman will state it.

MR. MICHENER: If this motion should carry, the conferees would then be permitted to go back and cut out all the exemptions which they have included here if they wanted.

THE SPEAKER PRO TEMPORE: The whole matter would be before the conferees.

The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. Michener) there were—ayes 28, noes 94.

### *Filing and Numbering of Second Conference Report*

**§ 32.48 Where a conference report is recommitted to the committee of conference, and a second report is then filed by the conferees, this second report is numbered and otherwise treated as a new and separate report.**

On June 28, 1962,[11] the following entry appeared in the portion of the Record regarding reports of committees in the House:

MR. PATMAN: Committee of conference. S. 3161. An Act to provide for continuation of authority for regulation of exports, and for other purposes (Rept. No. 1949). Ordered to be printed.

However that same day[12] this conference report was filed in and then recommitted by the Senate. On June 29, 1962,[13] Mr. Wright Patman, of Texas, made the following request:

MR. PATMAN: Mr. Speaker, I ask unanimous consent that the managers on the part of the House of the Banking and Currency Committee have until 12 o'clock tonight to file a report on S. 3161.

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

There was no objection.

The Record for June 29, 1962,[15] carried this entry regarding reports of committees:

MR. PATMAN: Committee of conference. S. 3161. An Act to provide for continuaqtion of authority for regulation of exports, and for other purposes (Rept. No. 1955). )rdered to be printed.

On June 30, 1962, Mr. Patman called up the new conference report on S. 3161, House Report No. 1955.

MR. PATMAN: Mr. Speaker, I call up the conference report on the bill (S. 3161) to provide for continuation of authority for regulation of exports, and

10. Sam Rayburn (Tex.).
11. 108 CONG. REC. 12135, 87th Cong. 2d Sess.
12. *Id.* at pp. 12192, 12196, 12197.
13. *Id.* at p. 12297.
14. John W. McCormack (Mass.).
15. 108 CONG. REC. 12343, 87th Cong. 2d Sess.

for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT (H. REPT. NO. 1955)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3161) to provide for continuation of authority for regulation of exports, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: . . .

## § 32.49 Where a conference report is recommitted with instructions relating to certain items in such report, the managers at the conference are not discharged and it is necessary for them to arrive at a new agreement and file a new report.

On June 8, 1942,[16] the Senate was discussing the conference report on S. 2025 relating to pay allowances for certain service personnel. Senator Warren R. Austin, of Vermont, made the following statement:

In view of the statement by the distinguished Senator from Wisconsin [Mr. La Follette] that he raised a question only as to one point in the conference report, and did not raise any question as to the remainder of it, but wished the remainder to be left undisturbed as reported, I should like to have the Record show the parliamentary status of the report of the conferees on Senate bill 2025.

THE PRESIDING OFFICER:[17] The Chair understands that the conferees have not been discharged by the action of either House on the conference report. Therefore the motion recently agreed to by the Senate recommits the conference report and the bill to the same conferees, with instructions to the Senate conferees. As the Chair understands the instructions, they deal with specific items. The Senate conferees are instructed only with respect to the items dealing with the seventh and sixth grades.

MR. AUSTIN: Mr. President, another parliamentary inquiry.

THE PRESIDING OFFICER: The Senator will state it.

MR. AUSTIN: Is it true that the present parliamentary status makes it necessary to have a new agreement and a new conference report?

THE PRESIDING OFFICER: The Chair so holds.

16. 88 CONG. REC. 4995, 4996, 77th Cong. 2d Sess.

17. Joel Bennett Clark (Mo.).

### *Effect of Instructions on Specified Item(s)*

**§ 32.50 If a conference report is recommitted with instructions on one item, the managers are not confined, in their new conference, to the subject matter of the instructions but may negotiate and report on all matters that have been in disagreement.**

On Dec. 20, 1969,[18] as the House concluded its consideration of the conference report on H.R. 15149, foreign assistance appropriations fiscal 1970, Mr. Gerald R. Ford, of Michigan, posed a parliamentary inquiry concerning a motion to recommit.

> Mr. Speaker, a parliamentary inquiry. If the motion to recommit reads as follows, will it limit the conference to the consideration of this particular issue, or will the conference as a whole be open for the consideration of all issues in the conference? Let me read the motion to recommit, Mr. Speaker, that will be as follows:
>
> > I move to recommit the conference report on the bill H.R. 15149 with instructions to the managers on the part of the House to agree with the amendment of the Senate No. 25.
>
> Mr. Speaker, if that is offered and does prevail, is the conference as a whole free to discuss and decide issues involving the whole bill or all issues within both the House and Senate versions?
>
> THE SPEAKER:[19] In response to the parliamentary inquiry, if the motion to recommit with instructions on one item should prevail, then all items in disagreement are open for further consideration by the conference committee.

### *Notification to Senate*

**§ 32.51 Where a conference report is recommitted to conference, the Senate is not notified and the House managers carry the original papers back to conference.**

On Dec. 1, 1971,[20] the following occurred concerning the conference report on Senate Concurrent Resolution 6 (closing Public Health Service hospitals and clinics) which had been reported in total disagreement:[1]

> MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I ask unanimous consent that the conference report on the Senate concurrent resolution, Senate Concurrent Resolution 6, be recommitted to the committee of conference.

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18. 115 CONG. REC. 40454, 91st Cong. 1st Sess.

19. John W. McCormack (Mass.).

20. 117 CONG. REC. 43835, 92d Cong. 1st Sess.

1. 117 CONG. REC. 36867, 92d Cong. 1st Sess., Oct. 19, 1971.

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

There was no objection.

Immediately after this request was granted the House proceeded to consider other business.

### *Rejection of Motion*

**§ 32.52 If a motion to recommit a conference report is voted down, the question before the House is on the adoption of the conference reports.**

On Sept. 20, 1962,[3] after the House had ordered the previous question on the conference report on H.R. 12391 (the Food and Agricultural Act of 1962) Mr. Charles B. Hoeven, of Iowa, offered a motion to recommit the report. Mr. Thomas G. Abernethy, of Mississippi, posed a parliamentary inquiry.

Mr. Speaker, if the motion of the gentleman from Iowa is voted down, would it then be in order for the House conferees to return to conference upon the making of a proper motion?

THE SPEAKER:[4] If the motion to recommit is defeated, then the question comes on adoption of the conference report.

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2. Carl Albert (Okla.).
3. 108 CONG. REC. 20099, 20105, 87th Cong. 2d Sess.
4. John W. McCormack (Mass.).