B. CONFERENCE MANAGERS OR CONFEREES

§ 5. In General

Managers are appointed by the Speaker[1] and he has discretion as to their identity and number,[2] although he usually consults with the chairman of the committee which considered the matter being sent to conference before exercising this discretion.[3] The Speaker may appoint a manager to fill a vacancy at a conference[4] and, since a change in House rules in 1993, he has the authority to add or remove conferees after his initial appointment.[5] Under the earlier practice, the consent of the House was required to appoint or change conferees after the original appointment.[6] A Speaker Pro Tempore may appoint managers only pursuant to the consent of the House.[7] The election of a Speaker Pro Tempore bestows the appointment power as well as certain other prerogatives that attach to the Speaker.[8]

Managers on the part of each House constitute in effect two separate committees, each of which acts by majority vote.[9]

Managers may be excused from service on a conference committee only by the consent of the House.[10]

When either House makes a change in the identity or number of its managers it so notifies the other House by message.[11]

Informal Meetings Prior to Appointment

§ 5.1 Where a conference report before the House contained the signature of all the managers, the Speaker held that the report was

1. Rule X clause 6(f), *House Rules and Manual* § 701e (1997). The reader is urged to refer to future supplements to this volume as they are published for changes in the procedures applicable to managers.
2. §§ 6.3, 6.4, infra.
3. §§ 6.1, 6.2, infra.
4. §§ 8.2–8.6, infra.
5. See 139 CONG. REC. 49, 103d Cong. 1st Sess., Jan. 5, 1993 (H. Res. 5); Rule XI clause 6(f), *House Rules and Manual* (1997).
6. §§ 6.12, 8.1, infra.
7. §§ 6.15, 6.16, 8.11, infra.
8. See *House Rules and Manual* § 634a (1997).
9. See 5 Hinds' Precedents § 6334; and *House Rules and Manual* § 536 (1973).
10. §§ 8.1, 8.5, infra.
11. §§ 8.16, 8.17, infra.

properly before the House notwithstanding a point of order that the managers had met informally prior to their appointment.

On Aug. 9, 1954,[12] Mr. John M. Vorys, of Ohio, called up the conference report on H.R. 9678, a foreign aid measure. Mr. H. R. Gross, of Iowa, made a point of order against the conference report, stating that certain Members of the House had entered into a conference before the Chair had appointed conferees on the part of the House. Mr. Gross explained:

> . . . Mr. Speaker, I make the point of order that even before the papers were received from the other body, requesting a conference on the part of the House, before authority was given by the House for a conference, and well before the formal appointment of conferees on the part of the House, certain Members of the House of Representatives had apparently designated themselves as conferees and entered into agreement on one or more substantial issues in disagreement in connection with the bill H.R. 9678; that such agreement or agreements were entered into even before the House of Representatives formally and officially convened at 12 o'clock noon on August 4, 1954, and gave assent to a conference. . . .
>
> Mr. Speaker, I can find no precedent which permits Members of the House to enter into a conference without first obtaining authority from the House for so doing. The weight of all precedents governs from the initial authority for a conference, the appointment of conferees and their conduct flow therefrom.

Speaker Joseph W. Martin, Jr., of Massachusetts, made the following ruling:

> The Chair wishes to state on the gentleman's point of order that he has no cognizance of informal meetings that may have been held. As a matter of fact, he would not know what Members were doing if they met informally in a group to discuss any specific subject. All the Chair can do is to take the report that is here. All 10 signatures are on the conference report. The conference report is here in a legal manner.

Closing a Conference, Vote Required

§ 5.2 In the 94th Congress, the House adopted a new rule requiring managers to vote, by a roll call, to close a conference. In the 95th Congress, the rule was modified to require a roll call vote in the full House to close a conference.

Conferences on matters in disagreement between the House and Senate were, until relatively recently, held behind closed doors.

12. 100 CONG. REC. 13787, 13802, 83d Cong. 2d Sess.

Occasionally, Members of the House were admitted to comment on the matters before the managers.[13]

In the 94th Congress, the House adopted a new rule providing that conferences should be held in open session unless the managers of either the House or the Senate determined by a roll call vote to close the meeting.[14]

The Senate, later in the same year,[15] adopted a rule similar to that adopted by the House, but normally follows the lead of the House managers and of the House when meeting in conference.

Rule XXVIII clause 6, was again amended in the 95th Congress to require the vote to close a conference meeting to occur in the full House of Representatives by roll call.[16]

In the 94th Congress, Majority Leader Thomas P. O'Neill, Jr., of Massachusetts, called up the resolution establishing rules for the House.

MR. O'NEILL: Mr. Speaker, I offer a resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the Ninety-third Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, the Legislative Reorganization Act of 1970, as amended, and the Congressional Budget and Impoundment Control Act of 1974, be, and they are hereby adopted as the Rules of the House of Representatives of the Ninety-fourth Congress, with the following amendments as part thereof, to wit: . . .

(26) In Rule XXVIII, add the following new clause:

"6. Open Conference Meetings

"Each conference committee meeting between the House and Senate shall be open to the public except when the managers of either the House or Senate, in open session, determine by a rollcall vote of a majority of those managers present, that

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13. See 5 Cannon's Precedents § 6254 for the traditional method of holding a conference meeting.

14. 121 CONG. REC. 20–32, 94th Cong. 1st Sess., Jan. 14, 1975 (H. Res. 5).

15. The Senate rule was incorporated into its Rule XXVIII clause 3, on Nov. 5, 1975. 121 CONG. REC. 35203–209, 94th Cong. 1st Sess. The rule remains part of current Senate Rule XXVIII clause 6 and reads as follows:

"6. Each conference committee between the Senate and the House of Representatives shall be open to the public except when managers of either the Senate or the House of Representatives in open session determine by a rollcall vote of a majority of those managers present, that all or part of the remainder of the meeting on the day of the vote shall be closed to the public."

16. 123 CONG. REC. 53–70, 95th Cong. 1st Sess., Jan. 4, 1977 (H. Res. 5).

all or part of the remainder of the meeting on the day of the vote shall be closed to the public: Provided that this provision shall not become effective until a similar rule is adopted by the Senate." . . .

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

MR. [BILL] FRENZEL [of Minnesota]: 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 259, nays 150, not voting 22. . . .

In the 95th Congress, on Jan. 4, 1977,[18] Rule XXVIII was modified as a result of the following proceedings:

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Speaker, I offer a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the Ninety-fourth Congress, including all applicable provisions of law which constituted the Rules of the House at the end of the Ninety-fourth Congress, be, and they are hereby, adopted as the Rules of the House of Representatives of the Ninety-fifth Congress, with the following amendments included therein as part thereof, to wit: . . .

(37) In Rule XXVIII, clause 6 is amended to read as follows:

"6. (a) Each conference committee meeting between the House and Senate shall be open to the public except when the House, in open session, has determined by a rollcall vote of a majority of those Members voting that all or part of the meeting shall be closed to the public.

"(b)(1) After the reading of the report and before the reading of the joint statement, a point of order may be made that the committee of conference making the report to the House has failed to comply with paragraph (a) of this clause.

"(2) If such point of order is sustained, the conference report shall be considered as rejected, the House shall be considered to have insisted upon its amendment(s) or upon disagreement to the amendment(s) of the Senate, as the case may be, and to have requested a further conference with the Senate, and the Speaker shall be authorized to appoint new conferees without intervening motion."; . . .

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

MR. [JOHN J.] RHODES [of Arizona]: 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 256, nays 142, not voting 35. . . .

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

17. Carl Albert (Okla.).

18. 123 CONG. REC. 53, 55, 70, 95th Cong. 1st Sess.

19. Carl Albert (Okla.).

Closing a Conference Meeting

§ 5.3 A motion to close a conference meeting to the public, but permitting Members of Congress to attend, is privileged and has been adopted under Rule XXVIII clause 6(a).

On May 23, 1977,[20] the newly adopted rule governing the procedure for closing a conference was applied for the first time in the House.

After the Speaker had appointed the conferees on the Department of Defense authorization bill, fiscal 1978, Mr. Charles E. Bennett, of Florida, offered a motion to close the conference to the public. A series of inquiries followed, the motion was eventually withdrawn and a new motion offered to permit Members to attend sessions of the conference.

APPOINTMENT OF CONFEREES ON H.R. 5970, DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1978

MR. BENNETT: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5970) to authorize appropriations during the fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

THE SPEAKER:[1] Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. Price, Bennett, Stratton, Ichord, Nedzi, Charles H. Wilson of California, Leggett, White, Nichols, Bob Wilson, Dickinson, Whitehurst, and Spence.

MOTION OFFERED BY MR. BENNETT

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

The Clerk read as follows:

> Mr. Bennett moves, pursuant to rule XXVIII 6(a) of the House rules that the conference committee meetings between the House and the Senate on H.R. 5970 the fiscal year 1978 military authorization bill be closed to the public at such times as classified national security information is under consideration.

THE SPEAKER: The gentleman from Florida (Mr. Bennett) is recognized for 1 hour.

20. 123 CONG. REC. 15880–84, 95th Cong. 1st Sess.

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

MR. BENNETT: Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. Bob Wilson), the ranking minority member on the committee, pending which I yield myself such time as I may consume; at the conclusion of which I will be happy to yield to any Member who wishes to be heard.

Mr. Speaker, in discussing the military authorization bill in conference, there are times when it is impossible to consider many of the individual items without closing the session because of the security classification which understandably must be attached to many of the items under consideration. . . .

MR. [THOMAS J.] DOWNEY [of New York]: Mr. Speaker, what I would like to know is whether or not the conferees and the acting chairman of the conference would have any objection to sitting Members of Congress sitting in on the session. It seems to me that is the crux of the matter. . . .

Mr. Speaker, if I might address the Chair, is it possible for the gentleman from Florida to amend his own motion to incorporate that? . . .

THE SPEAKER: The answer is that the motion may be modified by unanimous consent.

MR. DOWNEY: Mr. Speaker, a further parliamentary inquiry. Must that unanimous-consent request come from the gentleman from Florida or can that come from any Member?

THE SPEAKER: If the gentleman yields for that purpose, it can come from any Member. The gentleman from Florida is in control of the time.

MR. DOWNEY: Mr. Speaker, if the gentleman from Florida would yield further, the language that "any sitting Member of Congress shall have the right to attend any meeting, open or closed, of the conference"—would that be suitable?

MR. BENNETT: The gentleman wants me to amend the motion to provide that during meetings of the conference committee any sitting Member may have the right to sit in on any open or closed meeting of the conference.

May I address the Chair and ask the Chair if I so amend my motion, is that a proper motion? I had understood that it was not.

THE SPEAKER: By unanimous consent the gentleman may so modify his motion.

MR. BENNETT: Mr. Speaker, then by unanimous consent I ask that the motion I have offered be modified to allow any sitting Member of Congress to have the right to attend any closed or open meeting of the conference.

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

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, I object. . . .

THE SPEAKER: The Chair will respond to an earlier parliamentary inquiry. In view of the fact that the gentleman has a motion pending, in order to modify this motion the gentleman must obtain unanimous consent. The gentleman does have the right in the House, as the gentleman is aware, of withdrawing his motion and offering a completely new motion. . . .

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

THE SPEAKER: The gentleman will state it.

MR. STRATTON: Mr. Speaker, if the House approves the Bennett motion, as originally moved, does that mean that

on those occasions when the conference goes into executive session that a Member of the House under the existing rules would have the opportunity to join that executive session?

THE SPEAKER: Under the precedents, all Members of the House, other than the conferees of the House, would be considered to be part of the public under the language of the motion and not entitled to go into the conferees' closed session.

The changing of clause 6 of rule XXVIII this year does not on its face alter the situation with respect to attendance by Members who are not named as conferees.

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

THE SPEAKER: The gentleman will state it.

MR. STRATTON: If the conferees, having gone into executive session, were to agree that certain Members could be admitted to that conference for certain purposes, would that be permitted?

THE SPEAKER: The will of the House would bind House conferees. If the House has decided by rollcall that the conference will be a session closed to all persons, then the will of the House would prevail as indicated in rule XXVIII, clause 6. Or a motion could be made to clarify the term "public" so as not to include Members. It could well be that it would be a stalemate and that the Senate would not agree, but as far as House conferees are concerned, they could be instructed, on a motion made by the chairman of the committee that the Members of the House are not considered to be part of the public, but as Members of this body with the right of nonparticipating attendance.

MR. STRATTON: I thank the Speaker.

MR. BENNETT: Mr. Speaker, I understand that it is proper for me to offer a substitute motion?

THE SPEAKER: Does the gentleman withdraw his previous motion?

MR. BENNETT: I do, Mr. Speaker.

MOTION OFFERED BY MR. BENNETT

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

The Clerk read as follows:

> Mr. Bennett moves that, pursuant to Rule XXVIII 6(a) of the House Rules, the conference committee meetings between the House and the Senate on H.R. 5970, the fiscal year 1978 military authorization bill, be closed to the public at such times as classified national security information is under consideration, provided however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

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

MR. BOB WILSON [of California]: . . . Mr. Speaker, if I may, I wish to pose my parliamentary inquiry now.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BOB WILSON: Mr. Speaker, do I understand that the ruling that the Chair has just made on the previous motion offered by the gentleman from Florida (Mr. Bennett) is to the effect that passage of this motion by the House would bind our conferees or at least would represent the views of the House, but then we would, of course, have to take into consideration the views of the Senate at such time as we

have a conference with the Senate? Is my understanding correct?

THE SPEAKER: The gentleman is correct. Each House would have one vote at the conference. . . .

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

The previous question was ordered.

THE SPEAKER: Under the provisions of rule XXVIII, clause 6(a), the yeas and nays are considered as ordered on this motion.

The vote was taken by electronic device, and there were—yeas 273, nays 114, not voting 46.

Closing Conference, Select Committee on Intelligence

§ 5.4 The House has on occasion given a committee the authority to close its conference meetings without coming to the floor for the vote normally required under Rule XXVIII clause 6(a).

On July 14, 1977,[2] the House adopted House Resolution 658, establishing a Permanent Select Committee on Intelligence. Among the powers and mandate given that committee was a specific grant of authority to close its conference meetings.

The portion of the resolution specifically amending the rules of the House was carried in section 2, paragraph 11, which provides as follows:

"11. Clause 6(a) of rule XXVIII does not apply to conference committee meetings respecting legislation (or any part thereof) reported from the Permanent Select Committee on Intelligence.".

This authority survives in Rule XLVIII clause 11 of the current House rules.[3]

Closing a Conference Meeting by Motion

§ 5.5 The motion to close a conference meeting under Rule XXVIII clause 6(a): (1) is properly made after the request to go to conference has been agreed to and the Speaker has appointed the conferees; (2) must be agreed to by a yea and nay vote; (3) may be limited in its terms to allow sitting Members to attend; and (4) may be modified to close the meetings to the public only when national security information (classified material) is under consideration.

2. 123 CONG. REC. 22949, 95th Cong. 1st Sess.

3. *House Rules and Manual* § 944a (1997).

The rule requiring a yea and nay vote in the full House to close a conference meeting was added to Rule XXVIII in the 95th Congress.[4] The modified form of the motion to close used in this example from the proceedings of July 21, 1977,[5] has been used frequently by the Committee on Appropriations when sending a defense appropriation bill to conference.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

THE SPEAKER:[6] Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Mahon, Sikes, Flood, Addabbo, McFall, Flynt, Giaimo, Chappell, Burlison of Missouri, Edwards of Alabama, Robinson, Kemp, and Cederberg.

MOTION OFFERED BY MR. MAHON

MR. MAHON: Mr. Chairman, I offer a motion.

The Clerk read as follows:

> Mr. Mahon moves, pursuant to rule XXVIII 6(a) of the House rules that the conference committee meetings between the House and the Senate on H.R. 7933, the fiscal year 1978 Department of Defense appropriation bill, be closed to the public at such times as classified national security information is under consideration, provided however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

THE SPEAKER: The Chair recognizes the gentleman from Texas (Mr. Mahon) for 1 hour.

MR. MAHON: Mr. Speaker, the object here is to comply with the rules and procedures of the House. The conference will be open if the motion is agreed to, except for the consideration of classified material. Classified material may arise from time to time in the conference. It will be possible to arrange for the classified material to be discussed under circumstances which will permit most of the conference to be an open conference. . . .

Mr. Speaker, it would be my purpose, as the head of the House conferees, to work out an arrangement in the conference whereby it will be agreed that wherever there are classified materials we can try to discuss them at one particular time and not have classified material intermingled constantly with the discussion otherwise on the bill. I think that can be done and should be done. In the past, I know of nothing improper that has ever taken place in

4. See H. Res. 5, 123 CONG. REC. 53–77, 95th Cong. 1st Sess., Jan. 4, 1977. See Rule XXVIII clause 6(a), *House Rules and Manual* § 913d (1997).
5. 123 CONG. REC. 24365, 24366, 95th Cong. 1st Sess.
6. Thomas P. O'Neill, Jr. (Mass.).

the conference with the Senate on a defense bill, and I have had considerable experience in that area. But as a matter of convenience, we have moved to close the conferences because there is so much classified material, and we cannot always tell when the material may arise for discussion. . . .

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

The previous question was ordered.

THE SPEAKER: The question is on the motion offered by the gentleman from Texas (Mr. Mahon).

MR. [JOHN J.] FLYNT [of Georgia]: 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: Under the provisions of rule XXVIII, clause 6(a), the yeas and nays are considered as ordered on this motion.

The vote was taken by electronic device, and there were—yeas 376, nays 0, not voting 57.

Closing Conference Meetings

§ 5.6 Following the adoption of a motion to instruct conferees, and pending the Speaker's appointment of the managers on the part of the House, the Chair has entertained a motion to authorize the conferees to close the conference meetings, a motion which requires a roll call vote.

Rule XXVIII clause 6(a)[7] does not specify a time period within which a motion to close a conference must be entertained. These proceedings, excerpted from the Record of June 10, 1988,[8] show the exercise of the Chair's discretion about when to recognize for a motion to close a conference.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[9] The question is on the motion to instruct offered by the gentleman from Alabama [Mr. Dickinson].

The motion to instruct was agreed to.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

THE SPEAKER PRO TEMPORE: The Chair will delay the appointment of conferees until the Speaker returns to the Chair.

MOTION OFFERED BY MR. ASPIN

MR. [LES] ASPIN [of Wisconsin]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Aspin moves that pursuant to rule XXVIII 6(a) of the House rules, the conference committee meetings between the House and the Senate on H.R. 4264, the fiscal year 1989 Department of Defense authorization bill, be closed to the public at such times as classified national security information is under consideration:

7. *House Rules and Manual* § 913d (1997).
8. 134 CONG. REC. 14068, 100th Cong. 2d Sess.
9. William J. Hughes (N.J.).

Provided, however, That any sitting Member of Congress shall have the right to attend any closed or open meeting.

THE SPEAKER PRO TEMPORE: The gentleman from Wisconsin [Mr. Aspin] is recognized for 1 hour.

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

Requirement for Open Conference Meetings

§ 5.7 A point of order against a conference report was overruled where Member making challenge failed to establish that the report differed from that agreed upon in open conference meeting.

Where a Member pressed a point of order that a conference report was reported in violation of Rule XXVIII clause 6, which requires that conference meetings be open, he has the burden of showing that an actual meeting of the conferees took place in violation of the "open conference" rule.

On Sept. 28, 1976,[10] when the conference report on S. 521, the Outer Continental Shelf Lands Act Amendments of 1976, was taken up in the House as unfinished business, a point of order was pressed as shown in the Record excerpts set out below.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I make a point of order against the conference report on grounds that it has been reported in violation of Rule XXVIII, clause 6, which requires that conference meetings be open to the public except when ordered closed by rollcall vote in open session.

Mr. Speaker, on the first day of this Congress, as one of its first moves toward reform, the House voted to amend its rules and open up conferences to public scrutiny. The Senate soon passed a similar measure, and the rule took effect.

At the first open meeting of the conference committee, one of the managers on the part of the Senate moved that the Senate recede from its disagreement to the House amendment with several amendments which he had caused to be printed as part of a conference document. Additional linear amendments were proposed by other Senate managers in the form of amendments to the motion, and in due course a majority of the Senators voted for the motion as amended.

The chairman of the conference committee, the gentleman from New York (Mr. Murphy) then moved that the House agree to the amendments of the Senate. This motion was presumably amendable, although the chairman refused to allow any amendments to be offered. If he had, they would have been restricted to germane modifications of the various Senate amendments which would have been the only items in disagreement at that time.

10. 122 CONG. REC. 33019, 33020, 94th Cong. 2d Sess.

The motion was rushed to a vote and agreed to by the House managers, and the conference meeting was adjourned.

Mr. Speaker, the conference committee must have met again. It must have met without any notice to the minority and far from public view. It must have met in closed session without first having voted to do so in open session. I must assume that there was a closed session of the conference committee, because instead of reporting linear Senate amendments, as had been agreed to in open session, the committee reported a Senate amendment in the nature of a substitute. . . .

There must have been one more meeting—a closed meeting—in which a majority of the Senate conferees and a majority of the House conferees agreed to switch from linear amendments to an amendment in the nature of a substitute without giving minority House managers a chance to offer amendments and without being open to the public. . . .

Clause 6 has never before been tested to my knowledge. If this point of order is overruled, it will mean that a majority of the managers can, in open session, agree to things they think the public will like, and then change those things around in private to suit themselves. Whether this is done by the managers at a face-to-face meeting, or by telephone or by mail or by staff without even informing the managers, it is being done in secret, in violation of the rules. Defeat of this point of order will make clause 6 meaningless and destroy the concept of open conferences.

THE SPEAKER:[11] Does the gentleman from New York (Mr. Murphy) desire to be heard on the point of order?

MR. [JOHN M.] MURPHY of New York: I do, Mr. Speaker.

Mr. Speaker, on the point of order, I would refer to the recorded minutes of the conference on page 2 of the opening day of the conference. Senator Jackson moved that the conference be open to the public. The motion was seconded by Senator Jackson and adopted by the conference without objection. If my colleague, the gentleman from New York, had been present at all sessions of the conference, I doubt if he would make this point of order. The motion made by Senator Jackson at the conference and on page 8 of the first day's minutes of the conference is as follows:

> Mr. Chairman, I therefore move the Senate recede from its disagreement with the House and accept the House amendment with the amendment set forth in the September 13 conference print, except the technical amendments that occur on page 123 of the print.

Mr. Speaker, if I understand the gentleman's argument, he is asserting that the Chair is to find an implied or "constructive" secret meeting of the majority of the conferees because the conference report is not consistent with the gentleman's interpretation of the procedures of the conference committee. . . .

In addition, I would point out that the conference report is consistent with the actions of the conference. Senator Jackson moved that the Senate recede from its disagreement and agree to the

11. Carl Albert (Okla.).

amendment of the House with an amendment. During the course of the deliberations, the Senate conferees agreed to modify Senator Jackson's proposed amendments. The Senate conferees then approved the Jackson motion.

The House conferees then agreed to adopt the language agreed to by the Senate conferees, to be inserted in lieu of the House amendment.

The conference report properly reflects these actions.

Moreover, rules of the House make it clear that once a conference report is filed by the required number of conferees there is a conclusive presumption as to the validity of the conference.

The Speaker will not look behind the signatures as to the procedures in conference. . . .

THE SPEAKER: The Chair is prepared to rule.

The gentleman from New York has made a point of order directed against conference procedure alleging a violation of clause 6, rule XXVIII.

The gentleman's point of order is that the form of the conference report does not conform to his understanding as to which motion was agreed to by the House conferees. The gentleman contends that there was a further constructive meeting of the conferees which was closed and unannounced.

The chief manager of the conference report has reported that in a meeting of the conferees which was open to the public, pursuant to the provisions of clause 6, rule XXVIII, a proper motion was made to agree to an amendment in the nature of a substitute for the House amendment to the Senate bill, and the signatures of a majority of the conferees of both Houses reflecting this agreement appear on the conference report.

The Chair does not feel that a violation of conference rules has been shown, and the Chair overrules the point of order.

Quorum Requirements in a Conference Meeting

§ 5.8 In response to a series of parliamentary inquiries, the Speaker commented on essential features of a valid conference under House rules: (1) while there is no rule specifying what constitutes a quorum for a meeting of House managers at a conference, a quorum is required on the signature sheets of the conference report and joint statement; (2) a conference report is valid only if there has been a public meeting of the conferees under Rule XXVIII clause 6; and (3) no rule of the House precludes conferees meeting during a period when the House is conducting five-minute votes.

In the following instance, Mr. Lewis' parliamentary inquiry was directed to the Speaker while the House was conducting a series of votes. In that sense, the inquiry

was directed at "pending business" and not to some hypothetical situation to which the Chair normally would not respond.[12]

MR. [JERRY] LEWIS of California: Mr. Speaker, is it appropriate to have a parliamentary inquiry at this moment?

THE SPEAKER PRO TEMPORE:[13] The gentleman will state his parliamentary inquiry.

MR. LEWIS of California: Mr. Speaker, I presume it is appropriate to make an inquiry about our procedure as it relates to conference reports.

THE SPEAKER PRO TEMPORE: The Chair is not able to hear the gentleman.

MR. LEWIS of California: Mr. Speaker, I presume it is appropriate to ask information of the Chair as to the procedure as it relates to conference meetings, conferences of the House.

THE SPEAKER PRO TEMPORE: The gentleman must state a parliamentary inquiry, and it should relate to the pending business.

MR. LEWIS of California: My parliamentary inquiry, Mr. Speaker, is do Members of the House in majority forum have to be present for a conference to take place?

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman from California [Mr. Lewis] that there is no quorum requirement for meeting of the conference beyond the requirement for a majority of signatures.

MR. LEWIS of California: They do have to meet; is that correct?

THE SPEAKER PRO TEMPORE: There needs to be a public meeting of the conference.

MR. LEWIS of California: A public meeting of the conference, and I presume that the conferees at least should have an opportunity to be there. Is that correct?

THE SPEAKER PRO TEMPORE: The Chair has responded to the gentleman's inquiry.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, I have a parliamentary inquiry.

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

MR. WALKER: MR. Speaker, is it appropriate to hold conference committee meetings during 5-minute votes of the House?

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman from Pennsylvania [Mr. Walker] that there is no rule prohibiting a meeting of a conference during 5-minute votes of the House.

MR. LEWIS of California: I have a parliamentary inquiry, Mr. Speaker.

Is it appropriate to hope to begin a conference where Members are in the middle of votes and there are no Republican Members present?

THE SPEAKER PRO TEMPORE: The Chair does not believe the gentleman has stated a parliamentary inquiry.

Authority To Sit During Recesses and Adjournments

12. See 140 CONG. REC. 27662, 27663, 103d Cong. 2d Sess., Oct. 4, 1994.
13. David E. Skaggs (Colo.).

§ 5.9 The House may authorize its conferees to sit during recesses or during adjournments between sessions of a Congress.

On Dec. 21, 1937,[14] Mr. Sam Rayburn, of Texas, made the following request:

> Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House, the House conferees in charge of the bill H.R. 8730, the National Housing Act, may be allowed to sit during the adjournment.
>
> THE SPEAKER:[15] Is there objection to the request of the gentleman from Texas?
>
> There was no objection.[16]

Proxy Voting

§ 5.10 Proxy voting by Senate conferees is a matter to be determined among the conferees themselves.

On Aug. 24, 1950,[17] Senator Burnet R. Maybank, of South Carolina, made the following parliamentary inquiry:

> If a conferee is absent from a meeting of the conference, and should leave his proxy, could his proxy be voted if the other conferees agreed?
>
> I desire to have the judgment of the President of the Senate on that question.
>
> THE VICE PRESIDENT:[18] In the opinion of the Chair that is a matter for the conferees themselves. If they agree that the absent member of the conference may have his vote recorded, the Chair knows no rule against it.

Requirements for Filing Conference Report

§ 5.11 A conference report cannot be filed before the conferees have been formally appointed in both Houses and had a meeting.

On Sept. 28, 1976, the conferees representing the House met with the not-yet-appointed Senate conferees to reconcile the differences on S. 3131, amending the Rail Passenger Service Act. A consensus was reached, the conferees signed the report which was subsequently filed in the House on Sept. 29, 1976.[19]

When it was then determined that the Senate had never, in fact,

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14. 82 CONG. REC. 2045, 2046, 75th Cong. 2d Sess.
15. William B. Bankhead (Ala.).
16. See also 82 CONG. REC. 1905, 75th Cong. 2d Sess., Dec. 18, 1937.
17. 96 CONG. REC. 13266, 81st Cong. 2d Sess.
18. Alben W. Barkley (Ky.).
19. H. Rept. No. 94–1734, 122 CONG. REC. 33761, 94th Cong. 2d Sess., Sept. 29, 1976.

formally appointed its conferees, the report was again filed in the House following the official notification, by message, that the conferees had been named.[20] Note the sequence of Senate action and the single message to the House in which the Senate announces not only its agreement to the House request for a conference and the appointment of conferees, but also its agreement to the conference report.[1]

The proceedings in the Senate were as follows:

> MR. [JOHN O.] PASTORE [of Rhode Island]: Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3131.
>
> The Presiding Officer laid before the Senate a message from the House of Representatives insisting upon its amendments to the bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.
>
> MR. PASTORE: I move that the Senate disagree to the amendments of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.
>
> The motion was agreed to: and the Presiding Officer appointed Mr. Magnuson, Mr. Pastore, Mr. Hartke, Mr. Stevenson, Mr. Ford, Mr. Weicker, and Mr. Beall conferees on the part of the Senate. . . .
>
> MR. PASTORE: Mr. President, I submit a report of the committee of conference on S. 3131, and ask for its immediate consideration.
>
> THE PRESIDING OFFICER:[2] The report will be stated by title.
>
> The legislative clerk read as follows:
>
> > The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.
>
> THE PRESIDING OFFICER: Without objection, the Senate will proceed to the consideration of the conference report.

The proceedings in the House[3] when it received a message from the Senate regarding S. 3131 are set out below:

> The message . . . announced that the Senate disagrees to the amendments of

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20. H. Rept. No. 94–1743, 122 CONG. REC. 34322, 94th Cong. 2d Sess., Sept. 30, 1976.

1. 122 CONG. REC. 33829, 33831, 94th Cong. 2d Sess. Sept. 30, 1976.

2. John C. Culver (Iowa).

3. 122 CONG. REC. 34100, 34101, 34202, 94th Cong. 2d Sess., Sept. 30, 1976.

the House to the bill (S. 3131) entitled "An act to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Pastore, and Mr. Hartke, Mr. Stevenson, Mr. Ford, Mr. Weicker, and Mr. Beall to be the conferees on the part of the Senate. . . .

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3131) entitled "An Act to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes." . . .

Mr. [Harley O.] Staggers [of West Virginia] submitted the following conference report and statement on the Senate bill (S. 3131) to amend the Rail Passenger Service Act and to provide financing for the National Railroad Passenger Corporation, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 94–1743)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following . . . .

What Constitutes a Conference Meeting

§ 5.12 Instance where a privileged motion to close a conference was offered, debated, and ultimately rejected by the House after a discussion of what actions and gatherings of conferees, under the rules, constitute a "meeting" of a conference committee.

On Apr. 13, 1978,[4] although the Speaker was not called upon to interpret when informal discussions and gatherings of conferees cross the threshold of the requirement in Rule XXVIII clause 6(a) that conference meetings be open except when closed in accordance with that clause, the debate on a motion to close a conference is informative.

PRIVILEGED MOTION RELATING TO CLOSING TO THE PUBLIC CONFERENCE COMMITTEE MEETINGS ON H.R. 5289, RELATING TO NATURAL GAS REGULATION

4. 124 CONG. REC. 10128, 10133, 10134, 10136, 95th Cong. 2d Sess.

MR. [TONY] MOFFETT [of Connecticut]: Mr. Speaker, I offer a privileged motion.

The Clerk read the motion as follows:

> Mr. Moffett moves, pursuant to rule XXVIII 6(a) of the House rules that the conference committee meetings between the House and the Senate on H.R. 5289, relating to natural gas regulation, be closed to the public, provided however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

THE SPEAKER:[5] The gentleman from Connecticut (Mr. Moffett) has presented a privileged motion, and has control of the time.

The gentleman from Connecticut is recognized for 1 hour.

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

This is not a motion that in any way intends to inhibit or prohibit any informal discussions in which no substantive conclusions are reached. But, this has clearly become a closed conference in violation of the House rules.

Rule XXVIII 6(a) reads:

> Each conference committee meeting between the House and Senate shall be open to the public except when the House, in open session, has determined by a rollcall vote of a majority of those Members voting that all or part of the meeting shall be closed to the public.

Mr. Speaker, the conference on energy has met for many, many hours this year, members of the conference from both parties. There has been approximately 1 hour of discussion that has been open to the public and the press. Some Members have been excluded from the meetings. I am not one of those Members. I have taken part in some of those closed discussions.

Before Easter I told the distinguished chairman of the conference and the distinguished and able chairman of the Committee on Interstate and Foreign Commerce, on which I am proud to serve, that I felt I had to continue to raise objections to closed meetings, and that I was going to take my objections before my colleagues in the House. I think the issue here is, are we in violation of the House rules? I think the answer is clearly yes. Are we setting a dangerous precedent? The answer is clearly yes. . . .

MR. [THOMAS L.] ASHLEY [of Ohio]: What the gentleman does not seem to understand is that this conference has broken down and the conference on the national energy plan has not met in some several weeks, nor is it meeting these days. What is going on is that there are informal discussions among some of the Senate conferees and some of the House conferees. Those that represent the House are not a majority of the House conferees.

So what I think we are trying to get at or I am trying to get at is the distinction between a conference committee meeting and the informal discussions that are going on in an effort to reach the kind of preliminary possible areas of agreement that could lead us back into the sunshine of an open conference session.

MR. [THOMAS J.] DOWNEY [of New York]: Well, the gentleman strikes a curious position. How is this to prevent

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

every conference from meeting informally and then at some final date adopting at a pro forma session of the conference what the agreements have been? To do what the gentleman is doing today and has been doing for several weeks leads us down a very dangerous road where the precedents are that there shall be no more open formal conferences.

MR. ASHLEY: If I can respond to that, I think the process that is being followed is consistent with the rules of the House . . . .

Mr. Speaker, let me say that I fully appreciate what the gentleman from Michigan (Mr. Carr) has just said. There is a basic and fundamental difference as to the interpretation of the rule, namely what constitutes a meeting of the conference. It is my absolute conviction that the meetings that have been transpiring are not meetings of the conference but are informal expressions between Members on both sides in an effort to advance—I will concede—in an effort to advance the business of the conference, but as I read the rule, as we meet in the sessions we have had, we are not meeting in a conference meeting. The conference broke down—if the gentleman is interested—the conference broke down because one member of the conference, who did not want an energy bill, insisted that he have the opportunity to ask 75 questions and he proceeded to ask those questions. . . .

THE SPEAKER: All time has expired.

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

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Connecticut (Mr. Moffett).

Under the rules of the House, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 6, nays 371, not voting 57.

Parliamentarian's Note: There are few precedents directly on the point of "what is a conference meeting." Jefferson's Manual, *House Rules and Manual* § 539, 105th Congress, suggests that a conference essentially occurs when a majority of managers from each House, assemble to negotiate in a parliamentary manner the differences before them. See also 6 Cannon's Precedents § 578, where an allegation that members of a committee were conducting closed deliberations and excluding a committee member were discussed in the context of the rules governing House committee deliberations.

Recommittal of Conference Report To Avoid Point of Order

§ 5.13 Where managers on the part of the House had signed a conference agreement before their formal appointment by the Speaker, the re-

port was, by unanimous consent, recommitted (to the same conference) so that a formal, open meeting of the conferees could take place and a new report filed.

The adoption of Rule XXVIII clause 6,[6] which requires meetings of a conference committee to be open unless formally closed by a vote of the House, has narrowed the reach of older precedents which stood for the proposition that where a report was signed by a majority of managers, the Chair would not look behind the signatures for irregularities in the conduct of a conference meeting.[7] In a situation like the one discussed here, taken from the proceedings of Mar. 25, 1980,[8] where conferees had inadvertently signed the report before their formal appointment, a point of order would lie against the report under the cited rule.

RECOMMITTAL TO CONFERENCE OF S. 662, INTERNATIONAL DEVELOPMENT BANKS AUTHORIZATION

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Speaker, I ask unanimous consent to recommit the Senate bill, S. 662, to conference.

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

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, reserving the right to object, could the gentleman tell me the title of the bill?

MR. REUSS: Yes; this is the bill containing authorization for the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.

MR. BAUMAN: Could the gentleman from Wisconsin explain to me why the chairman is asking to recommit this bill?

MR. REUSS: Yes, though not without some embarrassment. Technically, it turned out that the conferees had conferred and done their business a few minutes before the House conferees were, in fact, appointed. That was one of those slips betwixt the cup and the lip which occur because of the length of our corridors. So, the report as it comes back to us is technically imperfect, and it is to correct that imperfection that I ask this unanimous-consent request.

MR. BAUMAN: Further reserving the right to object, I assume what the gentleman is saying is that the consideration of the report in conference did not comply with rule XXVIII, which requires an open conference meeting unless the House votes otherwise?

MR. REUSS: I believe that is the relevant section. In any event, whether it is

6. See *House Rules and Manual* § 913d (1997).
7. See Conferences Between the Houses, House Practice, § 11, p. 319 (1996).
8. 126 CONG. REC. 6429, 6430, 96th Cong. 2d Sess.
9. John P. Murtha (Pa.).

rule XXVIII or not, and I do not have it in front of me, it obviously was unintentionally improper, and we seek to correct that by doing it right.

Waiving Points of Order Where Conferees Never Met

§ 5.14 Where a conference report was filed showing signatures by a majority of the conferees, but where they had never met, a special order was reported from the Committee on Rules and adopted by the House waiving points of order against the report and against its consideration.

Rule XXVIII clause 6(a),[10] adopted in the 94th Congress, requires conference meetings to be open to the public. That requirement was not met by the conferees on H.R. 4021, the Rehabilitation Act Amendments of 1986, and House Resolution 569 was reported to protect a point of order under that rule. The resolution was adopted without incident.[11]

MR. [JOHN JOSEPH] MOAKLEY [of Massachusetts]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 569 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 569

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 4021) to extend and improve the Rehabilitation Act of 1973, 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.

THE SPEAKER PRO TEMPORE:[12] The gentleman from Massachusetts [Mr. Moakley] is recognized for 1 hour. . . .

MR. [JAMES H.] QUILLEN [of Tennessee]: . . . The Rehabilitation Act Amendments of 1986 are most important. This measure should be enacted into law despite the discrepancy in the procedure involved before it came to the Rules Committee. I understand that there was no conference meeting of Members held on this measure.

Mr. Speaker, this is most unusual. I do not recall another instance where the conferees of the House and the Senate have not gotten together and reached an agreement and reported the measure out for our consideration. However, the urgency of the adoption of the Rehabilitation Act amendments is so urgent that I feel the Rules Committee took the right step in reporting it out.

Where Conferees Did Not Meet

10. *House Rules and Manual* § 913d (1997).
11. See 132 CONG. REC. 28077, 28078, 99th Cong. 2d Sess., Oct. 2, 1986.
12. Richard J. Durbin (Ill.).

§ 5.15 Where conferees had been unable to meet in a formal session but reconciled their differences by telephone and then signed the report, the House adopted a special order "deeming" the report to have been recommitted, waiving all points of order against the consideration of any subsequent conference report filed after a valid meeting.

The resolution[13] reported from the Committee on Rules and the explanation thereof by Mr. Martin Frost, of Texas, show how adoption of the special order could actually expedite the adoption of a conference report on the bill. Failure of the conferees to meet would have made the initial report subject to a point of order;[14] by recommitting the report and then waiving the three-day layover requirement in Rule XXVIII clause 2(a),[15] and the requirement of printing the report in the *Congressional Record*, the report could actually be considered (and was so considered) in the House later that same day after a valid conference meeting was held and a new report filed.

MR. FROST: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 293 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 293

Resolved, That upon the adoption of this resolution the conference report on the bill (H.R. 2712) to facilitate the adjustment or change of status of Chinese nationals in the United States by waiving the two-year foreign residence requirement for "J" nonimmigrants shall be considered as having been recommitted to conference. All points of order against consideration of any subsequent conference report on the bill for failure to comply with the provisions of clause 2 of rule XXVIII are hereby waived.

THE SPEAKER:[16] The gentleman from Texas [Mr. Frost] is recognized for 1 hour.

MR. FROST: Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York, Mr. Solomon, pending which

13. See H. Res. 293 at 135 CONG. REC. 29897, 101st Cong. 1st Sess., Nov. 17, 1989.

14. See 5 Cannon's Precedents § 6458. Rule XXVIII clause 6, *House Rules and Manual* § 913d (1997), adopted by the House in 1975, also requires an open conference meeting and would subject a report to a point of order where this requirement was ignored.

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

16. Thomas S. Foley (Wash.).

I yield myself such time as I may consume.

Mr. Speaker, House Resolution 293 provides for the recommittal to conference of the conference report on H.R. 2712, the Chinese Adjustment of Status Facilitation Act of 1989. The resolution also waives clause 2 of rule XXVIII against consideration of any subsequent conference report on the bill. Clause 2 of rule XXVIII prohibits consideration of any conference report until the third calendar day after such report and the accompanying statement has been filed in the House and the report and statement have been available to Members for at least 2 hours prior to such consideration.

Mr. Speaker, the recommittal of the bill to conference is necessary due to the inability of the conference committee to formally meet in the absence of its chairman, Mr. Brooks. However, informal meetings have taken place and the conferees have reached agreement. Due to the urgency for action on this measure, Mr. Kastenmeier was named as a conferee on Tuesday.

In an attempt to file this conference report during the last days of this session, the members of the conference concluded that it would not be practical to meet formally. However, under the rules of the House a point of order could be raised against the conference report, resulting in its rejection. Rather than establish a new conference, the conferees have informed the Rules Committee of their intention to meet today and formally report the conference report on this bill.

As stated earlier, the rule would allow consideration of the subsequent conference report by waiving the 3-day layover and availability requirement.

The conference report on H.R. 2712 was adopted on Nov. 19, 1989.[17]

"Rules" for Conducting Complex Conference

§ 5.16 A member of the conference committee on an omnibus budget reconciliation act inserted in the *Congressional Record* a tentative list of procedures and "understandings" to be followed by House conferees in their deliberations during "subconferences" with the Senate.

The complexity of appointing conferees which can touch all the jurisdictional bases in a text within the jurisdiction of 17 House committees is obvious from the statement of Mr. Leon E. Panetta, of California, the chairman of the House Committee on the Budget, and by the rules established by the "general conferees" to govern the conference deliberations. The *Congressional Record* extract carried here is self-explanatory:[18]

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17. See 135 CONG. REC. 30101, 30102, 101st Cong. 1st Sess.

18. 127 CONG. REC. 16002, 97th Cong. 1st Sess., July 16, 1981.

MR. PANETTA: Mr. Speaker, I would like to provide an update on the reconciliation conference. The conferees were appointed yesterday. Some 17 House Committee jurisdictions are involved. One hundred and eighty-four Members of the House were appointed, some 72 Members for the other body, a total of 256 Members will be participating in this conference which is the largest in the history of the Congress.

Leadership understandings have been developed as well as rules on reconciliation and those have been sent out to all conferees. A copy of those agreements are included at the conclusion of my remarks. . . .

At this point I am encouraged that the various committees are moving expeditiously toward resolution on reconciliation.

RULES FOR RECONCILIATION CONFERENCE

1. Budget Committee conferees are general conferees. They may attend and vote in any of the sub-conferences.
2. Proxies are permissible.
3. Sub-conference members may vote on only those issues within the sub-conference for which they were appointed.
4. Sub-conferences will be convened by the responsible House committee chairmen.
5. The conference agreement should be limited to matters in either the Senate or House bills or related thereto.
6. Each sub-conference will prepare its portion of the joint statement of the managers and the legislative language to be included in the conference report.
7. All provisions agreed upon by the conferees will be priced by the Congressional Budget Office. Sub-conferences are therefore urged to work closely with CBO from the outset. Scoring will follow the same conventions that were used by CBO in the scoring of the House and Senate reconciliation bills.
8. Signature sheets and language for the conference substitute and the joint statement of managers will be collected by the House and Senate Budget Committees' staffs and assembled by those staffs in conjunction with the House and Senate Legislative Counsel.
9. The conference will not be concluded until a majority of the general conferees from the House and the Senate sign the conference report in their capacity as general conferees.
10. All sub-conferences are requested to notify the appropriate House or Senate Budget Committee in advance as to the time and place of sub-conference meetings. If possible, notice should be 24 hours prior to sub-conference meetings. House and Senate Budget Committees will post sub-conference schedules in a prominent place. Information regarding subconference meetings should be directed to the House Budget Committee staff at 225-7234 or 225-7241 and to the Senate Budget Committee staff at 224-1458 or 224-0846.

LEADERSHIP UNDERSTANDINGS

1. The Senate will amend the House bill with an amendment in the nature of a substitute.
2. A majority of the conferees appointed for each subconference will be members who supported the reconciliation bill on final passage.
3. Sub-conferees will not reopen provisions which are the same in both bills and are urged to agree on substantially identical provisions.
4. The leadership of both Houses will make every effort to get conference agreements on all issues, as quickly as possible.

5. Assuming that the conference reaches full agreement on a conference substitute, the House leadership will support a rule which makes the conference report in order and waives all necessary points of order.

Portions of a Conference Transcript Were Published in the Record

§ 5.17 A member of the Senate inserted into the Record a portion of the transcript of a conference session, held in the previous Congress.

On June 20, 1983,[19] Senator Gary Hart, of Colorado, inserted in the *Congressional Record* the transcript of a conference committee session held in the previous Congress. He stated that the proceedings would "shed additional light" on the congressional "intent" in formulating the provisions of a law enacted in the prior year. The Senator's request and his explanation, as well as a portion of the transcript, are included here.

URANIUM MILL TAILINGS STANDARDS

MR. HART: Mr. President, there has been quite some discussion recently about the final standards issued by the Environmental Protection Agency for inactive uranium mill tailings sites and the proposed standards for active sites.

Some of this discussion centers on modifications to the Uranium Mill Tailings Regulation and Control Act of 1978 that were contained in the Nuclear Regulatory Commission Authorization Act for fiscal years 1982 and 1983. In particular, there are questions about the extent to which the Congress intended for the EPA, in setting its standards, to consider the cost of compliance.

To shed additional light on this question, I ask that the transcript of the August 19, 1982, conference on the NRC authorization bill be inserted in the Record at this point, along with an April 28, 1982, letter from the EPA, referred to in the transcript.

The material follows:

JOINT HOUSE-SENATE CONFERENCE, NRC AUTHORIZATION CONFERENCE, AUGUST 19, 1982

The joint conference met at 3:10 p.m. room EF–100, the Capitol, Hon. Morris K. Udall (chairman of the joint conference) presiding.

Present: Senators Simpson, Domenici and Hart

Representatives Udall, Ottinger, Lujan, Bingham, Seiberling, Marriott and Markey.

Representative Udall. The conference will resume its session.

I had hoped that we could have one last session today and wind this thing up, but I'm not sure that is in the cards. But it seems to me we ought not lose our momentum, to keep going and make some modest progress today. And then I hope we can set a date in September for a final meeting, what will be a final meeting and then wrap it up.

I think we ought to go first today to the Uranium Imports issue.

At our previous session Senator Simpson circulated to all members a

19. 129 CONG. REC. 16356, 98th Cong. 1st Sess.

proposal for handling this, and then I circulated a proposal for which differed in some considerable degree.

Those proposals are before the members of the conference, we can discuss them today if there is any inclination to do so.

Vote on Motion To Close Conference, Reducing Time

§ 5.18 A motion to close a conference meeting must be taken by the yeas and nays; and, by unanimous consent, the House has "clustered" this vote with others and reduced the time to five minutes.

The Speaker's postponement authority for votes, in Rule I clause 5(b), does not include the vote on closing a conference meeting, which must be taken by the yeas and nays under Rule XXVIII clause 6. But where circumstances and schedule permit, a unanimous-consent request such as that carried here, as excerpted from the *Congressional Record* of Aug. 1, 1983,[20] can be used to expedite proceedings.

REDUCING TO 5 MINUTES TIME FOR VOTE ON MOTION TO CLOSE PORTIONS OF CONFERENCE ON S. 675

MR. [BILL] ALEXANDER [of Arkansas]: Mr. Speaker, I ask unanimous consent that the yea and nay vote required by clause 6, rule XXVIII, on the motion to be offered by the chairman of the Armed Services Committee to close portions of the conference on the bill, S. 675, be a 5-minute vote. That motion will immediately follow the yea and nay vote on the motion to postpone House Resolution 256 indefinitely.

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

There was no objection.

Motion To Dispose of Senate Amendments, En Bloc, Before Stage of Disagreement

§ 5.19 Example of the use of a special order to permit the House to consider one privileged motion to dispose of Senate amendments to a House bill, waiving all points of order against the motion and specifying that the motion is not subject to a demand for division of the question unless demanded by the Majority Leader or his designee.

Before the stage of disagreement is reached on amendments of one House to a bill of the other, a special order is often used to dispose of such amendments. The formulation of such a rule may be taken

20. 129 CONG. REC. 22029, 98th Cong. 1st Sess.

before the amendments are actually before the House, as in the example carried here.[1] The Committee on Rules reported the special order on Nov. 9, 1995; the Senate did not message its amendments to the House until Nov. 10, 1995, following the filing of the anticipatory rule.

The Chairman of the Committee on Appropriations[2] offered the motion permitted by the special order later on that same day.[3] The Senate amendment numbered 3 proposed to strike a portion of the House bill and insert a new provision. This motion to strike out and insert not being subject to a division, Mr. Livingston's amendment proposed to delete the Senate's insertion and then to strike the portions of the House text—thus removing from the bill all provisions dealing with the use of federal subsidies or grants to lobby government officials or agencies.

The rule, the motion, and a portion of the debate on both are carried here.

MR. [DAVID] DREIER [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 261 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 261

Resolved, That upon adoption of this resolution it shall be in order without intervention of any point of order to take from the Speaker's table the joint resolution (H.J. Res. 115) making further continuing appropriations for the fiscal year 1996, and for other purposes, with any Senate amendment thereto, and to consider in the House a motion offered by the majority leader or his designee to dispose of all Senate amendments. Any Senate amendments and motions shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the majority leader and the minority leader or their designees. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question except any such demand made by the majority leader or his designee.

THE SPEAKER PRO TEMPORE:[4] The gentleman from California [Mr. Dreier] is recognized for 1 hour.

MR. DREIER: . . . Mr. Speaker, this rule provides for consideration in the House, without intervening point of order, of a motion if offered by the majority leader or his designee to dispose of Senate amendments to House Joint Resolution 115, a continuing resolution

1. See 141 CONG. REC. 32112, 32113, 104th Cong. 1st Sess., Nov. 10, 1995.
2. Robert Livingston (La.).
3. 141 CONG. REC. 32135–37, 104th Cong. 1st Sess.
4. John D. Hayworth, Jr. (Ariz.).

making appropriations for fiscal year 1996 through December 1, 1995.

This rule provides for 1 hour of debate equally divided between the majority leader and the minority leader or their designees, and further provides that the previous question is ordered to adoption of the motion without intervening motion or demand for a division of the question unless the demand is made by the majority leader or his designee. . . .

MR. LIVINGSTON: Mr. Speaker, pursuant to House Resolution 261, I call up the joint resolution (H.J. Res. 115), making further continuing appropriations for the fiscal year 1996, and for other purposes, with Senate amendments thereto, and I offer a motion.

The Clerk read the title of the joint resolution.

THE SPEAKER PRO TEMPORE:[5] Pursuant to House Resolution 261, the Senate amendments are considered as read.

The text of the Senate amendments is as follows:

Senate amendments:

Page 2, line 20, after "1948," insert: *section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236),*

Page 10, line 19, after "resolution." Insert: *Included in the apportionment for the Federal Payment to the District of Columbia shall be an additional $15,000,000 above the amount otherwise made available by this joint resolution, for purposes of certain capital construction loan repayments pursuant to Public Law 85–451, as amended.*

Page 15, strike out line 1 and all that follows over to and including line 7 on page 36, and insert:

TITLE III

PROHIBITION ON SUBSIDIZING POLITICAL ORGANIZATIONS WITH TAXPAYER FUNDS

SEC. 301. (a) LIMITATIONS.—(1) Notwithstanding any other provision of law, any organization receiving Federal grants in an amount that, in the aggregate, is greater than $125,000 in the most recent Federal fiscal year, shall be subject to the limitations on lobbying activity expenditures under section 4911(c)(2)(B) of the Internal Revenue Code of 1986, except that, if exempt purpose expenditures are over $17,000,000 then the organization shall also be subject to a limitation on lobbying of 1 percent of the excess of the exempt purpose expenditures over $17,000,000 unless otherwise subject to section 4911(c)(2)(A) based on an election made under section 501(h) of the Internal Revenue Code of 1986. . . .

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

The text of the motion is as follows:

Mr. Livingston moves:

(1) That the House concur in the amendment of the Senate numbered 1,

(2) That the House concur in the amendment of the Senate numbered 2,

(3) That the House concur in the amendment of the Senate numbered 3 with an amendment as follows:

Delete the matter proposed by said amendment, and beginning on page 15, line 1 of the House engrossed joint resolution, H.J. Res. 115, strike all down to and including line 7, on page 36, and redesignate Title IV as Title III, and renumber sections accordingly.

5. David Dreier (Calif.).

THE SPEAKER PRO TEMPORE: Pursuant to House Resolution 261, the gentleman from Louisiana [Mr. Livingston] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. Obey] will be recognized for 30 minutes. . . .

MR. LIVINGSTON: . . . Mr. Speaker, I am offering a motion to dispose of these amendments. The first two are not controversial and make improvements to the CR and my motion is to concur with these amendments, for they are fine. The modification to the Simpson-Istook-McIntosh language unfortunately is technically insufficient and therefore, is not acceptable. There is agreement that we can not get an acceptable version on this matter agreed to on this CR. Therefore, my motion is to delete the Senate proposed modification and to delete the underlying Simpson-Istook-McIntosh language, so that it hopefully will be addressed at another time.

§ 6. Appointment by the Speaker

The rule giving the Speaker the authority to appoint all select and conference committees[6] leaves the number to his discretion. Since the 93d Congress, the same rule has specified that no less than a majority of those named generally support the House position during House proceedings on the bill. In 1977, the rule again was amended to direct the Speaker to name "Members who are primarily responsible for the legislation" and "to the fullest extent feasible" include those Members who are the principal proponents of major provisions.[7]

Discretion of Speaker

§ 6.1 The designation of conferees is within the discretion of the Speaker; but in making his appointments, he normally consults with the chairman of the committee having jurisdiction of the bill.

On Oct. 14, 1966,[8] Mr. Adam C. Powell, of New York, asked unanimous consent that the minority conferees on H.R. 13161, a bill to strengthen programs of assistance to elementary and secondary schools, be excused and that the Speaker be empowered to appoint new minority conferees. Mr. Gerald R. Ford, of Michigan, reserving the right to object asked

6. See Rule X clause 6(f), *House Rules and Manual* § 701e (1997).

7. See § 6.3, infra.

8. 112 CONG. REC. 26996, 89th Cong. 2d Sess.