C. INSTRUCTIONS TO CONFEREES; MOTIONS TO INSTRUCT

§ 9. In General

Motions to instruct House managers at a conference of the two Houses are in order at three stages of the legislative process. First, one such motion is in order after a conference has been requested or agreed to and before conferees have been appointed.[1] Although only one motion to instruct is in order at this stage, it is subject to germane amendment if the previous question has not been ordered on the motion.[2]

Additional motions to instruct conferees are in order and are of the highest privilege under a House rule when the conferees have failed to file a report within 20 calendar days after their appointment or within 36 hours thereafter during the last six days of any session.[3] And, whereas only one valid motion to instruct conferees is in order prior to their appointment, this limitation does not apply to motions authorized by this rule.[4]

Finally, the House may instruct its conferees after they have filed their report by adopting a motion to recommit the conference report with instructions.[5] The disqualification of a motion to instruct does not preclude the offering of a proper motion at the same stage in the proceedings.[6] When one House adopts a conference report, the conferees are thereby discharged and the other House no longer has the opportunity to recommit.

Motions to instruct are debatable under the hour rule,[7] although a motion to recommit a conference report with instructions to the conferees is not subject to debate.[8] The right of recogni-

1. § 9.1, infra. See §§ 9.2, 10.1–10.4, infra.
2. §§ 9.2, 9.3, infra. See § 9.2, infra, for a discussion of the test of germaneness in this situation.
3. Rule XXVIII clause 1(b), *House Rules and Manual* § 910 (1997). See generally § 14, infra.
4. §§ 14.14–14.17, infra.
5. See, generally, § 32, infra.
6. 8 Cannon's Precedents § 3235.
7. § 11.4, infra.
8. *Parliamentarian's Note:* On Nov. 15, 1973, Speaker Carl Albert (Okla.), ruled that the debate on motions to recommit with instructions authorized by Rule XVI clause 4, applied only to such motions affecting bills and joint resolutions, and not, in that instance, to a motion to recommit a simple resolution with instructions. This ruling also precludes debate on

tion to offer the motion belongs to the minority,[9] and the Member offering the motion initiates and has the right to close the debate.[10]

Under a rule adopted in the 101st Congress, the debate time on such a motion is divided between the majority and minority parties.[11] The proponent may yield time to another Member[12] although he loses the floor if he yields for an amendment.[13]

Since instructions to managers on the part of the House cannot bind the managers on the part of the Senate[14] such instructions are advisory in nature,[15] and a conference report may not be ruled out on a point of order on the ground that the conferees have violated their instructions.[16]

While a motion to instruct conferees may extend their power by authorizing agreement to Senate amendments which would otherwise be out of order in the House,[17] it may not instruct them to do what they might not do otherwise.[18]

The motion may be precluded by a resolution which provides for the appointment of conferees without intervening motion.[19]

The motion may be laid on the table[20] without carrying the bill to the table with it.[1]

Instructions to conferees expire when their report is filed and have no effect if a further conference is held.[2] Therefore, when amendments are reported from conference in disagreement and a further conference is requested or agreed to, a motion to instruct is again in order before the appointment of conferees for this further conference.[3]

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the motion to recommit a conference report with instructions to the conferees. See 119 CONG. REC. 37141, 37142, 37149–51, 93d Cong. 1st Sess.

9. §§ 11.1, 11.2, infra.
10. § 11.12, infra.
11. See Rule XXVIII clause 1(b), *House Rules and Manual* § 909a (1997). See also § 11.9, infra, for modern practice permitting a three-way division of the debate time.
12. §§ 11.6, 11.7, infra.
13. § 11.13, infra.
14. § 12.1, infra.
15. §§ 12.2, 12.3, infra.
16. § 12.6, infra.
17. Rule XX clause 2, *House Rules and Manual* § 829 (1997). See § 12.19, infra.
18. § 12.12, infra.
19. 7 Cannon's Precedents § 774; 8 Cannons' Precedents § 3394. See § 2.29, supra.
20. §§ 9.8–9.13, infra.
1. 8 Cannon's Precedents § 2658.
2. *Id.* at § 3240.
3. *Id.*

Number of Motions

§ 9.1 Only one motion to instruct conferees is in order before they are appointed.

On May 29, 1968,[4] Mr. Richard H. Poff, of Virginia, asked whether a motion to instruct House conferees would be in order after the House adopted a motion to send to conference H.R. 5037, the Law Enforcement and Criminal Justice Assistance Act of 1967. Speaker John W. McCormack, of Massachusetts, replied that a motion to instruct conferees would be in order before the appointment of the conferees. Mr. Poff then made a further parliamentary inquiry.

> Am I correct in assuming that only one such motion to instruct would at this time be in order?
>
> THE SPEAKER: The gentleman's assumption is correct.

Amendments in Order

§ 9.2 Prior to the appointment of conferees, only one motion to instruct is in order, but before the previous question is ordered on this motion it is subject to an amendment, an amendment to this amendment, a substitute for the original amendment, and an amendment to the substitute; and any such amendment need only be germane to the subject matter of either the House or Senate measure as committed to conference, and need not be germane to the original motion to instruct.[5]

On Oct. 31, 1939,[6] the House adopted a resolution sending House Joint Resolution 306, the Neutrality Act of 1939, to conference. Mr. James A. Shanley, of Connecticut, offered a motion to instruct the House Members who would then be appointed conferees. After the Clerk reported this

4. 114 CONG. REC. 15499, 90th Cong. 2d Sess.

5. *Parliamentarian's Note:* This more permissive test of germaneness is used when amending instructions to conferees, since such instructions are advisory in nature, are not binding on the conferees and therefore exert only an indirect effect on the matter in conference. The more proscriptive test of germaneness, which requires an amendment to be germane to the particular measure it proposes to amend, is employed in most other cases where the adoption of such an amendment has a more direct effect on that particular measure. See Ch. 32, § 11.26, supra, and generally, Ch. 28, supra.

6. 85 CONG. REC. 1104, 1105, 76th Cong. 2d Sess.

motion, Mr. Carl E. Mapes, of Michigan, initiated a series of parliamentary inquiries:

MR. MAPES: Mr. Speaker, the question has been frequently asked whether subsequent motions to instruct the conferees shall take the form of amendments to the pending motion or whether, if this motion should be either voted up or voted down, separate motions may be made to instruct the conferees on other provisions of the legislation.

THE SPEAKER:[7] In answer to the parliamentary inquiry of the gentleman from Michigan, the Chair will state that under the rules of the House only one motion to instruct the conferees is permissible, but that motion is subject to amendment.

MR. MAPES: So the answer of the Speaker is that other Members who desire to have the conferees instructed in other respects must present their motions in the form of amendments to the pending motion?

THE SPEAKER: Or in the form of a substitute to the original amendment. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: How much time for debate do we have on this motion, and how is the time to be controlled?

THE SPEAKER: Under the present situation in the House, the gentleman from Connecticut is entitled to 1 hour. . . .

MR. MAPES: There seems to be an idea in the minds of some that the amendments that can be offered to this motion are limited to four in number. I do not know where that idea comes from. My own thought is that, of course, the number that can be pending at any one time is limited, but as one amendment is disposed of, further amendments can be presented indefinitely. . . .

THE SPEAKER: The Chair will read into the Record, in answer to the inquiry, Rule XIX of the Rules of the House, "Of Amendments":

> When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon. Amendments to the title of a bill or resolution shall not be in order until after its passage and shall be decided without debate. . . .

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: For the information of the House, is it correct that an amendment to the motion to instruct conferees offered by the gentleman from Connecticut is in order at any time until the previous question is ordered?

THE SPEAKER: If a Member gets recognition to offer an amendment and it is germane to the subject matter of either the House or Senate bill.

The Chair thinks it important in construing the rules, for the information of all Members of the House, to state that it must always be remembered that an amendment must be germane to the subject matter under consideration. In

7. William B. Bankhead (Ala.).

this instance it means the amendment must be germane to some provision in the Senate amendment to the House joint resolution or in the House joint resolution itself.

The Chair may state, in order to fully clarify this matter so there may be no misunderstanding or confusion about the rights of Members—and there is no legitimate ground for confusion on this question—that now that a motion has been offered by the gentleman from Connecticut to instruct the conferees, an amendment to that motion will be in order if germane, and to that amendment an amendment may be offered if germane. To the original amendment to the motion a substitute may be offered and an amendment to the substitute may be offered, as declared by the rule which the Chair has just read, and all five of those propositions may be pending at the same time. The rule provides, however, the method in which they shall be called for disposition.(8)

§ 9.3 If the previous question is voted down on a motion to instruct conferees, the motion is subject to germane amendment.

On Oct. 19, 1971,(9) Mr. F. Edward Hébert, of Louisiana, sought unanimous consent to take from the Speaker's table H.R. 8687 (military procurement authorizations, fiscal 1972) with Senate amendments thereto, disagree to those amendments and agree to a conference requested by the Senate. The Speaker, Carl Albert, of Oklahoma, then recognized Mr. Sidney R. Yates, of Illinois:

> Mr. Speaker, reserving the right to object, and I only do so to propound a parliamentary inquiry——
>
> THE SPEAKER: The gentleman will state his parliamentary inquiry.
>
> MR. YATES: Mr. Speaker, my parliamentary inquiry is this: Assuming the gentleman from Illinois proposes to offer a motion to instruct the conferees, and assuming that that motion does not contain the so-called Mansfield amendment, when the previous question is requested on that motion is it in order that if the previous question is voted down to offer an amendment to that motion to instruct the conferees?
>
> THE SPEAKER: The Chair will state to the gentleman from Illinois in response to his parliamentary inquiry that if the previous question on the motion to instruct is voted down any germane amendment would be in order.(10)

Precedence of Motion To Instruct

§ 9.4 Where two Members sought recognition at the same moment, one to call up a conference report and the other to instruct conferees

8. See also 85 CONG. REC. 1204–10, 76th Cong. 2d Sess., Nov. 1, 1939.
9. 117 CONG. REC. 36832–35, 92d Cong. 1st Sess.
10. See also 114 CONG. REC. 15499–512, 90th Cong. 2d Sess., May 29, 1968.

on another bill which had been in conference for over 20 days, the Chair recognized the Member offering the motion to instruct, which, under Rule XXVIII clause 1(c),[11] is given "the highest privilege."

On Oct. 22, 1990,[12] when two Members sought recognition, the Chair decided to recognize a Member offering a motion to instruct conferees instead of another who wanted to call up a conference report. No challenge was made to this order of recognition. The proceedings are carried as an example of the Chair's use of his power of recognition.

MOTION TO INSTRUCT CONFEREES ON H.R. 5400, CAMPAIGN COST REDUCTION AND REFORM ACT OF 1990

MR. [WILLIAM M.] THOMAS of California: Mr. Speaker, I offer a privileged motion to instruct conferees on the bill (H.R. 5400) to amend the Federal Election Campaign Act of 1971 and certain related laws to clarify such provisions with respect to Federal elections to reduce costs in House of Representatives elections, and for other purposes.

THE SPEAKER PRO TEMPORE:[13] The Clerk will report the motion.

The Clerk read as follows:

Mr. Thomas of California moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 5400 be instructed to agree to Section 105 of the House passed bill.

THE SPEAKER PRO TEMPORE: The gentleman from California [Mr. Thomas] will be recognized for 30 minutes and the gentleman from Washington [Mr. Swift] will be recognized for 30 minutes.

After disposition of the motion to instruct, the House proceeded to the consideration of the conference report.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, pursuant to House Resolution 517, I call up the conference report on the bill (H.R. 5268) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: Pursuant to House Resolution 517, the conference report is considered as having been read.

§ 9.5 The Speaker may at his discretion recognize for a motion to suspend the rules, instead of recognizing for a motion to instruct conferees, since the "highest privilege" accorded the motion to instruct is, in effect, temporar-

11. See *House Rules and Manual* § 910 (1997).
12. 136 CONG. REC. 31942, 31949, 101st Cong. 2d Sess.
13. Romano L. Mazzoli (Ky.).

ily waived when the Speaker uses his authority to recognize for a motion which suspends all rules which would inhibit consideration of the measure called up under suspension.

On Mar. 1, 1988,[14] a "suspension day," the Speaker had recognized a Member to move to suspend the rules and pass a bill. After a second was ordered,[15] Mr. William E. Dannemeyer, of California, attempted to offer his privileged motion to instruct under Rule XXVIII clause 1(c), the "20-day" rule. The Speaker's ruling that under the circumstances, the motion to suspend the rules could be considered and the inquiries which followed are carried here.

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 90) to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes, as amended.

The Clerk read as follows:

S. 90

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Big Cypress National Preserve Addition Act". . . .

THE SPEAKER PRO TEMPORE:[16] Is a second demanded?

MR. [ROBERT J.] LAGOMARSINO [of California]: Mr. Speaker, I demand a second.

ATTEMPT TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 5, SCHOOL IMPROVEMENT ACT OF 1987

MR. DANNEMEYER: Mr. Speaker, I have a privileged motion at the desk.

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

The Clerk read as follows:

Mr. Dannemeyer moves that the managers on the part of the House at the conference on H.R. 5 and the Senate amendment thereto be instructed to agree to section 703 of the Senate amendment.

THE SPEAKER PRO TEMPORE: The Chair will have to examine to see whether or not the present motion just read is a privileged motion, if the gentleman will bear with the Chair for a moment.

The Chair would state to the distinguished gentleman from California that this is a highly privileged motion under rule XXVIII but it is not more privileged than a motion to suspend the

14. 134 CONG. REC. 2748–51, 100th Cong. 2d Sess.

15. Seconds on motions to suspend the rules were required until the 102d Congress, when the procedure was eliminated by the adoption of H. Res. 5, Jan. 3, 1991, p. 39.

16. Kenneth J. Gray (Ill.).

rules. Therefore, the Chair could entertain it later today.

PARLIAMENTARY INQUIRY

MR. DANNEMEYER: Parliamentary inquiry, Mr. Speaker.

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

MR. DANNEMEYER: Mr. Speaker, the rules of the House provide that after the appointment of conferees any Member may file a motion to instruct conferees after 20 calendar days have elapsed; is that correct?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

But there was a motion pending at the time the gentleman offered his motion and therefore the Chair has ruled that the motion to suspend the rules has the same privilege as the gentleman's motion and the Chair is in the process of recognizing two Members for 20 minutes each to debate the pending bill.

MR. DANNEMEYER: Then I take it, Mr. Speaker, from the ruling of the Chair that this Member would be at liberty to renew this motion after the conclusion of the motion that was pending at the time the motion was made?

THE SPEAKER PRO TEMPORE: The gentleman is correct. When no other higher motion is pending then the motion the gentleman is offering would be in order at that time. . . .

ATTEMPT TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 5, SCHOOL IMPROVEMENT ACT OF 1987

MR. DANNEMEYER: Mr. Speaker, I have a privileged motion at the desk.

MR. [MERVYN M.] DYMALLY [of California]: Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1447).

PARLIAMENTARY INQUIRY

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

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

MR. DANNEMEYER: Mr. Speaker, when I made the motion to instruct conferees before, there was then pending in the House a procedure to take up a specific bill under suspension of the rules and the Chair ruled that since that motion had preceded my motion to instruct conferees they were of equal dignity and the pending motion would proceed. Now I have achieved recognition before the motion to take up another bill on suspension, and now it would appear to this Member from California that from a parliamentary standpoint I should be recognized at this point to go forward on my motion, should I not?

THE SPEAKER PRO TEMPORE: The Chair will state to the distinguished gentleman from California that the Chair has the power of recognition and the Chair stated to the gentleman that today motions to suspend the rules have equal privilege with the gentleman's motion. Therefore, the Chair is going to dispose of the two suspensions as matters of equal privilege, and then the gentleman from California could be recognized for the purpose he seeks recognition.

Precedence of Previous Question Relative to an Amendment to Motion To Instruct

§ 9.6 The motion for the previous question takes precedence over an amendment to a motion to instruct conferees.

On July 24, 1973,[17] Mr. Robert D. Price, of Texas, offered a preferential motion to instruct the House conferees on S. 1888, the Agriculture and Consumer Protection Act of 1973. After Mr. Price moved the previous question on his motion, the following proceedings occurred:

THE SPEAKER:[18] The question is on ordering the previous question.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I have an amendment to the preferential motion.

THE SPEAKER: The Chair will state that ordering the previous question is the business before the House at this time.

Effect of Amendment to Motion To Instruct

§ 9.7 Whether or not an amendment to a motion to instruct conferees replaces or leaves intact the original instructions depends on the form of the amendment.

On Nov. 15, 1983,[19] the previous question was rejected on an initial motion to instruct conferees on the appropriation bill for the Department of Defense, fiscal year 1984. The motion, made before the Speaker's appointment of conferees, was offered by a minority Member from the Committee on Appropriations.

An amendment to the motion was then offered by another minority Member. Because of the manner in which the amendment was drafted, it added further instructions to, and did not replace, those initially offered.

APPOINTMENT OF CONFEREES ON H.R. 4185, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1984

MR. [JOSEPH P.] ADDABBO [of New York]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4185) making appropriations for the Department of Defense for the fiscal year ending September 30, 1984, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

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17. 119 CONG. REC. 25539–41, 93d Cong. 1st Sess.
18. Carl Albert (Okla.).
19. 129 CONG. REC. 32685, 32686, 32688, 32689, 32693, 98th Cong. 1st Sess.

THE SPEAKER:[20] Is there objection to the request of the gentleman from New York?

There was no objection.

MOTION OFFERED BY MR. YOUNG OF FLORIDA

MR. [C. W. (BILL)] YOUNG of Florida: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Young of Florida moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 4185, be instructed to insist on the House position on Senate amendments numbered 188 and 191.

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

MR. YOUNG of Florida: I would be happy to yield to the gentleman, but I would prefer to yield to the gentlewoman from New Jersey (Mrs. Roukema) because she had asked first. For the purpose of debate only, I yield 1 minute to the distinguished gentlewoman from New Jersey.

MRS. [MARGE] ROUKEMA [of New Jersey]: First a parliamentary inquiry, then debate, Mr. Speaker.

PARLIAMENTARY INQUIRY

MRS. ROUKEMA: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[1] The gentlewoman will state it.

MRS. ROUKEMA: Mr. Speaker, what is the precise nature of the debate time?

The gentleman from Florida now controls the time. If the motion to instruct is defeated, will there then be time for debate controlled by the gentleman from Illinois (Mr. Porter)?

THE SPEAKER PRO TEMPORE: There is only one motion to instruct on which the gentleman from Florida (Mr. Young) is proceeding. That is why he controls the time.

If the previous question is voted down, an amendment may be offered to the motion and would be debatable for 1 hour.

MRS. ROUKEMA: I thank the Chair. . . .

PARLIAMENTARY INQUIRY

MR. [JAMES] WEAVER [of Oregon]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. WEAVER: Mr. Speaker, if the previous question is voted down and an amendment is then offered, the motion offered by the gentleman from Florida (Mr. Young) would remain intact, would it not, if the amendment dealt with binary nerve gas?

THE SPEAKER PRO TEMPORE: It would depend on the amendment offered at the time, if there were such an amendment offered of any sort.

The question is on ordering the previous question.

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

MR. YOUNG of Florida: 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.

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

1. Dennis M. Hertel (Mich.).

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 164, nays 256, not voting 14, as follows: . . .

So the previous question was not ordered. . . .

AMENDMENT OFFERED BY MR. PORTER TO THE MOTION OFFERED BY MR. YOUNG OF FLORIDA

MR. [JOHN EDWARD] PORTER [of Illinois]: Mr. Speaker, I offer an amendment to the motion.

The Clerk read as follows:

> Amendment offered by Mr. Porter to the motion offered by Mr. Young of Florida: At the end of the motion before the period on the last line add: "and to insist on disagreement to that part of the Senate amendment numbered 73 to 'Procurement of Ammunition, Army' which provides $124,400,000 for production facilities for and procurement of chemical munitions, and the accompanying provision."

THE SPEAKER PRO TEMPORE: The question is on the amendment offered by the gentleman from Illinois (Mr. Porter) to the motion offered by the gentleman from Florida (Mr. Young).

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

MR. PORTER: 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 258, nays 166, not voting 10, as follows:

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE: The question is on the motion to instruct, as amended, offered by the gentleman from Florida (Mr. Young).

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

Tabling Motion To Instruct

§ 9.8 A motion to lay on the table a motion to instruct House managers is in order.

On Feb. 28, 1950,(2) after the House adopted a motion to agree to the further conference requested by the Senate on S. 1008, a bill to define the application of the Federal Trade Commission Act and the Clayton Act to certain pricing practices, the following proceedings occurred:

> MR. [JOHN A.] CARROLL [of Colorado]: Mr. Speaker, I offer a preferential motion.
>
> The Clerk read as follows:
>
> Mr. Carroll moves that the managers on the part of the House at the conference of the disagreeing votes of the two Houses on the bill S. 1008 be instructed to insist upon the House amendment.

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2. 96 CONG. REC. 2501–16, 81st Cong. 2d Sess.

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Speaker, I move that the motion to instruct conferees be laid on the table.

THE SPEAKER:[3] The question is on the motion of the gentleman from Pennsylvania to lay on the table the motion to instruct conferees.

The motion to lay on the table the motion to instruct the House conferees was agreed to.

§ 9.9 A motion to instruct conferees is subject to the motion to table, which must be submitted in writing if any Member so demands.

The effort to respond to the Senate's request for a conference on S. 21, the California Desert Protection Act of 1994, resulted in protracted proceedings in the House. Nine electronic votes, 17 motions, and several points of order intervened between the time the chairman of the Natural Resources Committee, George Miller, of California, was recognized to offer the motion to go to conference under Rule XX clause 1,[4] and the Speaker's appointment of conferees some six hours later. The final steps in this long process are noted here.[5]

MOTION TO INSTRUCT CONFEREES ON S. 21, CALIFORNIA DESERT PROTECTION ACT OF 1994

MR. [JERRY] LEWIS of California: Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Lewis of California moves to instruct the House conferees on the Senate bill (S. 21) to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, to insist on the following amendments of the House:

Section 102(l)—Argus Range Wilderness (Bill Thomas Amendment).

Section 112—Law Enforcement Access.

Section 113—Fish and Wildlife Management.

Section 208—Death Valley National Park Advisory Commission.

Section 308—Joshua Tree National Park Advisory Commission.

Title IV—Mojave National Preserve.

Section 416—Mojave National Preserve Advisory Commission.

Section 417—No Adverse Affect on Land Until Acquired.

Section 606—Native American Uses—Timbisha Shoshone Land Study.

Section 702—Authorization of Appropriations.

Section 703—Land Appraisal—Endangered Species Amendment.

3. Sam Rayburn (Tex.).

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

5. See 140 CONG. REC. 27655–57, 103d Cong. 2d Sess., Oct. 4, 1994. For other proceedings relating to this conference, see also §§ 2.2–2.4, 2.12, supra.

Section 901—Buy American Act.

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

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

MR. [GEORGE] MILLER of California: Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: Objection is heard.

The Clerk will read. . . .

MOTION TO TABLE OFFERED BY MR. MILLER OF CALIFORNIA

MR. MILLER of California: Mr. Speaker, I move to lay on the table the motion to instruct offered by the gentleman from California [Mr. Lewis].

THE SPEAKER PRO TEMPORE: The gentleman from California [Mr. Miller] moves to table the motion to instruct.

MR. LEWIS of California: Mr. Speaker, is it in writing?

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman from California [Mr. Lewis] that the motion to table is a preferential motion.

MR. LEWIS of California: Mr. Speaker, is the motion in writing?

THE SPEAKER PRO TEMPORE: The motion is in writing.

The Clerk will report the motion.

The Clerk read as follows:

> Mr. Miller of California moves to lay the motion to instruct on the table.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from California [Mr. Miller] to lay on the table the motion to instruct offered by the gentleman from California [Mr. Lewis].

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

RECORDED VOTE

MR. LEWIS of California: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 274, noes 147, not voting 13. . . .

MR. MILLER of California: Mr. Speaker, I move to reconsider the motion to table the motion to instruct.

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Speaker, I move to lay on the table the motion to reconsider.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] to lay on the table the motion to reconsider.

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

RECORDED VOTE

MR. [RANDY (DUKE)] CUNNINGHAM [of California]: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 142, not voting 21. . . .

So the motion to lay on the table the motion to reconsider was agreed to. . . .

A motion to reconsider was laid on the table.

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6. William J. Hughes (N.J.).

§ 9.10 When a motion to instruct House managers at a conference is pending, a motion to lay that motion on the table is in order; if the motion to table is voted down, the question next occurs on ordering the previous question on the motion to instruct.

On Aug. 3, 1961,[7] Mr. James E. Van Zandt, of Pennsylvania, offered a motion to instruct the House conferees on H.R. 7576, authorizing appropriations for the Atomic Energy Commission. After debate had been completed thereon, Mr. Clarence Cannon, of Missouri, moved to lay that motion on the table. Mr. Charles A. Halleck, of Indiana, then rose.

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

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

MR. HALLECK: Under the rules of the House, is this motion to table in order?

THE SPEAKER PRO TEMPORE: The motion is in order.

MR. HALLECK: If the motion to table is voted down, will the vote then come on the motion itself?

THE SPEAKER PRO TEMPORE: On ordering the previous question on the motion.

§ 9.11 The House adopted a preferential motion to lay on the table a motion to instruct House conferees to agree to a Senate amendment to a House bill.

On July 27, 1971,[9] the following proceedings occurred in regard to H.R. 9272, the 1972 appropriations bill for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies.

MR. [DON] EDWARDS of California: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Edwards of California moves that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the bill (H.R. 9272) be instructed to agree to the amendment of the Senate numbered 35. . . .

MR. [JOHN J.] ROONEY of New York: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Rooney of New York moves to lay on the table the motion of the gentleman from California (Mr. Edwards).

THE SPEAKER:[10] The question is on the preferential motion offered by the

7. 107 CONG. REC. 14957–59, 87th Cong. 1st Sess.
8. Carl Albert (Okla.).
9. 117 CONG. REC. 27305–12, 92d Cong. 1st Sess.
10. Carl Albert (Okla.).

gentleman from New York (Mr. Rooney).

The motion to table was agreed to.(11)

§ 9.12 The House rejected a preferential motion to lay on the table a motion to instruct the House managers at a conference, and then proceeded to agree to the motion to instruct.

On Dec. 18, 1969,(12) the House had just agreed to a request by Mr. Daniel J. Flood, of Pennsylvania, to agree to the conference requested by the Senate on H.R. 13111, appropriations for fiscal 1970 for the Department of Health, Education, and Welfare, the Department of Labor, and other related agencies. Mr. Silvio O. Conte, of Massachusetts, then made the following motion:

Mr. Conte moves that the Managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill, H.R. 13111, be instructed to agree to the amendments of the Senate numbered 87 and 88.

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

The Clerk read as follows:

Mr. Flood moves to lay on the table the motion of the gentleman from Massachusetts (Mr. Conte).

THE SPEAKER:(13) The question is on the preferential motion. . . .

The question was taken; and there were—yeas 181, nays 216, not voting 36. . . .

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

The motion was agreed to.

§ 9.13 The House rejected a preferential motion to lay on the table a motion to instruct House conferees, and then agreed to the motion to instruct its conference managers to insist on a provision in the House-passed bill.

On July 9, 1970,(14) the House gave its consent to a request of Mr. Thaddeus J. Dulski, of New York, to disagree to the Senate amendments to H.R. 17070, the Postal Reform Act of 1970, and to request a conference with the Senate thereon. Mr. David N. Henderson, of North Carolina, then offered the following motion:

The Clerk read as follows:

Mr. Henderson moves that the managers on the part of the House at

11. See also 116 CONG. REC. 40271–89, 91st Cong. 2d Sess., Dec. 8, 1970.
12. 115 CONG. REC. 39826–30, 91st Cong. 1st Sess.
13. John W. McCormack (Mass.).
14. 116 CONG. REC. 23525–28, 91st Cong. 2d Sess.

the conference on the disagreeing votes of the two Houses on the bill, H.R. 17070, be instructed to insist on the provision beginning on page 32, line 6, which reads as follows:

"(b) Each employee of the Postal Service has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right."

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

The Clerk read as follows:

Mr. Dulski moves to lay on the table the motion offered by Mr. Henderson.

THE SPEAKER:[15] The question is on the motion to table offered by the gentleman from New York (Mr. Dulski). . . .

The question was taken; and there were—yeas 154, nays 229, not voting 48. . . .

THE SPEAKER: The gentleman from North Carolina (Mr. Henderson) is recognized.

After a brief discussion of his motion, Mr. Henderson moved the previous question thereon.

MR. HENDERSON: 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 North Carolina (Mr. Henderson). . . .

The question was taken; and there were—yeas 228, nays 158, not voting 45. . . .

So the motion was agreed to.

Withdrawal of Motion To Instruct

§ 9.14 A motion to instruct the House managers at a conference was, after debate thereon, withdrawn.

On Dec. 11, 1969,[16] Mr. Charles A. Vanik, of Ohio, offered the following motion to instruct the House conferees on H.R. 13270, the Tax Reform Act of 1969:

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

The Clerk read as follows:

Mr. Vanik moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 13270 be instructed to insist on the House provisions relating to the oil and gas depletion allowance and to provide tax relief by way of increased dependency exemptions.

After debate on the motion, it was withdrawn by Mr. Vanik:

MR. VANIK: Mr. Speaker, I want to thank my distinguished chairman.[17]

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15. John W. McCormack (Mass.).

16. 115 CONG. REC. 38543–45, 91st Cong. 1st Sess.

17. Referring to Wilbur D. Mills (Ark.), Chairman of the Committee on Ways and Means, who was a conferee on H.R. 13270. During the debate on Mr.

The conferees and managers on the part of the House have our best wishes, and I ask that they speak for the average taxpayers of America who need to get some relief out of this tax program which will be before the conference.

Mr. Speaker, I withdraw my motion.

THE SPEAKER:[18] The gentleman from Ohio withdraws his preferential motion.

Example of Several Instructions Regarding Portions of Senate Substitute

§ 9.15 Where the Senate had amended a continuing appropriation bill with the text of five general bills not yet enacted, the House, when appointing conferees, entertained a motion to instruct its managers to agree to certain described Senate positions on specific issues addressed in the Senate substitute.

H.R. 3019 was a "long-term" continuing appropriation bill. As of March 21, 1996, the government was being funded under a "short-term" continuing resolution, which carried funding through Apr. 3, 1996.[19] The motion to instruct carried here was offered by the ranking minority member of the Committee on Appropriations but was defeated on a roll call vote of 194–207.

One of the major impediments to wrapping up the general appropriation bill for the Departments of Labor and Health, Education and Welfare was an amendment offered by Mr. Ernest J. Istook, Jr., of Oklahoma, relating to family planning. Because of the special interest surrounding this bill, the Speaker appointed the subcommittee chairs and ranking members on all parts of the bill except for the Istook amendment, where only managers from the Labor, HHS subcommittee were named. The pertinent proceedings of Mar. 21, 1996,[20] are carried below.

Vanik's motion, Mr. Mills indicated that at the conference he intended to insist on those items referred to in the motion.

18. John W. McCormack (Mass.).

19. H.J. Res. 165, passed by both the House and the Senate on Mar. 21, 1996, carried the funding for those appropriation accounts not yet enacted into law until Apr. 3, 1996. This was the seventh in a series of nine joint resolutions passed by the House continuing appropriations for fiscal 1996.

20. 142 CONG. REC. 6028, 6030, 104th Cong. 2d Sess.

APPOINTMENT OF CONFEREES ON H.R. 3019, BALANCED BUDGET DOWNPAYMENT ACT, II

MR. [ROBERT] LIVINGSTON [of Louisiana]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

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

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

The Clerk read as follows:

Mr. Obey moves that the managers on the part of the House at the conference of the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 3019, be instructed to:

(a) agree to the position in the Senate amendment increasing funding above the levels in the House bill for programs of the Department of Education;

(b) agree to the position in the Senate amendment increasing funding above the levels in the House bill for programs of the Environmental Protection Agency;

(c) agree to the position in the Senate amendment that provides a minimum of $975,000,000 from within the $1,903,000,000 provided for Local Law Enforcement Block Grants within the Department of Justice for the Public Safety and Community Policing grants pursuant to title I of the Violent Crime Control and Law Enforcement Act of 1994 (COPS on the beat program);

(d) agree to the position in the Senate amendment increasing funding above the levels in the House bill for job training and worker protection programs of the Department of Labor;

(e) agree to the position in the Senate amendment deleting Title V of the House bill placing onerous new red tape requirements on Federal grantees; and

(f) agree to the position in the Senate amendment specifying a maximum grant award of $2500 under the Pell Grant Program; and

(g) agree to the position in the Senate amendment providing fiscal year 1997 funding of $1,000,000,000 for the Low-Income Energy Assistance Program of the Department of Health and Human Services. . . .

THE SPEAKER PRO TEMPORE: Without objection, the Chair appoints the following conferees:

For consideration of the House bill (except for section 101(c)) and the Senate amendment (except for section 101(d)), and modifications committed to conference:

Messrs. Livingston, Myers of Indiana, Young of Florida, Regula, Lewis of California, Porter, Rogers, Skeen, and Wolf, Mrs. Vucanovich, and Messrs. Lightfoot, Callahan, Walsh, Obey, Yates, Stokes, Bevill, Murtha, Wilson, Dixon, Hefner, and Mollohan.

1. Joel Hefley (Colo.).

For consideration of section 101(c) of the House bill, and section 101(d) of the Senate amendment, and modifications committed to conference:

Messrs. Porter, Young of Florida, Bonilla, Istook, Miller of Florida, Dickey, Riggs, Wicker, Livingston, Obey, Stokes, and Hoyer, Ms. Pelosi, and Mrs. Lowey.

There was no objection.

Example of a General Motion To Instruct Conferees

§ 9.16 Instructions to conferees may be specific or general; and managers on the part of the House have been urged, by a motion offered under the 20-day rule, "to meet with" the Senate conferees where no conference meeting had been scheduled.

Where the managers on the part of the House on the urgent supplemental appropriation bill for the Department of Agriculture, 1984, had been appointed for over 20 days without having a meeting with their Senate counterparts, a motion to instruct was offered under Rule XXVIII clause 1(c).

The motion, made on May 2, 1984,[2] although not adopted by the House, is carried as an example of a "general" instruction to conferees.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I offer a preferential motion.

THE SPEAKER PRO TEMPORE:[3] The Clerk will report the motion.

The Clerk read as follows:

> Mr. Conte moves that the managers on the part of the House be instructed to meet with the managers on the part of the Senate on the disagreeing votes of the two Houses on House Joint Resolution 492.

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

MR. CONTE: . . . I now give notice that whenever I yield during consideration of this motion, I yield for purposes of debate only.

Mr. Speaker, I have offered a motion which so far as I know is unique in the history of the House of Representatives; namely, to instruct conferees simply to go to conference.

Under clause B of rule 28 of the House, after conferees have been appointed for 20 calendar days, and have failed to make a report, it is highly privileged to move to instruct conferees, or to discharge and appoint new conferees.

This clause of rule 28 was intended to be used to break a deadlock between House and the Senate conferees.

The current situation, and the motion, are unique because we do not have a deadlock. We have not even had a conference.

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2. 130 CONG. REC. 10732, 10733, 10735, 98th Cong. 2d Sess.

3. George E. Brown, Jr. (Calif.).

On March 6, the House passed House Joint Resolution 492, which appropriated $150 million for food assistance for Africa through title II of Public Law 480, and made available another $90 million in commodities from the stocks of the Commodity Credit Corporation, for barter or sale on a competitive bid basis.

On April 5, the Senate passed that bill with 36 amendments, appointed conferees, and requested a conference with the House.

On April 11, I asked my chairman, in a letter and in a statement on the floor, to appoint conferees and to go to conference with the Senate before the Easter recess. Later that day we did appoint conferees, 6 days after the Senate had passed the bill.

Three weeks later we have not gone to conference. . . .

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

There was no objection.

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

The question was taken; and on a division (demanded by Mr. Conte) there were—ayes 13, noes 10.

MR. [HAROLD L.] VOLKMER [of Missouri]: 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 159, nays 245, not voting 29, as follows: . . .

Parliamentarian's Note: General motions to instruct are rare and have been viewed with some scepticism. A ruling by Speaker Joseph W. Byrns, of Tennessee, on Aug. 1, 1935,[4] held in order a motion to instruct conferees under the 20-day rule to hold a conference under "fair conditions."

"General" Motions To Instruct Conferees

§ 9.17 Motions to instruct House conferees are sometimes phrased as "general" instructions, not addressing specific provisions in the bill and amendment committed to conference but urging conferees to work toward the achievement of broad purposes.

Any motion to instruct must urge action which is "within the scope of conference."

In this instance,[5] a prior example of a motion urging conferees to

4. 79 CONG. REC. 12272, 74th Cong. 1st Sess.
5. 131 CONG. REC. 27366, 27367, 99th Cong. 1st Sess., Oct. 11, 1985.

"promptly report" had not been noted in recent precedents.

MOTION OFFERED BY MR. MICHEL

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

> Mr. Michel moves that the managers on the part of the House at the conference on the disagreeing votes on the two Houses on the joint resolution, H.J. Res. 372, be instructed to promptly report amendments to the Budget Control and Impoundment Act which provide mechanisms for deficit reductions, including specific and mandatory budget goals for achieving a balanced budget within the next 6 years.

THE SPEAKER:[6] The gentleman from Illinois [Mr. Michel] is recognized for 1 hour.

MR. MICHEL: Mr. Speaker, I would not expect to use the complete hour.

THE SPEAKER: Will the gentleman yield a half hour to the Democratic side?

MR. MICHEL: Mr. Speaker, I would like to yield 15 minutes for the moment and 15 minutes for our side and let us see where we go.

THE SPEAKER: Does the gentleman want to ask unanimous consent that the debate be 30 minutes instead of 1 hour?

MR. MICHEL: Mr. Speaker, I do not want to do anything that is going to upset some Members here, but if we can put a little bit of restraint——

THE SPEAKER: Does the gentleman intend to yield equal time to the opponents of the motion, if there is opposition?

MR. MICHEL: Mr. Speaker, I would certainly intend that the time be equally divided.

THE SPEAKER: The gentleman from Illinois [Mr. Michel] is recognized for 30 minutes and the gentleman from Illinois [Mr. Rostenkowski] is recognized for 30 minutes.

MR. MICHEL: Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. Mack].

Parliamentarian's Note: Another example of a "general" motion to instruct was offered to the Tax Reform Act of 1986, at the time the Speaker appointed conferees, on July 16, 1986.[7] That motion is carried here as an additional example of a nonspecific motion.

MR. [JOHN J.] DUNCAN [of Tennessee]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Duncan moves that the managers on the part of the House at the conference on the disagreeing vote of the two houses on the bill, H.R. 3838, be instructed to insist that the conference report result in:
>
> 1. A fair tax burden for all taxpayers, both corporate and individual, coupled with marginal tax rates no higher than the Senate bill.
>
> 2. Fair treatment of families in the lower and middle income groups, which requires a full $2,000 personal exemption for both itemizers and nonitemizers.

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

7. 132 CONG. REC. 16703, 99th Cong. 2d Sess.

3. Preservation of the House position with respect to individual retirement accounts to the extent consistent with preserving retirement and savings incentives for low and middle income taxpayers.

4. No net increase in Federal taxes.

Nature of Instructions to Conferees

§ 9.18 An initial motion to instruct conferees, before their appointment, has been targeted at the conference agenda, stating priorities with respect to the issues to be addressed.

The motion to instruct, which was not challenged as to its form or content, is carried as an example of a general motion.(8)

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2072) making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

THE SPEAKER:(9) Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. CONTE

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Conte moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2072 be instructed not to meet with the managers on the part of the Senate on other issues until resolution of supplemental funding for Department of Veterans Affairs Medical Care.

THE SPEAKER: The gentleman from Massachusetts [Mr. Conte] will be recognized for 30 minutes and the gentleman from Mississippi [Mr. Whitten] will be recognized for 30 minutes.

Forms of Motion To Instruct on Budget Resolutions

§ 9.19 Form of a motion to recommit a conference report with instructions general in scope: to agree to a financing mechanism "within the scope of the conference" and which will permit early enactment of the bill into law.

On Aug. 3, 1989, the House ordered the previous question on H.R. 1278, when a motion to recommit was offered by the Major-

8. 135 CONG. REC. 11572, 101st Cong. 1st Sess., June 13, 1989.

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

ity Leader. The form of the motion offered is carried below:[10]

THE SPEAKER PRO TEMPORE:[11] Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER PRO TEMPORE: Is the gentleman opposed to the bill?

MR. MICHEL: Under the rule, I am obliged to say that I am, Mr. Speaker.

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

The Clerk read as follows:

> Mr. Michel of Illinois moves to recommit the Conference Report to accompany the bill, H.R. 1278, to the committee of conference with instructions that the Managers on the part of the House agree to a financing mechanism which is properly within the scope of the conference and which will allow the bill to be signed into law as quickly as possible.

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. MICHEL: 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:[12] Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote, by electronic device, if ordered, will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 170, nays 250, answered "present" 3, not voting 8. . . .

§ 9.20 Where a motion to instruct conferees on a budget resolution called for a reduction in budget authority and outlays and at the same time called on the conferees to insist on the "highest level of funding" for defense, it protected the motion from a possible point-of-order challenge by including the phrase that the levels had to be "within the scope of conference."

The construction of motions to instruct conferees on budget resolutions has become something of an art form. Some such motions are necessarily obtuse; others are specific. The inclusion of such a

10. See 135 CONG. REC. 18590, 101st Cong. 1st Sess.
11. John P. Murtha, Jr. (Pa.).
12. James C. Wright, Jr. (Tex.).

prophylactic phrase sometimes avoids an argument that the instruction cannot be effected without exceeding scope.[13]

APPOINTMENT OF CONFEREES ON H. CON. RES. 218, CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1995

MR. [MARTIN OLAV] SABO [of Minnesota]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 218) setting forth the congressional budget for the U.S. Government for the fiscal years 1995, 1996, 1997, 1998, and 1999, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. KASICH

Mr. Kasich moves that the managers on the part of the House to the conference on the disagreeing votes on H. Con. Res. 218, be instructed to agree to the Senate amendment reflecting a $26 billion reduction in the deficit over five years by agreeing to reduce the total spending levels specified in section 2(2) and 2(3) of the House-passed resolution as follows:

Fiscal year 1995—$4.4 billion in budget authority and $1.6 billion in outlays;

Fiscal year 1996—$4.9 billion in budget authority and $1.5 billion in outlays;

Fiscal year 1997—$5.8 billion in budget authority and $4 billion in outlays;

Fiscal year 1998—$9.9 billion in budget authority and $7 billion in outlays; and

Fiscal year 1999—$21.8 billion in budget authority and $9.9 billion in outlays.

Provided further, That conferees be instructed to agree to that portion of section 50 of the Senate amendment which provides that "If the President's defense budget request is approved, since 1985 real defense spending will have been reduced by 45 percent by 1999; and President Clinton, during his State of the Union Address on January 25, 1994, promised no further cuts in defense spending" and therefore insist that no further cuts be made in defense by agreeing to the highest possible level of funding for defense (within the scope of the conference).

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

Senate Motion To Instruct Conferees Regarding Meeting Location

§ 9.21 The Senate agreed to a motion to instruct conferees to call upon the managers to meet in certain designated rooms in the Capitol, to hold the meetings at times when the Senate was in session, and that the conference be open to the public and the press.

13. See 140 CONG. REC. 7460, 103d Cong. 2d Sess., Apr. 14, 1994.
14. Walter R. Tucker III (Calif.).

The motion to instruct conferees on H.R. 3355, amending the Omnibus Crime Control and Safe Streets Act of 1968, is carried here as an example of a motion directed toward conference procedure rather than to resolving the matters in disagreement.(15)

MOTION TO INSTRUCT CONFEREES

MR. [JOSEPH R.] BIDEN [Jr., of Delaware]: I have a unanimous-consent agreement that has to be made before 4 o'clock. It will only take 30 seconds. It relates to an agreement I made with my Republican colleague on a motion to instruct that I agreed to accept. But I am told it was never sent to the desk. It must be done by 4 o'clock.

I send a motion to instruct the conferees, a motion to instruct, submitted by Senators Hatch, Simpson, Dole, and Biden, and I ask for its immediate consideration.

THE PRESIDING OFFICER: Is there objection to setting aside the preceding motions?

Without objection, it is so ordered.

The motion to instruct conferees is as follows:

Mr. Hatch, Mr. Simpson, and Mr. Dole move that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the bill H.R. 3355 be instructed to insist that the committee of conference—

(1) hold all meetings in one of the following rooms:

(A) SR 325;

(B) SH 216; or

(C) SD 106;

(2) ensure that all of the meetings of the committee are open to the public and the print and electronic media; and

(3) hold all meetings during reasonable hours at times when the Senate is in session.

MR. BIDEN: Madam President, is the motion adopted? I urge the adoption of the motion. I ask unanimous consent that the motion be agreed to.

Form of "General" Motion To Instruct Conferees

§ 9.22 Illustration of a general motion to instruct conferees on an emergency supplemental appropriation bill to form a conference report which does not add to the national deficit.

Parliamentarian's Note: The motion to instruct carried below(16) is an example of a motion designed to give general policy direction to the conferees.

The motion to instruct is illustrative of a very general motion but one which could be adhered to by the conferees while remaining within the differences committed to the conference.

APPOINTMENT OF CONFEREES ON H.R. 889, EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS

15. See 140 CONG. REC. 11181, 103d Cong. 2d Sess., May 19, 1994.

16. See 141 CONG. REC. 9509, 104th Cong. 1st Sess., Mar. 28, 1995.

FOR THE DEPARTMENT OF DEFENSE FOR FISCAL YEAR 1995

MR. [ROBERT] LIVINGSTON [of Louisiana]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

THE SPEAKER PRO TEMPORE:[17] Is there objection to the request of the gentleman from Louisiana?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

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

The Clerk read as follows:

> Mr. Obey moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 889, be instructed to form a conference agreement that does not add to the national deficit in the current fiscal year and cumulatively through fiscal year 1999.

Example of Instructions to Conferees To Take Specified Actions but "Remain Within Scope of Differences"

§ 9.23 Form of a general motion to instruct conferees to resolve differences on health insurance programs, referring to a program not covered in either version of the bill in conference, but protected against a Rule XXVIII clause 3 point of order by including in the motion the prophylactic mandate to "remain within scope."

After the House had agreed to a unanimous-consent request to send the bill H.R. 483 to conference, a motion to instruct the managers was offered as described above. The motion and some of the debate which illustrates the collateral uses of a motion to instruct are carried here.[18]

APPOINTMENT OF CONFEREES ON H.R. 483, MEDICARE SELECT EXPANSION

MR. [THOMAS J.] BLILEY [Jr., of Virginia]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

17. Frank D. Riggs (Calif.).

18. 141 CONG. REC. 14413–15, 104th Cong. 1st Sess., May 25, 1995.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. DOGGETT

MR. [LLOYD] DOGGETT [of Texas]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Doggett moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the House bill, H.R. 483, be instructed to resolve the difference between the House's 8½-year program and the Senate's 5-year program of medicare select policies, within the scope of the conference, in light of the changes in Medicare—the program that medicare select policies supplement—to increase beneficiary cost-sharing and to limit choice of provider as contemplated in this year's budget process.

THE SPEAKER PRO TEMPORE: The gentleman from Texas [Mr. Doggett] will be recognized for 30 minutes, and the gentleman from Virginia [Mr. Bliley] will be recognized for 30 minutes. . . .

MR. [WILLIAM M.] THOMAS [of California]: Mr. Speaker, I thank the gentleman for yielding time to me.

. . . What is in front of us is a motion to instruct conferees. The House passed 408 to 14 a measure to extend Medicare Select. Medicare Select is a so-called MediGap. It is one of those insurance policies available to folk to create a whole package around part A and part B Medicare. There are currently 10 MediGap insurance type policies that have been approved by the Department of Health and Human Services. Medicare select is simply an 11th offering.

. . . It is simply the 11th, the addition to 10 other small programs.

What the minority is trying to do, Mr. Speaker, is argue the entire Medicare issue on their motion to instruct. What a bizarre motion to instruct. It says that "will be instructed to resolve the differences between the House 8½-year extension and the Senate 5-year extension of Medicare Select policies." Eight and one-half years, 5 years? The House bill that was passed said extend it for 5 years. The Senate bill that was passed said extend it for 18 months. Extension in the unabridged dictionary right over here says "An additional period of time from the current time;" adding time, an extension. Where in the world the Democrats got 8½ years and 5 years as extensions is beyond me. . . .

In addition, to make this motion germane, they say the scope of the conference, but what they really want to do is talk about the large program of Medicare.

§ 10. When Instructions Are in Order

After Agreeing to Conference

§ 10.1 A motion to instruct the House managers at a conference is in order after the

19. Henry Bonilla (Tex.).