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The Clerk read the title of the Senate concurrent resolution.

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

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 124

Resolved by the Senate (the House of Representatives concurring), That, due to an inadvertent omission in the Senate reported version of H.R. 17468, entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes", in resolving the difference between the Senate and the House on such bill, it shall be deemed that the Senate agreed to an amendment (No. 6) striking from the House-passed bill the following section 111, and the conferees are authorized to consider the same:

SEC. 111. Notwithstanding any other provision of law, funds available to the Department of Defense during the current fiscal year for the construction of family housing units may be used to purchase sole interest in privately owned and Federal Housing Commissioner held family housing units if the Secretary of Defense determines it is in the best interests of the Government to do so. . . .

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

Other examples of enlarging the scope of conference can be found in 5 Hinds' Precedents, §§ 6437–6439.

§ 14. When Conferees Fail To Act

Failure To Report Within 20 Days

§ 14.1 Where conferees have been appointed for 20 calendar days and have failed to file a report, a motion to instruct the House managers at the conference is in order, and is privileged under Rule XXVIII clause 1(c).

On Aug. 1, 1935,[7] Mr. Sam Rayburn, of Texas, submitted the following resolution to instruct the House conferees on S. 2796, the Public Utilities Act of 1935:

Resolved, That the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill of the Senate, S. 2796, be, and they are hereby, instructed to agree to the provisions of section 11 of the Senate bill.

Mr. John J. O'Connor, of New York, interposed a point of order against the resolution offered by

6. Carl Albert (Okla.).

7. 79 CONG. REC. 12265, 12266, 74th Cong. 1st Sess.

Mr. Rayburn on the ground that it was not privileged under Rule XXVIII clause 1½a.[8] Mr. O'Connor argued that the rule applied only to recalcitrant conferees. Since the conferees were appointed in this instance without instructions,[9] he contended that they could not be considered recalcitrant.

THE SPEAKER:[10] The gentleman from Texas [Mr. Rayburn] has presented a motion to instruct the conferees on the part of the House at the conference on the disagreeing votes of the two Houses on Senate bill 2796 to agree to the provisions of section 11 of the Senate bill. He does so under the provisions of rule XXVIII, which has been referred to and read several times to the House in the past 2 or 3 days, and with which all Members are familiar.

The gentleman from New York makes the point of order that the motion is not a privileged motion.

The Chair has had occasion in the past several days to give considerable thought and study to this rule. The Chair has heretofore stated that in the opinion of the Chair the whole object and purpose of the rule was to enable the House to preserve some control over conferees after they had been appointed. Up until the time clause 1½(a) of rule XXVIII was adopted the House had no authority over conferees after their appointment. Under the rules and practices preceding the adoption of this rule it was necessary for the House to instruct the conferees before they were appointed or the House lost entire control unless the conferees made a report either of disagreement or agreement.

The Chair has heretofore stated that in the opinion of the Chair the House in adopting the rule and providing that 20 days should elapse before a motion of this kind was in order intended to give what it considered at that time full opportunity to the conferees to come to such agreement. Under the present situation, with reference to the conferees on this particular bill, the Chair finds that the conferees were appointed more than 20 days ago.

As stated, the gentleman from Texas is offering this motion under the provisions of this rule. The Chair does not think it is a question of recalcitrancy on the part of the conferees or that that is necessary to make this motion in order, because the Chair repeats that in his opinion the moving purpose of the House in adopting the rule was to maintain control by the House over its conferees upon any bill which had been committed to them. . . .

The Chair does not think there is any ambiguity in the language employed in this rule. It provides for two motions, one of which is to discharge and appoint new conferees, and the other to instruct the conferees already appointed.

The gentleman from Texas has made the latter motion. The Chair thinks it is clearly authorized under the plain

8. See Rule XXVIII clause 1(c), *House Rules and Manual* § 910 (1997).
9. See 79 CONG. REC. 11095, 74th Cong. 1st Sess., July 12, 1935.
10. Joseph W. Byrns (Tenn.).

language of the rule and therefore overrules the point of order.[11]

§ 14.2 After House conferees have been appointed for 20 calendar days and have failed to make a report, a motion to discharge said conferees is of high privilege.

On Sept. 12, 1940,[12] Mr. Harry P. Beam, of Illinois, alluding to the fact that House managers on S. 326 (relating to the payment of awards to citizens of the United States under the General Claims Convention of Sept. 8, 1923, between the United States and Mexico) had been appointed on July 11,[13] of that year, stated:

> Mr. Speaker, I rise to make a privileged motion. . . .
>
> Mr. Speaker, under rule 28 of the rules of the House of Representatives, paragraph 1½(a),[14] section 910, the following appears:
>
> > After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for 20 calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees; and, further, during the last 6 days of any session of Congress, it shall be a privileged motion to move to discharge, appoint, or instruct House conferees after House conferees shall have been appointed 36 hours without having made a report.
>
> Mr. Speaker, in conformity with the above-stated rule, I hereby move to discharge the conferees appointed on the bill S. 326.
>
> THE SPEAKER PRO TEMPORE:[15] The gentleman will send his motion to the desk, and the Clerk will report the motion.
>
> The Clerk read as follows:
>
> > Mr. Beam moves to discharge the House conferees on the bill of the Senate S. 326.[16]

§ 14.3 After conferees have been appointed in both bodies for more than 20 calendar days, and have failed to report, a motion in the House to instruct the House conferees is highly privileged.

A motion to instruct may be directed to a portion of a Senate amendment, in this instance the motion urged acceptance by the House managers of one nongermane section of the Senate amendment in the nature of a

11. See also 118 CONG. REC. 16838–42, 92d Cong. 2d Sess., May 11, 1972.
12. 86 CONG. REC. 12052, 76th Cong. 3d Sess.
13. *Id.* at pp. 9515, 9516.
14. See Rule XXVIII clause 1(c), *House Rules and Manual* § 910 (1997).
15. Jere Cooper (Tenn.).
16. See also 95 CONG. REC. 11398, 81st Cong. 1st Sess., Aug. 12, 1949.

substitute to H.R. 31, amending the Truth in Lending Act. The form of the motion, as excerpted from the proceedings of May 20, 1981,[17] is carried here.

MOTION TO INSTRUCT CONFEREES TO AGREE TO SECTION 303 OF SENATE AMENDMENT TO H.R. 31, THE CASH DISCOUNT ACT

MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Speaker, I offer a privileged motion.

THE SPEAKER PRO TEMPORE:[18] The Clerk will report the motion.

The Clerk read as follows:

> Mr. Madigan moves that the managers on the part of the House at the committee of conference on the bill H.R. 31 be instructed to agree to section 303 of the Senate amendment which removes the age restriction for appointment to the Surgeon Generalship.

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

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

Mr. Speaker, I rise to urge my colleagues to support my motion to instruct House conferees on nongermane provisions found in H.R. 31, the Cash Discount Act.

As some of my colleagues may not be aware of the situation on this bill, I will give a brief recap:

H.R. 31, the Cash Discount Act, was reported by the House Banking Committee and passed the House. It was amended on the floor of the other body with the insertion of nongermane language relating to the Public Health Service Act. When returned to this body, the Speaker referred the nongermane portion of the amended bill to the Subcommittee on Health and the Environment of the Energy and Commerce Committee. Our distinguished chairman, the gentleman from California, called one day of hearings at which we discussed this and ancillary issues. The subcommittee and full committee took no further action. Some 6 weeks ago, the House appointed conferees on this bill. Three weeks ago, the other house did likewise. Conferees have unsuccessfully attempted to meet on two occasions.

This then is the situation today: A worthwhile piece of legislation has been blocked due to nongermane language. In addition, unrelated concerns have intruded upon the central issue of the amending language found in the bill.

Parliamentarian's Note: The 20-day rule has consistently been interpreted, in modern usage, to become privileged only after the conferees have been named in both bodies for the 20-day period required by the rule. Further, the rule has been interpreted to permit the privilege to attach to the motion only after the 20 days have completely run, not on the 20th day.

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17. 127 CONG. REC. 10319, 97th Cong. 1st Sess.

18. Leon E. Panetta (Calif.).

Note, too, that the "notice requirement" in Rule XXVIII clause 1(c)[19] was not added to the rule until the 101st Congress.[20]

Privilege of the House Not Alternative to 20-day Motion

§ 14.4 Where a rule of the House provides a specific method of proceeding against a dilatory or recalcitrant conference committee by a motion to discharge or instruct such committee, it is not in order to anticipate action under that rule by seeking to bring the matter before the House under the guise of a question of a privilege of the House.

On July 29, 1935,[1] Mr. George Huddleston, of Alabama, offered House Resolution 311, to instruct House conferees on S. 2796, the Public Utility Holding Company Act, to insist that any conference on that bill be held without the presence thereat of anyone who was not a manager for either the House or the Senate. The resolution contended that the refusal of the Senate managers to confer with their House counterparts unless the former were accompanied by certain advisors, constituted a question of a privilege of the House. Mr. John E. Rankin, of Mississippi, and Mr. Thomas L. Blanton, of Texas, raised points of order against the resolution.

> MR. BLANTON: I make the point of order that under rule XXVIII of the House of Representatives, after the Speaker appoints conferees, until the conferees make a report and file their report and statement here and have it printed, or unless 20 days have elapsed, and a proper motion is made under rule XXVIII[2] to discharge the conferees, the House loses jurisdiction entirely over the conferees until one of those two events happen.

Speaker Joseph W. Byrns, of Tennessee, gave the following ruling:

> The Chair is ready to rule. The gentleman from Alabama [Mr. Huddleston] has presented a resolution in which there are recitations of various statements of facts, and which is designed to instruct the conferees now having charge of the utility bill on the part of the House to further insist on said conferences being held—
>
> Under free, fair, and just conditions and to insist that all persons

19. See Rule XXVIII clause 1(c), *House Rules and Manual* § 910 (1997).
20. See. H. Res. 5, 135 CONG. REC. 72, 101st Cong. 1st Sess., Jan. 3, 1989.
1. 79 CONG. REC. 12007–13, 74th Cong. 1st Sess.
2. See Rule XXVIII clause 1(c), *House Rules and Manual* § 910 (1997).

who are not managers for either House or Senate be excluded from such conference.

The gentleman from Mississippi [Mr. Rankin] and the gentleman from Texas [Mr. Blanton] have raised a point of order and insisted that this resolution does not present a matter of privilege of the House. . . .

With the limited opportunity the Chair has had to give consideration to this important matter, it appears that up until a short time ago, to be exact, the Seventy-second Congress, when a rule was adopted bearing on the subject, there was no way by which the House, after formal appointment of conferees, could instruct conferees, in the absence of a report of an agreement or a disagreement, except by unanimous consent. In the Seventy-second Congress the House, evidently realizing that situation, adopted a rule which the Chair will read to the House. It is section 1½a of rule XXVIII. . . .

That clause was adopted on December 8, 1931, in the first session of the Seventy-second Congress. Of course, the House had an object in adopting that rule. It was to preserve to the House the right to exercise authority, as the Chair construes it, in a matter pending between the House and Senate, insofar as its own conferees were concerned. As the Chair stated, up until that rule was adopted, the House had absolutely no authority, except by unanimous consent, to exercise any authority over the conferees theretofore appointed, except in those cases where the conferees had reported either an agreement or a disagreement. . . .

As the Chair stated, from all the consideration he has given to this point of order in the limited time he has had to do so, he becomes more clearly convinced that in adopting this rule the House intended to cure a situation which, for some reason unexplained, had existed up until that time, because it was rather unusual that during all the years the House had never reserved to itself the right to tell conferees what they must do after they were appointed.

The Chair thinks that if this resolution was held in order at this time it would prove to be a bad precedent, for a similar question might be raised for one reason or another in every conference ordered by the House. . . .

Now, there were two courses which the conferees could have pursued: One was to report to disagreement, which has not been done. The other was to wait for 20 days, under this rule, and then to proceed under its provisions as a matter of the highest privilege. If the conferees had reported a disagreement, it would be in order for the House to take such action as it pleased, either with reference to instructions or to sending them back for further consideration.

The Chair does not wish to be understood as passing on the merits of the question, because that is not within the province of the Chair. . . . The Chair thinks that that is a matter of procedure that should be determined by the conferees. In the event that the conferees are unable to agree, it seems to the Chair that the remedy is provided in rule XXVIII. The Chair does not believe that under the facts stated a question

of privilege is involved. The Chair, therefore, sustains the point of order.

Instruction To Agree With an Amendment

§ 14.5 The managers on the part of the House at a conference, having failed to make a report within 20 calendar days, were instructed to agree to a Senate amendment with an amendment.

On May 9, 1946,[3] the following proceedings occurred in the House:

> MR. [BRENT] SPENCE [of Kentucky]: Mr. Speaker, the Members of the conference committee on the bill (H.R. 4761) to amend the National Housing Act by adding thereto a new title relating to the prevention of speculation and excessive profits in the sale of housing, and to insure the availability of real estate for housing purposes at fair and reasonable prices, and for other purposes, having been appointed for more than 20 days and failing to file a report, I desire to make a motion under paragraph 1½a of rule XXVIII of the House,[4] which motion is at the Clerk's desk. . . .
>
> THE SPEAKER:[5] The gentleman from Kentucky [Mr. Spence] offers a motion which the Clerk will report.
>
> The Clerk read as follows:
>
> Mr. Spence moves to instruct the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4761 to agree to section 11(a) of the Senate amendment, with an amendment, as follows: Strike out "$600,000,000" as it appears therein, and insert in lieu thereof "$400,000,000."

After considerable debate, the House agreed to the motion.

Including Argument in Motion

§ 14.6 It is not within the province of the Chair to rule out a motion to instruct conferees under Rule XXVIII clause 1(c) on the ground that it contains argument.

On May 26, 1936,[6] Mr. Thomas L. Blanton, of Texas, offered a motion pursuant to Rule XXVIII clause 1½a,[7] to instruct House conferees on H.R. 11581, the District of Columbia appropriation bill for fiscal 1937. Mr. Bertrand H. Snell, of New York, made a point of order against the motion on the ground that it contained argument. Although Mr. Blanton subsequently withdrew his motion and asked that another motion be considered in its place, Mr. Snell

3. 92 CONG. REC. 4750, 4766, 79th Cong. 2d Sess.
4. See Rule XXVIII clause 1(c), *House Rules and Manual* § 910 (1997).
5. Sam Rayburn (Tex.).
6. 80 CONG. REC. 7939, 7945, 74th Cong. 2d Sess.
7. See Rule XXVIII clause 1(c), *House Rules and Manual* § 910 (1997).

urged the Speaker, Joseph W. Byrns, of Tennessee, to rule on his point of order.

MR. SNELL: Mr. Speaker, I think it is important to have a ruling on this proposition. I made the point of order earlier that the argumentative part of the original proposition was not in order and I think for the future precedents of the House we should have a ruling on that question. . . .

THE SPEAKER: . . . The rule to which the Chair has referred[8] provides only for a motion, but the Chair does not believe that any presiding officer ought to put himself in the position of dictating to a Member just how his motion should be made. If the Chair should hold that the motion carries argument, then it would be up to the Chair to delete from the motion such portions as occurred to the Chair to be argumentative, and if that were the practice the Chair at some time might delete portions of the motion in exercising that privilege.

The Chair thinks this is a matter for the House to decide, and the Chair is unwilling, out of a spirit of fairness, to undertake to dictate to the Members just how they shall draw their motions.

Recommittal to Existing Conference; Does Not Break Time Under 20-day Vote

§ 14.7 Where the Senate is first to act on a conference report and determines to recommit it to the committee of conference, the conferees are not at that point discharged; the same managers resume their negotiations, and a motion to instruct the managers on the part of the House under the "20-day rule" would still be permissible in the House if those conferees in fact have been appointed for more than the 20 days.

On May 24, 1990, the House had amended, insisted on its amendment, and asked for a conference on the bill S. 933, the Americans with Disabilities Act.

The Senate under the normal progression of the official papers would act first on the report and in fact did so. As indicated by the comments of Mr. Steve Bartlett, of Texas, there had been some thought to letting the House act first. The inquiry by Mr. William E. Dannemeyer, of California, and the Chair's response shows that the continuity of the appointment of conferees is not broken if the report is recommitted by the first body to act. The proceedings of June 28, 1990,[9] were as follows:

8. The Chair had previously referred to Rule XXVIII clause 1½a.

9. 136 CONG. REC. 16156, 16157, 101st Cong. 2d Sess.

CONSIDERATION OF THE AMERICANS WITH DISABILITIES ACT

(Mr. Hoyer asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

MR. [STENY H.] HOYER [of Maryland]: . . . I regret to inform the Members that it does not appear that the U.S. Senate is prepared to transfer the papers back to the House of Representatives this afternoon. As a result, I regret to inform the Members that we will not be considering the Americans With Disabilities Act this afternoon and, therefore, will not be considering it until after we return. . . .

MR. BARTLETT: I thank the gentleman for yielding. . . .

Mr. Speaker, I want to commend the gentleman for that decision, on two bases. First of all, on process: It seems to me that the rules of the House which say that the other body needs to act first, in fact, rule No. 555, states rather explicitly that in all cases of conference asked after votes of disagreement the conferees of the House making it are to leave the papers with the conferees of the other.

We have had disputes informally during the course of the day as to whether those papers could somehow be transferred back to this House even though the other body is required under the House rules to act first.

It seems to me that had that happened, it would have been disruptive to the process and Members would not have had sufficient, adequate notification as to which body was going to act first. . . .

PARLIAMENTARY INQUIRY

MR. DANNEMEYER: Mr. Speaker, I would like, if I may, to ask a parliamentary inquiry.

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

MR. DANNEMEYER: Mr. Speaker, if the Senate, when it takes up the conference report, would consider a motion to recommit the bill to conference because of the failure of the conferees to adopt the provision of both Houses on the Chapman amendment and that motion to recommit would be successful, would it then be in order, since the conferees are still in existence and in business, for the House to then consider a motion to instruct conferees on the Chapman amendment?

THE SPEAKER PRO TEMPORE: The gentleman's conclusion is correct.

MR. DANNEMEYER: I thank my colleague for yielding me this time. . . .

Giving Notice of Intent To Offer Motion To Instruct

§ 14.8 A Member announced to the House that it was his intention to offer a motion to instruct the House managers at a conference, the conferees having been appointed for over 20 days without having filed a report.

10. Dale E. Kildee (Mich.).

On May 22, 1968,[11] Speaker John W. McCormack, of Massachusetts, granted Mr. James A. Burke, of Massachusetts, permission to address the House.

MR. BURKE of Massachusetts: Mr. Speaker, I have taken this time to advise the House that on next Wednesday, May 29, I propose to offer a motion to instruct the managers on the part of the House at the conference on the bill, H.R. 15414, the tax bill, to insist on an expenditure reduction for fiscal year 1969 of $4 billion, instead of a $6 billion cut.[12]

Form of Notice of Intention To Instruct Conferees

§ 14.9 Under Rule XXVIII clause 1 (as amended in 1989) a Member must give one day's notice of his intention to offer a motion to instruct conferees who have been appointed for 20 days without filing a report.

The amendment to Rule XXVIII, requiring notice of an intention to offer a motion to instruct conferees under the "20-day rule" (see clause 1(c)) was adopted in 1989;[13] the application of the new rule was illustrated during the proceedings of Nov. 13, 1989.[14]

NOTICE OF MOTION TO INSTRUCT CONFEREES ON H.R. 3299

(Mr. Tauke asked and was given permission to address the House for 1 minute.)

MR. [THOMAS J.] TAUKE [of Iowa]: Mr. Speaker, I would like to serve notice that I am going to propose a motion to instruct conferees on H.R. 3299, the conference committee having been constituted over 20 days. My motion will be to instruct the conferees to substitute, in lieu of title III of the Education and Labor Committee section, those provisions of the Ways and Means Committee section to expand the title XX block grant and the earned-income tax credit.

Parliamentarian's Note: The proposed motion to instruct can be described in general terms but the exact form of the motion must be included in the Record to constitute the adequate "notice" required by the rule. In the example carried here, the motion was never

11. 114 CONG. REC. 14433, 90th Cong. 2d Sess.
12. *Parliamentarian's Note:* The conferees had reached agreement but had not yet filed their report. Under these conditions, a motion to instruct the managers on the part of the House, under Rule XXVIII clause 1(b) (clause 1(c) in 1997), was in order.
13. See H. Res. 5, 135 CONG. REC. 72, 101st Cong. 1st Sess. The rule is currently carried in § 910, *House Rules and Manual* (1997).
14. 135 CONG. REC. 28559, 101st Cong. 1st Sess.

placed in the Record in its precise form, and perhaps because of this deficiency, was never called up.

Procedure for Giving Notice of Intention To Instruct Under 20-day Rule

§ 14.10 The required notice under Rule XXVIII clause 1(c)[15] that a Member intends to offer a motion to instruct conferees under the 20-day rule has been fulfilled by a statement during special orders, since giving such notice is not considered "business" which would be inappropriate during such proceedings.

It has long been the policy of the Speaker not to permit the conduct of business after the House has begun special-order speeches at the end of a legislative day. The announcement of an intent to offer a motion to instruct does not require the consent of the House and has thus been permitted after the conclusion of legislative business. Such a request is shown here.[16]

SPECIAL ORDERS

THE SPEAKER PRO TEMPORE:[17] Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each. . . .

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 820, NATIONAL COMPETITIVENESS ACT

MR. [DANA] ROHRABACHER [of California]: Mr. Speaker, pursuant to clause 1(c) of rule 28, I announce to the House that tomorrow I intend to offer a motion to instruct conferees on H.R. 820. I had previously expected to offer this motion today. The form of the motion is as follows:

> Mr. Rohrabacher moves that the managers on the part of the House at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill, H.R. 820, be instructed to insist on the provisions contained in section 506 of the House bill, entitled "Prohibitions", the text of which is as follows: "None of the funds made available in this Act may be used to provide any direct Federal financial benefit to any person who is not (1) a citizen or national of the United States; (2) an alien lawfully admitted for permanent residence; or (3) an alien granted legal status as a parolee, asylee, or refugee.".

Divisibility of Motion To Instruct Offered After 20 Days

§ 14.11 A motion to instruct conferees under Rule XXVIII

15. *House Rules and Manual* § 910 (1997).

16. See 140 CONG. REC. 26341, 26347, 103d Cong. 2d Sess., Sept. 28, 1994.

17. Robert C. (Bobby) Scott (Va.).

to agree to a Senate amendment with an amendment may not be divided for the purpose of permitting a vote on the Senate amendment itself.

On May 9, 1946,[18] the following occurred in the House:

MR. [BRENT] SPENCE [of Kentucky]: Mr. Speaker, the Members of the conference committee on the bill (H.R. 4761) to amend the National Housing Act by adding thereto a new title relating to the prevention of speculation and excessive profits in the sale of housing, and to insure the availability of real estate for housing purposes at fair and reasonable prices, and for other purposes, having been appointed for more than 20 days and failing to file a report, I desire to make a motion under paragraph 1½a of rule XXVIII of the House,[19] which motion is at the Clerk's desk. . . .

THE SPEAKER:[20] The gentleman from Kentucky [Mr. Spence] offers a motion which the Clerk will report.

The Clerk read as follows:

Mr. Spence moves to instruct the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4761 to agree to section 11(a) of the Senate amendment, with an amendment, as follows: Strike out "$600,000,000" as it appears therein, and insert in lieu thereof "$400,000,000." . . .

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: As I understand the motion filed by the gentleman from Kentucky, it provides for agreeing to the Senate amendment with an amendment. Is it possible to have the motion divided so that a vote may be taken on the Senate amendment itself?

THE SPEAKER: It is one proposition, it is not divisible.

§ 14.12 A motion to instruct conferees under Rule XXVIII clause 1(c) is divisible if it contains two or more substantive propositions.

On May 26, 1936,[1] Mr. Thomas L. Blanton, of Texas, pursuant to a clause in Rule XXVIII[2] offered a motion to instruct House conferees on H.R. 11581, the District of Columbia appropriations bill for fiscal 1937. The motion contained three separate instructions. After the Clerk read the motion and after the previous question was

18. 92 CONG. REC. 4750, 4751, 79th Cong. 2d Sess.
19. See Rule XXVIII clause 1(c), *House Rules and Manual* § 910 (1997).
20. Sam Rayburn (Tex.).

1. 80 CONG. REC. 7945, 7951, 74th Cong. 2d Sess.
2. See Rule XXVIII clause 1(c), *House Rules and Manual* § 910 (1973). In 1936, the pertinent clause was numbered 1½a.

ordered, Mr. Bertrand H. Snell, of New York, rose.

MR. SNELL: Mr. Speaker, I ask for a division of the resolution.

THE SPEAKER:[3] The Chair thinks the resolution is divisible, and the Clerk will report the first portion of the resolution.

Motion To Instruct as Unfinished Business

§ 14.13 A motion to discharge conferees which is pending when the House adjourns becomes the unfinished business the next day.

On Sept. 12, 1940,[4] after Mr. Harry P. Beam, if Illinois, offered a motion to discharge the House conferees on S. 326, the following occurred:

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, a parliamentary inquiry.

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

MR. RAYBURN: Mr. Speaker, if the House should adjourn now and a conference report is not filed by 12 o'clock noon tomorrow, would the motion of the gentleman from Illinois [Mr. Beam] be pending and still in order?

THE SPEAKER PRO TEMPORE: It would be the unfinished business of the House and the first thing in order tomorrow.

Number of Motions

§ 14.14 It has been held that the rule authorizing a motion to instruct conferees after the expiration of 20 calendar days is not restricted to one such motion.

On Aug. 22, 1935,[6] Mr. Sam Rayburn, of Texas, offered a privileged motion to instruct the House conferees on S. 2796 (the Public Utility Holding Company Act), who had been appointed more than 20 days prior and had not filed a report. Mr. George Huddleston, of Alabama, then rose.

MR. HUDDLESTON: Mr. Speaker, I make the point of order that the resolution is not privileged. . . .

Mr. Speaker, this motion, if privileged at all, is privileged under House Rule 1–A,[7] the 20-day rule. It will be remembered that some days ago, 20 days having elapsed after the appointment of conferees under the rule, this matter was brought up and a motion was made by the gentleman from Texas [Mr. Rayburn] to instruct conferees.

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3. Joseph W. Byrns (Tenn.).
4. 86 CONG. REC. 12053, 76th Cong. 3d Sess.
5. Jere Cooper (Tenn.).
6. 79 CONG. REC. 14162–64, 74th Cong. 1st Sess.
7. See Rule XXVIII clause 1(c), *House Rules and Manual* § 910 (1997).

That motion was rejected. Thereupon, another motion was made to instruct the conferees and the motion was agreed to.

The view which I present is that by that action the force of the 20-day rule was exhausted. The bolt was shot—its force and effect is spent—and no motion can be again made under that rule.

Mr. Speaker, it is obvious that if this motion can be made today it could have been made at any time since the prior action by the House. Also, that if this motion can be made now, it being the second motion to instruct after a motion to instruct has been passed by the House, an unlimited number of motions to instruct can be made. In short, if this motion is privileged, a motion can be made every day to instruct conferees; it can be made every hour in every day. Manifestly, in the adoption of the rule it was never contemplated that any such multiplicity of motions should be made. Therefore, we are driven to the conclusion that only a single motion, when it is passed, can be made within the 20-day rule. . . .

THE SPEAKER:[8] The Chair is ready to rule. The gentleman from Texas [Mr. Rayburn] has submitted a motion to instruct the conferees on the so-called "utility bill," which motion has already been read from the Clerk's desk. The gentleman from Alabama [Mr. Huddleston] makes the point of order that the motion is not privileged under the rules of the House. The Chair again reads the rule upon which the gentleman from Texas has predicated his motion: Section 1½(a) of rule XXVIII reads in part as follows:

> After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for 20 calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees.

It will be noted that the rule itself does not undertake to place any limitations upon the number of motions that may be made. The Chair has heretofore stated that, in his opinion, this rule was adopted in the Seventy-second Congress with the sole object and purpose on the part of the House of retaining control over the conferees after they had been appointed to consider differences between the House and the Senate.

Prior to that time, as we all know, after the appointment of the conferees, the House lost control. In fact, if the Chair may repeat, this rule was adopted to bring back to the House control over its own agents, or conferees, after giving them 20 days in which to come to some agreement with the representatives of the other body. To say that control is exhausted after the making of one motion it seems to the Chair is not justified by the rule or by the evident intent of the House when it adopted the rule. Certainly the House did not adopt this rule with the idea of retaining control of its own agents and then immediately after a motion was made, whatever might be the subject of the motion, again surrendering for all

8. Joseph W. Byrns (Tenn.).

time to come control of those agents or those conferees. . . .

. . . The Chair thinks it clear that if the House had intended that only one motion should be made under this rule, it would have said so when the rule was adopted. Certainly the Chair has no authority to limit the number of motions made under the plain reading of this rule.

The Chair, therefore, overrules the point of order and the gentleman from Texas is recognized.

§ 14.15 Where conferees have not reported within 20 days following their appointment, motions to instruct can be offered; and defeat of one such motion does not prohibit the later submission of an identical motion.

Rule XXVIII clause 1(c) provides an opportunity for numerous motions to instruct House managers after they have been in conference for 20 calendar days or more and have not filed a report.[9]

The following discussion of the repetition of motions to instruct under this rule occurred on July 22, 1974.[10]

MOTION TO FURTHER INSTRUCT CONFEREES ON H.R. 69, EXTENDING THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

PREFERENTIAL MOTION OFFERED BY MR. WAGGONNER

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Speaker, under clause 1, rule XXVIII, I offer a preferential motion.

The Clerk read as follows:

> Mr. Waggonner 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. 69, be instructed to insist upon the provisions of the House relating to limitations on the transportation of students embodied in title II of the House bill.

POINT OF ORDER

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I make a point of order against the preferential motion.

THE SPEAKER:[11] The gentleman will state it.

MR. STEIGER of Wisconsin: Mr. Speaker, I make a point of order against the preferential motion to instruct the conferees on the basis that

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9. Rule XXVIII clause 1(c), permitting the 20-day motion to instruct, has been part of the rules since Dec. 9, 1931 (8 Cannon's Precedents § 3225). An amendment to the rule in the 101st Congress put in place a one-day notice requirement before the motion can be privileged. After notice is given, the Speaker then sets a time and/or place in the legislative schedule on the next legislative day for consideration of the motion. See *House Rules and Manual* § 910 (1997).

10. 120 CONG. REC. 24448, 24449, 93d Cong. 2d Sess.

11. Carl Albert (Okla.).

on two previous occasions the House has already instructed conferees on H.R. 69 on identical language.

If I can be heard on the point of order, Mr. Speaker, I recognize that without the benefit of precedents other than those contained in Cannon's, it is difficult for the Members of the House to understand fully all of the precedents of the Rules of the House of Representatives, but let us review the history.

Prior to the appointment of conferees, the gentleman from Michigan offered a motion to instruct conferees on the so-called Esch amendment on school busing that was agreed to by the House. After 20 days had elapsed, the gentleman from Louisiana offered a subsequent motion to further instruct the conferees on exactly the same question, the busing of children under title II of the House bill. The gentlewoman from Hawaii offered a motion to instruct conferees, and I did not on a timely basis raise a point of order against her motion to instruct conferees at that point.

Let me go back to what Champ Clark said in volume 8, page 726 of Cannon's Precedents.

It says in the ruling at 3236, that:

> One motion to instruct having been considered and disposed of, a further motion to instruct was not admissible.

The Speaker at that time said:

> The motion to instruct is analogous to a motion to recommit, and there can be but one motion to recommit that is in order, and it is amendable; . . . there must be an end to all things sometime or other.

I make my point of order based on that appropriate ruling by Speaker Clark, on the basis that it is not wise nor timely for the House to instruct conferees time after time, whether on the same subject or on a different subject, and all things must come to an end.

I would hope that the Chair will support the point of order.

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

MR. WAGGONNER: I do desire to be heard, Mr. Speaker.

Mr. Speaker, that which some people consider wise and that which the rules provide sometimes are somewhat different, and in this instance the rules are to the contrary. The rules and the precedents speak for themselves.

Speaker Byrns, on August 22, 1935, volume 79, 74th Congress, 1st session, was called to rule upon a similar point of order. A Member of the House who later became Speaker, Mr. Rayburn, of Texas, offered a privileged resolution. Mr. Huddleston made a point of order against that privileged resolution. He said:

> Mr. Speaker, I make the point of order that the resolution is not privileged.

He went further and he said:

> This motion, if privileged at all, is privileged under House Rule 1–A, the 20-day rule. It will be remembered some days ago, 20 days having elapsed after the appointment of conferees under the rule, this matter was brought up and a motion was made by the gentleman from Texas (Mr. Rayburn) to instruct conferees. That motion was rejected. There-

upon, another motion was made to instruct the conferees and the motion was agreed to.

Mr. Huddleston went on to say:

> The view which I present is that by that action the force of the 20-day rule was exhausted. The bolt was shot—its force and effect is spent—and no motion can be again made under that rule.

And then he went on and argued further the point.

Mr. Speaker, I think it is sufficient to quote the ruling of the Chair, Speaker Byrns, on that question, and the Chair stated it was ready to rule and the rule by the Speaker was:

> The gentleman from Texas (Mr. Rayburn) has submitted a motion to instruct the conferees on the so-called "utility bill", which motion has already been read from the Clerk's desk. The gentleman from Alabama (Mr. Huddleston) makes the point of order that the motion is not privileged under the rules of the House. The Chair again reads the rule upon which the gentleman from Texas has predicated his motion: . . .

The Chair then read the rule. The Chair went on to say:

> It will be noted that the rule itself does not undertake to place any limitations upon the number of motions that may be made. The Chair has heretofore stated that, in his opinion, this rule was adopted in the Seventy-second Congress with the sole object and purpose on the part of the House of retaining control over the conferees after they had been appointed to consider differences between the House and the Senate.
>
> Prior to that time, as we all know, after the appointment of the conferees, the House lost control. In fact, if the Chair may repeat, this rule was adopted to bring back to the House control over its own agents, or conferees, after giving them 20 days in which to come to some agreement with the representatives of the other body.

Mr. Speaker, rather than to read the rest of that opinion, let me say the Speaker concluded then by saying:

> The Chair, therefore, overrules the point of order and the gentleman from Texas is recognized.

Mr. Speaker, I ask that the point of order be overruled and that I be recognized.

THE SPEAKER: The Chair is ready to rule. The general rule as stated on page 127 of Cannon's Procedures is:

> Conferees failing to report within 20 days after appointment may be instructed or discharged and motions to instruct or discharge and appoint successors are of the highest privilege.

Now, the Chair would like to note that the citation that the gentleman from Wisconsin gave from Speaker Champ Clark did not refer to privileged motions under clause 1(b), rule XXVIII, where conferees have failed to report in 20 calendar days.

The Chair has examined the precedents that the gentleman from Louisiana has cited and agrees that they support the proposition that a second or any number of motions to instruct are in order. The Chair therefore overrules the point of order and recognizes the gentleman from Louisiana.

§ 14.16 A second motion to instruct conferees was made the same day upon the same

matter in disagreement between the two Houses.

On Aug. 1, 1935,[12] Speaker Joseph W. Byrns, of Tennessee, recognized Mr. George Huddleston, of Alabama, to offer the following motion to instruct the conferees on S. 2796, the Public Utilities Act of 1935:

> The Clerk read as follows:
>
> Motion to instruct conferees by Mr. Huddleston: Moved that managers on the part of the House appointed upon request of the Senate for a conference upon the disagreeing votes of the House and the Senate on the amendment adopted by the House to S. 2796 be, and they are hereby, instructed as follows:
>
> That it is the will of the House that its managers insist upon a conference being held under just and fair conditions, such as will insure careful, calm, and deliberate consideration and will tend to promote an agreement by the conference, and that in the performance of their duties as such managers it is and shall remain the right and privilege of the managers on the part of the House, if in their judgment it is desirable in promoting the aforesaid ends, that such conference be held without the presence thereat of any person not a manager upon the part of either House or Senate.

Earlier that day, a motion to instruct the conferees on S. 2796, offered by Mr. Sam Rayburn, of Texas, had been defeated in the House.[13]

§ 14.17 A motion to instruct House conferees who have failed to report for 20 calendar days is in order notwithstanding the previous adoption by the House of the same motion to instruct.

On May 11, 1972,[14] Mr. Joe D. Waggonner, Jr., of Louisiana, was recognized in regard to S. 659, the Higher Education Amendments of 1971.

> MR. WAGGONNER: Mr. Speaker, I send to the desk a privileged motion under clause 1, rule XXVIII.
>
> THE SPEAKER:[15] The Clerk will report the motion.
>
> The Clerk read as follows:
>
> Mr. Waggonner 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 amendment to the bill S. 659 be instructed to insist upon the provisions contained in Sections 1701 and 1703(b) of the House amendment. . . .
>
> MR. WAGGONNER: Mr. Speaker, and Members of the House, this is an effort on my part, and others, to insist upon the instructions previously given to the

12. 79 CONG. REC. 12272, 74th Cong. 1st Sess.

13. *Id.* at pp. 12265–72.

14. 118 CONG. REC. 16838, 16842, 92d Cong. 2d Sess.

15. Carl Albert (Okla.).

House conferees to stand by the House language contained in the higher education bill which specifically, under the conditions set forth by the Broomfield amendment, the Ashbrook amendment, as amended by the Green amendment, instruct them to stand by the language of those amendments prohibiting busing to overcome racial imbalance and prohibit coercion by the executive branch of Government.[16]

The motion to instruct was agreed to by the House.

Multiple Motions To Instruct, 20-day Rule; Notice Requirement

§ 14.18 Pursuant to Rule XXVIII clause 1(c), as it existed in the 99th Congress, any number of proper motions to instruct the House conferees could be offered after a bill had been committed to conference for more than 20 calendar days, and such motions could be offered one after another so long as more highly privileged business did not intervene.

The proceedings on July 10, 1985,[17] illustrate how motions under the 20-day rule could divert the House from scheduled business. As a result of the increased use of such motions, the House adopted a change to Rule XXVIII clause 1(c) in the 103d Congress, requiring one day's notice of a Member's intention to offer the motion.[18]

MR. [PAUL E.] KANJORSKI [of Pennsylvania]: Mr. Speaker, I offer a privileged motion.

THE SPEAKER PRO TEMPORE:[19] The Clerk will report the motion.

The Clerk read as follows:

Mr. Kanjorski moves that, pursuant to the provisions of clause 1(b) of Rule XXVIII, the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the bill Senate Concurrent Resolution 32 be instructed to insist on the House provisions providing for full cost-of-living adjustments for Social Security recipients, federal military and civilian retirees, black lung recipients, railroad retirees, and recipients of VA compensation and pensions.

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16. The House had on Mar. 8, 1972, adopted a motion to instruct conferees identical to that offered by Mr. Waggonner in this instance. 118 CONG. REC. 7554–63, 92d Cong. 2d Sess.

17. 131 CONG. REC. 18440, 18442, 18448, 18449, 99th Cong. 1st Sess.

18. See 135 CONG. REC. 72, 101st Cong. 1st Sess., Jan. 3, 1989 (H. Res. 5). See current text of the rule in *House Rules and Manual* § 910 (1997).

19. Thomas S. Foley (Wash.).

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

PARLIAMENTARY 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, it has now been discussed on the floor that the gentleman from Ohio would be entitled to offer an amendment or to offer another motion to instruct.

Mr. Speaker, is it the intention of the Chair to allow the gentleman from Ohio to offer that motion immediately following the disposal of the motion of the gentleman from Pennsylvania?

THE SPEAKER PRO TEMPORE: Subsequent to the disposition of the motion to instruct by the gentleman from Pennsylvania [Mr. Kanjorski], the Chair could recognize another Member for the purpose of offering another privileged motion to instruct. . . .

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

The previous question was ordered.

THE SPEAKER PRO TEMPORE: The question is on the motion to instruct, offered by the gentleman from Pennsylvania [Mr. Kanjorski].

The motion to instruct was agreed to.

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

MR. [DELBERT L.] LATTA [of Ohio]: Mr. Speaker, I offer a privileged motion.

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

Mr. Latta moves that the managers on the part of the House at the conference on the disagreeing votes between the two Houses on the concurrent resolution, S. Con. Res. 32, be instructed to insist on the House position on cost of living adjustments; and further in order to achieve the largest possible deficit reduction package, and to adopt a budget path that will lead the nation toward a balanced budget, the managers on the part of the House are instructed to adopt additional domestic savings to guarantee that the dollars in savings that are lost by insisting on the House position are realized through additional spending restraint.

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

Tabling Motion To Instruct After 20 Days

§ 14.19 A motion to instruct House conferees is highly privileged after they have been appointed for 20 calendar days and have failed to report; but pending the demand for the previous question on the motion, the motion to table the instructions is in order.

The motion to instruct under Rule XXVIII clause 1(c), where conferees have failed to report within 20 days following their appointment, is a "motion of the

highest privilege."[20] On Sept. 22, 1976, this motion was subject to debate under the hour rule[1] which in the example shown, was under the control of Mr. Joe D. Waggonner, Jr., of Louisiana, who offered the motion to instruct:[2]

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

The Clerk read as follows:

> Pursuant to the provisions of rule XXVIII, clause 1(b), Mr. Waggonner 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. 12572, to amend the U.S. Grain Standards Act to improve the grain inspection and weighing system, and for other purposes, be instructed to disagree to the Senate amendment and to insist on the language of the House bill.

MR. WAGGONNER: Mr. Speaker, my preferential motion is offered as a motion of the highest privilege pursuant to rule XXVIII, clause 1(b), which states:

> After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for twenty calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees; and further, during the last six days of any session of Congress it shall be a privileged motion to move to discharge, appoint, or instruct, House conferees after House conferees shall have been appointed thirty-six hours without having made a report.

My motion applies to the House conferees on H.R. 12572, the so-called grain inspection bill. . . .

Mr. Speaker, the conferees have been meeting for 4 months. I do not believe that we should abandon the House-passed provision which was opposed by only 33 Members when we passed this bill earlier this year. . . .

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

MOTION TO TABLE OFFERED BY MR. BERGLAND

MR. [BOB] BERGLAND [of Minnesota]: Mr. Speaker, I move to lay the preferential motion on the table.

POINT OF ORDER

MR. WAGGONNER: Mr. Speaker, I raise a point of order.

THE SPEAKER:[3] The gentleman from Louisiana (Mr. Waggonner) will state his point of order.

MR. WAGGONNER: Mr. Speaker, under the rules of the House, in offering a preferential motion, the time belongs to the offeror. Now, for the benefit of the gentleman from Minnesota (Mr. Bergland), I can move the previous ques-

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20. *House Rules and Manual* § 910 (1997).

1. The division of debate time on a motion to instruct conferees between the majority and minority parties was added to Rule XXVIII, as a new clause (b), in the 101st Congress. See H. Res. 5, 135 CONG. REC. 72, 101st Cong. 1st Sess., Jan. 3, 1989.

2. 122 CONG. REC. 31876, 31881, 31882, 94th Cong. 2d Sess.

3. Carl Albert (Okla.).

tion, and the vote occurs on the previous question. The vote does not occur on a motion to table until the previous question is voted on and unless the previous question is not ordered.

THE SPEAKER: The Chair will state the gentleman's statement is not correct. If the gentleman moves the previous question, the motion to instruct conferees is first subject to being tabled.

MR. WAGGONNER: That is exactly what I am talking about, Mr. Speaker. We have to table my motion.

THE SPEAKER: The motion to table the motion to instruct is privileged over the previous question.

MR. WAGGONNER: But the previous question has to be tabled first, Mr. Speaker.

THE SPEAKER: No, that is not correct. The motion to table is being applied to the motion to instruct conferees, and not to the previous question on that motion.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. WAGGONNER: For my information, Mr. Speaker, will the Chair cite for me the rule which is the basis of the Chair's ruling?

THE SPEAKER: The citation is clause 4 of rule XVI.

MR. WAGGONNER: And that says what, Mr. Speaker?

THE SPEAKER: The Chair will read a portion of the rule:

> When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question.

MR. WAGGONNER: Mr. Speaker, what is that preferential order?

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I call for the regular order. The regular order is on the motion to table; is it not?

THE SPEAKER: The gentleman is correct.

MR. YATES: Then, Mr. Speaker, let us have a vote.

THE SPEAKER: The question is on the motion to table offered by the gentleman from Minnesota (Mr. Bergland).

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state it.

MR. BAUMAN: Mr. Speaker, am I correct in assuming that the gentleman from Minnesota (Mr. Bergland) has moved to table the previous question?

THE SPEAKER: The gentleman from Minnesota (Mr. Bergland) has moved to table the preferential motion to instruct conferees.

MR. BAUMAN: And that is what we will be voting on?

THE SPEAKER: Yes, and that is privileged.

MR. BAUMAN: I thank the Speaker.

PARLIAMENTARY INQUIRY

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WAGGONNER: Mr. Speaker, under what rule of the House can the gentleman move to table the preferential motion without the previous question's being denied?

THE SPEAKER: The rule which the Chair has just cited and under the precedents in support thereof.

MR. WAGGONNER: Mr. Speaker, how can any vote be conducted without the previous question's being ordered?

THE SPEAKER: It is a motion to table, which must be voted on before the motion for the previous question on the matter which the gentleman refers to.

MR. YATES: Mr. Speaker, I demand the regular order.

THE SPEAKER: The regular order is demanded.

The Chair is putting the question on the motion which is before the House.

The question is on the motion offered by the gentleman from Minnesota (Mr. Bergland) to table the preferential motion offered by the gentleman from Louisiana (Mr. Waggonner).

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

MR. WAGGONNER: 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 224, nays 178, not voting 28. . . .

So the motion to table the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Discharge of Conferees by Unanimous Consent

§ 14.20 On one occasion the managers on the part of the House at a conference were by unanimous consent discharged and the House receded from its disagreement to the Senate amendment and concurred therein.

On Dec. 14, 1944,[4] Mr. Francis E. Walter, of Pennsylvania, made the following request in the House:

> Mr. Speaker, I ask unanimous consent 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. 3732) to repeal the prohibition against the filling of a vacancy in the office of district judge in the district of New Jersey, be discharged and that the House immediately proceed to consideration of the Senate amendment to that bill.
>
> The Clerk read the title of the bill.
>
> THE SPEAKER:[5] Is there objection to the request of the gentleman from Pennsylvania? . . .
>
> There was no objection. . . .

4. 90 CONG. REC. 9485, 78th Cong. 2d Sess.
5. Sam Rayburn (Tex.).

MR. WALTER: Mr. Speaker, I move that the House recede and concur in the Senate amendment.

The motion was agreed to.

A motion to reconsider was laid on the table.