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sider the vote by which the appeal was rejected.

MR. [PATRICK J.] LEAHY [of Vermont]: I move to lay that motion on the table.

The motion to lay on the table was agreed to.

§ 26. Waiving Points of Order

Resolution Waiving All Points of Order

§ 26.1 A conference report may be called up pursuant to the provisions of a resolution waiving points of order thereon.

On July 31, 1963,[18] the following took place in the House:

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 453 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill, H.R. 5207, to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, and for other purposes, and all points of order against the conference report are hereby waived. . . .

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

The question was taken; and there were—yeas 234, nays 166, not voting 32. . . .

So the resolution was agreed to.

§ 26.2 Where conferees on a general appropriation bill bring back all amendments within the conference report, a special order providing a blanket waiver may be employed to protect the report from a variety of points of order.

The form of resolution carried here[20] is the most frequently utilized form since it not only protects the report from all points of order, both against consideration and content, but waives the reading of the report. Such a broad waiver protects the contents of the report from challenge because of possible violations of scope, the inclusion of legislation, and unauthorized appropriations or nongermane provisions; and in addition waives the three-day availability rule.

MR. [MARTIN] FROST [of Texas]: Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 301

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18. 109 CONG. REC. 13816, 13822–25, 88th Cong. 1st Sess.

19. John W. McCormack (Mass.).

20. See 139 CONG. REC. 28520, 103d Cong. 1st Sess., Nov. 10, 1993.

and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 301

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3116) making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

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

Rule Protecting Conference Report Against Procedural Interruptions

§ 26.3 Form of a special order which provides for the immediate consideration of a conference report following adoption of the special order, waiving points of order against the report and its consideration, and ordering the previous question on its adoption without any intervening motion except one to recommit.

This form of a resolution, reported from the Committee on Rules and called up as privileged,[2] was designed to expedite consideration and avoid the intervention of procedural motions. The conference report on S. 21, the California Desert Protection Act of 1994, had survived numerous parliamentary battles,[3] but the majority leadership used this type of special order to avoid other procedural pitfalls.

CONFERENCE REPORT ON S. 21, CALIFORNIA DESERT PROTECTION ACT OF 1994

MR. [ANTHONY C.] BEILENSON [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 568 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 568

Resolved, That immediately upon adoption of this resolution the House shall consider the conference report to accompany the 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. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The previous question shall be

1. Romano L. Mazzoli (Ky.).

2. See 140 CONG. REC. 28610, 103d Cong. 2d Sess., Oct. 6, 1994.

3. See §§ 2.2–2.4, 2.12, 9.9, supra.

considered as ordered on the conference report to final adoption without intervening motion except one motion to recommit.

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

MR. BEILENSON: . . . The rule waives all points of order against the conference report and against its consideration, provides that the conference report shall be considered as read, and provides one motion to recommit. The waivers apply to the 3-day layover rule and to the germaneness rule.

Special Orders Waiving All Points of Order

§ 26.4 Example of a special order waiving all points of order against a conference report.

Special orders waiving all points of order against a conference report and its consideration are frequently used to protect the report from possible points of order.

Certain Members of the House objected to "blanket waivers," preferring that the rule spell out which specific points of order were being waived. The rule, and the statement by the member of the Committee on Rules[5] and the Member[6] protesting the formulation of the rule are carried here[7] to illustrate the approach taken by one member of the committee.

CONFERENCE REPORT ON S. 2000, HUMAN SERVICES AMENDMENTS OF 1994

MR. HALL of Ohio: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 421 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 421

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 2000) to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes. All points of order against the conference report and against its consideration are waived.

THE SPEAKER PRO TEMPORE:[8] The gentleman from Ohio [Mr. Hall] is recognized for 1 hour.

MR. HALL of Ohio: Mr. Speaker, House Resolution 421 is the rule providing for the consideration of the conference report on S. 2000, the Human Services Amendments of 1994. The rule waives all points of order against the conference report and against its consideration. Because there are several amendments that were agreed to by

4. Pete Peterson (Fla.).
5. Tony P. Hall (Ohio).
6. James H. Quillen (Tenn.).
7. See 140 CONG. REC. 10030, 103d Cong. 2d Sess., May 12, 1994.
8. José E. Serrano (N.Y.).

House and Senate conferees, but are technically outside of the scope of the conference, it was necessary to waive points of order. This rule will allow us to bring this important legislation to the floor. . . .

MR. QUILLEN: . . . It has become so customary to grant a rule waiving all points of order against conference reports that the House just accepts this process as noncontroversial and routine. Even those of us who do not particularly support these blanket waivers have allowed these rules to be debated and adopted without putting up much of a fight. But not this time, Mr. Speaker, I urge my colleagues to vote against this rule.

The rule waives all points of order, but it does not specify which rules are being waived and for what purpose. We discussed this matter at some length in the Rules Committee yesterday, and we know that there are scope violations in the conference report. A list of those violations was provided to us, and we understand that the conferees all agreed to these provisions. So there is an obvious need for a waiver of clause 3 of rule 28 to protect these scope violations.

No member of the Rules Committee seemed to be aware of any other rules violation, and the minority members of the committee wanted to know why it was necessary to waive all points of order. The response was something along the lines of "just in case there's something in the conference report that we don't know about that needs protection." That is not a direct quote, Mr. Speaker, but I think it accurately describes the answer we were given.

The Rules Committee and the committees of jurisdiction of any legislation that comes to this floor have an obligation to make sure all Members are aware of any rules violations contained in any bill or conference report.

An amendment was offered in the Rules Committee to waive only the scope rule, but it was defeated on a party-line vote and the rule was adopted on a party-line vote.

Parliamentarian's Note: Resolutions of this type were used repeatedly during the remainder of the session. For other examples of special orders designed to protect conference reports from a variety of points of order, see 140 CONG. REC. 6076, 103d Cong. 2d Sess., Mar. 23, 1994 (H. Res. 393); 140 CONG. REC. 13552, 13553, 103d Cong. 2d Sess., June 21, 1994 (H. Res. 439); and 140 CONG. REC. 19561, 103d Cong. 2d Sess., Aug. 4, 1994 (H. Res. 505).

§ 26.5 A resolution reported from the Committee on Rules waived all points of order against a conference report on a House amendment in the nature of a substitute where the conferees included matter outside the scope of the differences committed to conference.

On Dec. 4, 1973,[9] the following occurred in the House after Speaker Carl Albert, of Oklahoma, recognized Mr. Morgan F. Murphy, of Illinois:

> Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 725 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> H. RES. 725
>
> *Resolved,* That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1443) to authorize the furnishing of defense articles and services to foreign countries and international organizations, and all points of order against said conference report are hereby waived. . . .
>
> MR. [DELBERT L.] LATTA [of Ohio]: . . . Mr. Speaker, if I may just summarize, I wish to state that to adopt the rule is the only thing we can do here.
>
> Mr. Speaker, this rule is necessary, because the Senate passed two separate foreign aid authorization bills, one dealing with military aid and the other dealing with economic aid, while the House passed only one bill covering both subjects.
>
> In conference, the conferees technically had before them only the text of one Senate bill, and one House bill. Anything reported by the conference which was in the one Senate bill dealing with military aid and the one House bill is within the scope of conference. However, anything reported by the conference which was in the second Senate bill only was not technically within the scope of conference and, therefore, a waiver of points of order is required to keep the matter from being knocked out on a point of order. . . .
>
> The vote was taken by electronic device, and there were—yeas 265, nays 137, not voting 31. . . .
>
> So the resolution was agreed to.

Parliamentarian's Note: In this instance, the Senate had passed two foreign assistance bills—one for foreign economic assistance (S. 2335) and one for foreign military assistance (S. 1443). The House struck all after the enacting clause of both Senate bills and inserted the text of H.R. 9360, which contained the House version of military and economic assistance, and both Senate bills with that House amendment were sent to different conferences. The conferees reported on S. 1443, the Senate military assistance bill. Because the Senate provisions on foreign economic aid had not been technically committed to that conference, House conferees exceeded their authority under Rule XXVIII clause 3 when they agreed to certain provisions beyond the scope of the Senate bill and House substitute.

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9. 119 CONG. REC. 39311, 39312, 93d Cong. 1st Sess.

Use of Special Rules To Waive Points of Order; Modifying Normal Rules for Debate and Amendment

§ 26.6 In recent Congresses, the Committee on Rules has formulated and brought to the floor of the House a variety of special orders, protecting conference reports against a certain point of order or all points of order and tailoring the terms of consideration of such reports to focus the debate on particular issues addressed therein.

An early example of a complex special order protecting and providing for the consideration of a conference report under special procedures not contemplated in the standing rules of the House was brought to the floor on Dec. 11, 1975.[10]

The conference report on H.R. 3474 was flawed in several procedural respects: it contained provisions not germane to the House version, contained subjects beyond the scope of the matter submitted to conference, and included in the text of the report a Senate amendment carrying an appropriation on a legislative bill. The report was thus subject to points of order under Rule XXVIII clauses 3 and 4(a)(1)[11] and Rule XX clause 2.[12]

The text of the rule as it was called up on Dec. 11, 1975,[13] is carried here, as well as the procedure under the rule which permitted consideration of two motions to reject provisions of the report seriatim, so that the adoption of either would reject the entire conference agreement.

> MR. [RICHARD W.] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 919 and ask for its immediate consideration.
>
> The Clerk read the resolution as follows:
>
> H. RES. 919
>
> *Resolved*, That immediately upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report on the bill (H.R. 3474) to

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10. H. Res. 919, providing for the consideration of H.R. 3474, the conference report on Energy Research and Development Administration authorization for fiscal year 1976. See 121 CONG. REC. 40081, 94th Cong. 1st Sess.

11. *House Rules and Manual* §§ 913a, 913b (1997).

12. *Id.* at § 829.

13. 121 CONG. REC. 40081, 94th Cong. 1st Sess.

authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, and all points of order against said conference report are hereby waived. Debate on said conference report shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology and the chairman and the ranking minority member of the Joint Committee on Atomic Energy. At the conclusion of said debate, it shall be in order for the Chair to entertain separate motions to strike out sections 102 and 103 of said conference report. It shall be in order to debate each such motion, if offered, for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion. At the conclusion of votes on any motion to strike offered under this procedure, and if neither of the motions to strike have been adopted, the previous question shall be considered as ordered on agreeing to the conference report.

THE SPEAKER:[14] The gentleman from Missouri is recognized for 1 hour.

Later in the same day,[15] the conference report was considered pursuant to the special order.

MR. [OLIN E.] TEAGUE [of Texas]: Mr. Speaker, I call up the conference report on the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection. . . .

THE SPEAKER: The gentleman from Texas (Mr. Teague) is recognized for 30 minutes, and the gentleman from Ohio (Mr. Mosher) is recognized for 30 minutes.

MR. TEAGUE: . . . Mr. Speaker, H.R. 3474 authorizes appropriations for the Energy Research and Development Administration for fiscal year 1976 and the transition period. In the House, this bill has been handled jointly by the Joint Committee on Atomic Energy and the Committee on Science and Technology. The Joint Committee handled the nuclear programs and the Science Committee handled the nonnuclear ones. . . .

THE SPEAKER PRO TEMPORE:[16] The time of the gentleman has expired.

All time controlled by the Committee on Science and Technology has expired.

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14. Carl Albert (Okla.).

15. 121 CONG. REC. 40087, 40135, 40136, 40146, 40167–70, 40174, 94th Cong. 1st Sess., Dec. 11, 1975.

16. John J. McFall (Calif.).

Under the rule, 1 additional hour of debate is permitted to the Joint Committee on Atomic Energy; 30 minutes of which are allotted to the gentleman from Illinois (Mr. Price) and 30 minutes to the gentleman from Illinois (Mr. Anderson).

The Chair will now recognize the gentleman from Illinois (Mr. Price). . . .

MR. [KEN] HECHLER of West Virginia: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Hechler of West Virginia moves to strike section 103 from the conference report on the bill H.R. 3474.

THE SPEAKER PRO TEMPORE: The gentleman from West Virginia (Mr. Hechler) will be recognized for 20 minutes, and the gentleman from Texas (Mr. Teague) will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

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

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. TEAGUE: Would the Chair state what the time situation is?

THE SPEAKER PRO TEMPORE: The Chair would repeat for the benefit of the gentleman from Texas that the gentleman from West Virginia (Mr. Hechler) is recognized for 20 minutes, and the gentleman from Texas (Mr. Teague) is recognized for 20 minutes.

MR. TEAGUE: I thank the Chair.

THE SPEAKER PRO TEMPORE: The Chair recognizes the gentleman from West Virginia (Mr. Hechler). . . .

PARLIAMENTARY INQUIRY

MR. HECHLER of West Virginia: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HECHLER of West Virginia: Is it correct that an "aye" vote will be in opposition to section 103 and will strike section 103 of the pending legislation?

THE SPEAKER: An "aye" vote is to strike section 103.

MR. HECHLER of West Virginia: I thank the Speaker. . . .

So the motion was agreed to.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. HECHLER OF WEST VIRGINIA

MR. HECHLER of West Virginia: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Hechler of West Virginia moves to strike section 102 of the conference report on the bill H.R. 3474.

THE SPEAKER: The gentleman from West Virginia (Mr. Hechler) is recognized for 20 minutes, and the gentleman from Texas (Mr. Teague) is recognized for 20 minutes.

MR. TEAGUE: Mr. Speaker, I ask unanimous consent that the debate be limited to 10 minutes, with 5 minutes for each side.

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

There was no objection. . . .

PARLIAMENTARY INQUIRY

MR. HECHLER of West Virginia: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HECHLER of West Virginia: Would an "aye" vote on the pending motion strike section 102 of the conference report?

THE SPEAKER: The gentleman is correct.

MR. HECHLER of West Virginia: I thank the Speaker.

THE SPEAKER: The question is on the motion offered by the gentleman from West Virginia (Mr. Hechler).

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

So the motion was agreed to.

So the conference report was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. TEAGUE

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

The Clerk read as follows:

> Mr. Teague moves that the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 3474), and concur therein with an amendment as follows:
>
> In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: . . .

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

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

MR. [CHARLES A.] MOSHER [of Ohio]: Mr. Speaker, reserving the right to object, may I ask, will the gentleman state what his motion contains?

MR. TEAGUE: Mr. Speaker, this motion sends this bill back to the other body without the sections 102 and 103 in the form it was voted on back in June. The vote was about 317 to 9. That is all the amendment does.

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

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

There was no objection.

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

The previous question was ordered.

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

The motion was agreed to.

A motion to reconsider was laid on the table.

Special Order Waiving Certain Points of Order Against Conference Report, Preserving Others

§ 26.7 The Committee on Rules may report a special order which selectively waives points of order against a conference report and may preserve one point of order while waiving all others.

An example of a special order for the consideration of a conference report is carried here.[17]

MR. [CLAUDE D.] PEPPER [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 999 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 999

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5247) to authorize a local public works capital development and investment program, and all points of order against said conference report are hereby waived, except that it shall be in order to consider points of order against title II of said conference report under the provisions of rule XXVIII, clause 4.

THE SPEAKER:[18] The gentleman from Florida (Mr. Pepper) is recognized for 1 hour.

MR. PEPPER: . . . House Resolution 999 provides that all points of order against the conference report are waived, except that it shall be in order to consider points of order against title II of the conference report under the provisions of rule XXVIII, clause 4. Thus, if a point of order made under the provisions of rule XXVIII, clause 4 is sustained a motion shall then be in order that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for 40 minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

Selective Waivers of Points of Order Against Conference Report

§ 26.8 The Committee on Rules has sometimes recommended selective waivers of points of order under Rule XXVIII clause 3, permitting points of order to lie against only specified sections of the report which might go beyond the scope of differences submitted to conference.

On Feb. 27, 1974,[19] the Committee on Rules called up a special order for consideration of the conference report on S. 2589, the Energy Emergency Act. The rule waived points of order against the report, but permitted points of order to be raised against two sections therein which arguably contained matter beyond the scope of the managers' authority under Rule XXVIII clause 3.

The previous question on the rule was defeated, an amendment was offered and adopted which

17. 122 CONG. REC. 1579, 94th Cong. 2d Sess., Jan. 29, 1976.
18. Carl Albert (Okla.).
19. 120 CONG. REC. 4397, 4407, 4408, 93d Cong. 2d Sess.

provided for a blanket waiver but permitted a separate vote on the controversial sections.

The rule as reported, and the amendment offered after defeat of the previous question, are carried here.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON S. 2589, ENERGY EMERGENCY ACT

MR. [CLAUDE] PEPPER [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 901 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 901

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, and all points of order against said conference report except against sections 105 and 110 thereof for failure to comply with the provisions of clause 3, rule XXVIII are hereby waived. Debate on said conference report shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. At the conclusion of the debate, it shall be in order, on the demand of any Member, for a separate vote to be had on a motion to strike out section 104 of the conference report. At the conclusion of any separate vote demanded under this procedure, and if section 104 has not been stricken out by such separate vote, the previous question shall be considered as ordered on agreeing to the conference report.

THE SPEAKER:[20] The gentleman from Florida (Mr. Pepper) is recognized for 1 hour.

MR. PEPPER: . . . House Resolution 901 provides that all points of order against the conference report are waived except against sections 105 and 110 for failure to comply with the provisions of clause 3, rule XXVIII of the Rules of the House of Representatives—pertaining to amendments accepted by the conferees which are beyond the scope of the House and Senate bills. . . .

Mr. Speaker, I yield 1 minute for the purpose of discussion only to the distinguished gentleman from West Virginia, the chairman of the Committee on Interstate and Foreign Commerce (Mr. Staggers). . . .

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I take the floor to urge the defeat of the previous question on this rule. As I am sure my colleagues are aware, the rule would permit a single Member of this House to assert a point of order against two sections of the bill—section 105 dealing with energy conservation plans and section 110, the so-called price rollback provision. In so doing the Rules Committee has provided an opportunity for

20. Carl Albert (Okla.).

a single opponent of this legislation to defeat it. Such a result most certainly would not be in the public interest. . . .

I know that the conference agreement remains controversial. I would expect legislation this important and complex to be so. But I urge that we permit the conference agreement to stand the test of a vote by the 435 Members of this House.

If the previous question is defeated, I will offer an amendment to the rule in the nature of a substitute which waives points of order on the entirety of the conference agreement, but permits separate votes on its most controversial sections. Accordingly, Members would have an opportunity to specifically express their assent or dissent to sections 104, 105, and 110 of the bill. If the House defeats the conference agreement then so be it. But at least let us give the House the chance to vote on it. Accordingly, I respectfully ask you to defeat the previous question on this rule. . . .

MR. PEPPER: Mr. Speaker, I move the previous question on the resolution.

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

MR. PEPPER: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 259, answered "present" 3, not voting 25. . . .

So the previous question was not ordered.

The Clerk announced the following pairs:

On this vote: . . .

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

MR. STAGGERS: Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Staggers: Strike out all after the resolving clause of House Resolution 901 and insert in lieu thereof the following:

"That immediately upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, and all points of order against said conference report for failure to comply with the provisions of clause 3, Rule XXVIII, are hereby waived. Debate on said conference report shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. At the conclusion of the debate, it shall be in order, on the demand of any Member for a separate vote to be had on motions to strike out the following provisions of the conference report: Sections 110, 105, and 104, and such separate votes, if demanded, shall be taken in the foregoing order. At the conclusion of all of the separate votes demanded under this procedure, and if none of the sections have been stricken by such separate votes, the previous question shall be considered as ordered on agreeing to the conference report."

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

MR. STAGGERS: Mr. Speaker, I thank the gentleman from Illinois for his comments. I am certain he is very sincere.

Mr. Speaker, I move the previous question on the amendment and on the resolution.

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

The previous question was ordered.

THE SPEAKER: The question is on the amendment.

The amendment was agreed to.

THE SPEAKER: The question is on the resolution.

The resolution was agreed to.

Provisions Outside Scope of Disagreement Protected by Waiver

§ 26.9 The Speaker overruled a point of order against a conference report containing a provision not included in either the Senate bill or House amendment in the nature of a substitute, where the House had adopted a resolution waiving points of order against the inclusion of additional matter in the conference report in violation of Rule XXVIII clause 3.(1)

On Jan. 25, 1972,(2) the following occurred in the House:

MR. [THOMAS E.] MORGAN [of Pennsylvania: Mr. Speaker, I call up the conference report on the bill (S. 2189) to provide foreign military and related assistance authorizations for fiscal year 1972 and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER:(3) Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I desire to make a point of order against the consideration of the conference report.

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

MR. GROSS: Mr. Speaker, I make a point of order on the grounds that certain provisions of the bill are not germane and exceed the authority of the conference. I point specifically, Mr. Speaker, to the language to be found on page 13 of the report, section 658:

> SEC. 658. LIMITATION ON USE OF FUNDS.—(a) Except as otherwise provided in this section, none of the funds appropriated to carry out the provisions of this Act or the Foreign Military Sales Act shall be obligated or expended until the Comptroller General of the United States certifies to the Congress that all funds previously appropriated and thereafter impounded during the fiscal year

1. *House Rules and Manual* § 913(a) (1997).

2. 118 CONG. REC. 1076, 1077, 92d Cong. 2d Sess.

3. Carl Albert (Okla.).

1971 for programs and activities administered by or under the direction of the Department of Agriculture, the Department of Housing and Urban Development, and the Department of Health, Education and Welfare have been released for obligation and expenditure.

Mr. Speaker, I contend that this language goes far beyond the scope of the legislation, far beyond any intent of the Congress. It is neither germane nor does it come within the scope of the legislation. . . .

After addressing himself to another issue raised in the point of order, the Speaker stated,

The Chair also points out that the resolution under which this conference report is being considered specifically waives points of order under clause 3, rule XXVIII.

The action of the conferees in adding the language in section 658 of the conference report is protected by this waiver of points of order.

For these reasons, the Chair overrules the point of order.

§ 26.10 The House adopted a resolution reported from the Committee on Rules which waived points of order against a conference report where House conferees had: (1) included provisions beyond the scope of the differences between the House bill and Senate amendment; and (2) agreed to an appropriation in the Senate substitute.

On July 27, 1972,[4] the following occurred in the House after Speaker Carl Albert, of Oklahoma, recognized Mr. John A. Young, of Texas:

Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1057 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1057

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 12931) to provide for improving the economy and living conditions in rural America, and all points of order against the conference report for failure to comply with the provisions of clauses 2 and 3, rule XX[5] and clause 3, rule XXVIII[6] are hereby waived.

MR. YOUNG of Texas: . . . Mr. Speaker, House Resolution 1057 provides for waiving points of order against the conference report on H.R. 12931, the Rural

4. 118 CONG. REC. 25822, 25830, 92d Cong. 2d Sess.
5. Rule XX clause 2, *House Rules and Manual* § 829 (1997). The provisions of Rule XX clause 3 were substantially modified late in the 92d Congress pursuant to H. Res. 1153 (Oct. 13, 1972) which became effective immediately prior to the beginning of the 93d Congress. See Rule XXVIII clause 4(a), *House Rules and Manual* § 913(b) (1997).
6. *House Rules and Manual* § 913(a) (1997).

Development Act, for failure to comply with the provisions of clauses 2 and 3 of rule XX, and clause 3 of rule XXVIII. Clause 2 of rule XX has to do with a Senate amendment to an appropriation bill which lacks authorization; clause 3 of rule XX has to do with nongermane Senate amendments; clause 3 of rule XXVIII has to do with a nongermane modification of a matter in disagreement. . . .

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

THE SPEAKER PRO TEMPORE:[7] The question is on ordering the previous question. . . .

The question was taken; and there were—yeas 214, nays 162, not voting 56. . . .

So the previous question was ordered. . . .

THE SPEAKER: The question is on the resolution.

The resolution was agreed to.

Special Order Waiving "Scope" Point of Order

§ 26.11 Example of a special order reported from the Committee on Rules, specifically waiving points of order against a conference report where conferees had exceeded "scope" by including a new "topic" (a Presidential reporting requirement) not in either the Senate bill or the House amendment.

The proceedings of Aug. 2, 1977,[8] are illustrative of the practice of the Committee on Rules in anticipating possible points of order and providing a specific waiver to protect a conference report.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 731 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 731

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 826) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, said conference report shall be considered as having been read, and all points of order against said conference report for failure to comply with the provisions of clause 3, rule XXVIII are hereby waived.

THE SPEAKER:[9] The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

MR. BOLLING: . . . It provides that the conference report shall be considered as read and all points of order against the

7. Richard Bolling (Mo.).

8. 123 CONG. REC. 26103, 26104, 95th Cong. 1st Sess.

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

rule that deals with scope be waived. . . .

MR. [TRENT] LOTT [of Mississippi]: . . . Mr. Speaker, this rule waives points of order against the conference report to accompany S. 826, the Department of Energy Organization Act, for failure to comply with clause 3 of rule XXVIII. The waiver is necessary because title X is a variation of the House sunset provision for which the Senate had no comparable language.

The House version states that the act will expire on December 31, 1982. The Senate version is silent on this matter. So the conferees substituted a requirement that the President submit to Congress a comprehensive review of each program in the Department by January 15, 1982. This report is to be made available to the House and Senate committees having jurisdiction over annual authorizations for such programs for fiscal year 1983.

Since there is no similar Senate provision and since the House's version is different, title X of the conference report appears to be beyond the scope of the conference. Hence, the waiver of rule XXVIII, clause 3.

Waiving Specific Points of Order Against a Conference Report

§ 26.12 The House considered a special order waiving all points of order against a conference report which would have been subject to points of order under Rule XXVIII clauses 3 and 4, because of violations of the rules on the scope of conference and the inclusion of provisions not germane to the House text.

The rule and some of the debate preceding its adoption are carried as excerpted from the Record of Dec. 4, 1980,[10] and as illustrative of the problems faced by conferees in resolving differences in text.

MR. [RICHARD W.] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 820 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 820

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, and all points of order against said conference report for failure to comply with the provisions of clauses 3 and 4, rule XXVIII are hereby waived.

THE SPEAKER PRO TEMPORE:[11] The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour. . . .

MR. [JAMES H.] SCHEUER [of New York]: Mr. Speaker, I rise in support of the rule providing for consideration of

10. 126 CONG. REC. 32145, 32147, 96th Cong. 2d Sess.
11. John Joseph Moakley (Mass.).

the conference report on S. 1159, the Motor Vehicle Safety and Cost Savings Authorization Act of 1980. . . .

Before concluding, I would like to address the concern that this conference report contains provisions which are beyond the scope of the conference or which are nongermane.

Certainly, there are such provisions and much has been made of that fact.

However, such provisions were included by the conferees neither lightly nor carelessly. . . .

Let me cite a few examples.

The seven germaneness problems in the conference report resulted because the House bill contained only a 1-year authorization.

The Senate bill ran for 3 years and contained permanent amendments to the act.

Thus, any Senate provision adopted by the conferees was automatically nongermane to the House bill.

For instance, section 2 of the conference report is nongermane because it authorizes NHTSA through fiscal year 1982.

As I mentioned before, the House bill only authorized the agency through fiscal year 1980. . . .

Unfortunately, the conference did not convene until July of this year.

At that point, 2 months remained of the House authorization period.

I would note that by now, the House authorization would have expired.

Rather than follow the letter of House rules and produce an absurd result, the conferees adopted the Senate provision which authorized NHTSA through fiscal year 1982. . . .

These are also some provisions in S. 1159 which are outside the scope of the conference.

Section 8 dealing with passive restraints is a good example of this problem.

Amending Special Rule To Allow Germaneness Point of Order

§ 26.13 In an unusual sequence of events, the House: (1) considered a special order providing for the consideration of two measures (a conference report and a separate bill identical to a nongermane amendment included in the report); (2) rejected the previous question on the special order; and (3) then adopted an amendment providing for consideration of the report but modifying the application of Rule XXVIII clause 4 with respect to the nongermane amendment.

The Elementary and Secondary Education Act had been passed by the House on May 27, 1987. The Senate amended the bill including as a new section 5 thereof a nongermane provision relating to "dial-a-porn," a matter not within the jurisdiction of the Committee on Education and Labor, but within the province of the Com-

mittee on Energy and Commerce. The matter went to conference, managers on the part of the House including members from the Committees on Education and Labor and from Energy and Commerce. The conferees reported a text which included a modification of the nongermane Senate amendment on telecommunications policy. The proceedings leading to the rejection of the conference report on April 19, 1988,[12] and motions which followed are shown here.

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

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

The Clerk read the resolution, as follows:

H. RES. 427

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

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

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

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

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

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

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

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

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

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12. 134 CONG. REC. 7345–47, 7353–55, 7446, 7448, 7484, 7485, 100th Cong. 2d Sess.

THE SPEAKER:[13] The gentleman from Texas [Mr. Frost] is recognized for 1 hour.

MR. FROST: Mr. Speaker, House Resolution 427 is a rule waiving all points of order against the conference report on H.R. 5, the School Improvement Act of 1987, and waiving all points of order against its consideration. The rule provides that the conference report shall be considered as having been read when called up for consideration and that a motion to recommit the conference report may not contain instructions.

Mr. Speaker, the conference agreement on H.R. 5, named the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, is the result of months of work on the part of both the House and the Senate and both the majority and the minority. . . .

MR. [TRENT] LOTT [of Mississippi]: . . . The rule also provides for consideration at any time of a bill which is identical to the one we just passed under suspension of the rules under a sudden change in scheduling. I think this is the first time I can recall in which we passed a bill before adopting the rule making it in order. I think it says something about the extent of the leadership's concern that Congress might actually enact a meaningful dial-a-porn provision as part of the conference report. . . .

MR. [THOMAS J.] BLILEY [Jr., of Virginia]: Mr. Speaker, I rise in strong opposition to the rule before us today. I oppose this rule because it represents just one more attempt to sidestep the issue of dial-a-porn through clever procedural gimmicks. It's precisely this type of gimmickry that has put us in the situation we're in today.

That is precisely the thrust of the language that is included in the conference report—language that was included in the conference report without the conferees on that issue ever having met in open public session as required by rule 28 clause 6. . . .

MR. FROST: . . . Mr. Speaker, I move the previous question on the resolutions.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[14] The question is on ordering the previous question.

The question was taken. . . .

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LOTT

MR. LOTT: Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment in the nature of a substitute offered by Mr. Lott: Strike all after the resolving clause and insert in lieu thereof the following:
>
> "That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5) to improve elementary and secondary education, and all points of order against the conference report and against its consideration, except as provided by section 2 of this reso-

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

14. Dale E. Kildee (Mich.).

lution, are hereby waived, and the conference report shall be considered as having been read when called up for consideration.

"SEC. 2. It shall be in order pursuant to clause 4 of rule XXVIII of the rules of the House to raise a point of order against sec. 6101 of the conference report. If, pursuant to such clause, the point of order is sustained and the section is then rejected by a vote of the House, it shall immediately be in order, without intervening motion, for any Member to offer a preferential motion to take from the Speaker's table the bill H.R. 5, together with the Senate amendment thereto, and to recede and concur in the Senate amendment with an amendment which shall consist of the text of that portion of the conference report not rejected together with the text of sec. 7003 of said Senate amendment as a substitute for sec. 6101 of the conference report as rejected by the House, said motion shall be considered as having been read, and all points of order against said motion are hereby waived.".

THE SPEAKER: The gentleman from Mississippi [Mr. Lott] is recognized for 1 hour.

MR. LOTT: Mr. Speaker, I see no reason to prolong this debate any further. There is no need to take any longer than a couple minutes.

I would like to urge the adoption of this substitute rule which would provide for the consideration of the ban on dial-a-porn language in the conference report and also, of course, the conference report on H.R. 5, the education bill.

We all know what is involved in the debate. We know what is in the rule. . . .

Mr. Speaker, I would be happy to yield to anyone for purposes of debate only, but I think we have debated this issue at length for the last hour and 5 minutes, so I am ready to move the previous question.

Mr. Speaker, I move the previous question on the amendment in the nature of a substitute and the resolution.

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

The previous question was ordered.

THE SPEAKER: The question is on the amendment in the nature of a substitute offered by the gentleman from Mississippi [Mr. Lott].

The amendment in the nature of a substitute was agreed to.

THE SPEAKER: The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

MR. [AUGUSTUS F.] HAWKINS [of California]: Mr. Speaker, pursuant to House Resolution 427, I call up the conference report on the bill (H.R. 5) to improve elementary and secondary education, and for other purposes.

The Clerk read the title of the bill.

THE SPEAKER: Pursuant to the rule, the conference report is considered as having been read. . . .

POINT OF ORDER

MR. BLILEY: Mr. Speaker, pursuant to the rule just adopted and clause 4 of rule XXVIII, I make a point of order against section 6101 of the conference report, and ask to be heard on my point of order.

THE SPEAKER: The gentleman's point of order is well-taken, the modification of the Senate provision in question is

not germane to the bill as passed by the House. The point of order is sustained.

MOTION OFFERED BY MR. BLILEY

MR. BLILEY: Mr. Speaker, I offer a privileged motion.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

Mr. Bliley moves pursuant to clause 4 of rule XXVIII and House Resolution 427 as adopted by the House that the House do now reject section 6101 of the conference report on the bill H.R. 5.

THE SPEAKER: The gentleman from Virginia [Mr. Bliley] will be recognized for 20 minutes and a Member, of opposed, will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. Bliley].

MR. BLILEY: Mr. Speaker, we have been over this ground all day and in deference to the time of the Members and in the light of the vote we just had on voting down the ordering of the previous question, I would urge the Members to adopt this motion so that we can get on with the business at hand.

Mr. Speaker, I have no requests for time, and 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 Virginia [Mr. Bliley].

The motion was agreed to. . . .

MOTION OFFERED BY MR. BLILEY

MR. BLILEY: Mr. Speaker, I offer a privileged motion.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

Mr. Bliley moves to take from the Speaker's table the bill H.R. 5, together with the Senate amendment thereto, and recede and concur in the Senate amendment with an amendment consisting of the text of that portion of the conference report on the bill H.R. 5 not rejected by the House together with the text of section 7003 of the Senate amendment in place of section 6101 as rejected by the House, as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988".

(b) TABLE OF CONTENTS.— . . .

PART B—PROHIBITION OF DIAL-A-PORN

SEC. 6101. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

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

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

(2) by striking out paragraph (2);

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

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

THE SPEAKER: The gentleman from Virginia [Mr. Bliley] will be recognized for 30 minutes and the gentleman from California [Mr. Hawkins] or his desig-

nee from the majority party will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. Bliley]. . . .

THE SPEAKER PRO TEMPORE:[15] The question is on the motion offered by the gentleman from Virginia [Mr. Bliley] that the House recede and concur in the Senate amendment with an amendment consisting of the text of that portion of the conference report on the bill H.R. 5 not rejected by the House together with the text of section 7003 of the Senate amendment in place of section 6101 as rejected by the House.

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

MR. BLILEY: 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 397, nays 1, not voting 34, as follows: . . .

The result of the vote was announced as above recorded.

Special Order Protecting Conference Report From Point of Order and Self-executing Adoption of Concurrent Resolution Correcting Enrollment

§ 26.14 Special order, waiving points of order against a conference report, and "self-executing" the adoption in the House of a concurrent resolution correcting the enrollment, thus giving the Senate two options: to accept the conference report as filed and agreed to by the House or to modify it's provisions in the enrollment process by adoption of the concurrent resolution.

The resolution reported by the Committee on Rules, a portion of the explanation thereof, and the proceedings for adopting the concurrent resolution made in order in the resolution, as excerpted from the Record of Sept. 30, 1992,[16] are carried here.

MR. [BART] GORDON [of Tennessee]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 581 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 581

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. Upon the adoption of the conference report the

15. Richard J. Durbin (Ill.).

16. 138 CONG. REC. 29064, 29077, 102d Cong. 2d Sess.

House shall be considered to have adopted a concurrent resolution introduced by Representative Yates of Illinois (for himself and Representative Miller of California) on or before September 30, 1992, directing the Clerk of the House to make corrections in the enrollment of the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

THE SPEAKER PRO TEMPORE:[17] The gentleman from Tennessee [Mr. Gordon] is recognized for 1 hour.

MR. GORDON: . . . Mr. Speaker, House Resolution 581 provides for the consideration of the conference report on H.R. 5503, the Interior and related agencies appropriations for fiscal year 1993. The conference report is debatable for 1 hour.

The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as read.

Finally, upon adoption of the conference report, the House will be considered as having adopted a concurrent resolution jointly introduced by Representative Yates of Illinois and Representative Miller of California. The concurrent resolution directs the Clerk of the House to make corrections in the conference report on H.R. 5503.

Immediately after adoption of the special order, the concurrent resolution, introduced by Mr. George Miller, of California, and Mr. Sidney R. Yates, of Illinois, was "considered to have been adopted."

The conference report was agreed to.

A motion to reconsider was laid on the table.

ADOPTION OF HOUSE CONCURRENT RESOLUTION 365, MAKING CORRECTIONS IN ENROLLMENT OF H.R. 5503

THE SPEAKER PRO TEMPORE: Pursuant to House Resolution 581, House Concurrent Resolution 365, introduced today by the gentleman from Illinois [Mr. Yates], on behalf of himself and the gentleman from California [Mr. Miller], is considered to have been adopted.

The text of House Concurrent Resolution 365 is as follows:

H. CON. RES. 365

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 5503) entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes", the Clerk of the House of Representatives shall make the following corrections, namely:

In the paragraph under the heading "Land Acquisition", Bureau of Land Management, after the figure "$28,034,000" insert ", of which $5,000,000 is for the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation and $23,034,000 is"; . . .

Under the heading "Administrative Provisions, Forest Service" delete the following paragraph:

"As a pilot effort, for the purpose of achieving ecologically defensible management practices, the Kaibab,

17. G. V. (Sonny) Montgomery (Miss.).

Dixie, Idaho Panhandle, and Coconino National Forests and the Lake Tahoe Basin Management Unit are authorized to apply the value or a reasonable portion of the value of timber removed under a stewardship end result contract as an offset against the cost of stewardship services received including, but not limited to, site preparation, replanting, silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements on selected projects: *Provided,* That timber removed shall count toward meeting the Congressional expectations for the annual timber harvest.".

Parliamentarian's Note: The Senate had insisted, in the conference on the Interior Department appropriation bill, fiscal 1993, that certain unauthorized items and legislative provisions, added to the bill by the Senate, be included in the report. Members of the House authorizing committee, (at that time the Committee on Interior and Insular Affairs), objected to the inclusion of unauthorized appropriations. This "compromise rule" protected the conference report from a point of order but signaled the opposition of certain Members of the House to the Senate amendments and the action of the conferees in seeking a rule protecting the inclusion of the items which would otherwise have been subject to a point of order.

Special Orders Sending Bill to Conference; Protecting Specific Motion To Amend Senate Bill

§ 26.15 The House can, by means of a special order, provide for the consideration in the House of a Senate bill, protect a particular motion to amend from any point of order (leaving alternative motions unprotected) and specify that if the protected motion is adopted, and the bill as amended is passed, it shall be in order to move to insist on the House amendment and request a conference.

House Resolution 374 was designed to "hook up" the Senate numbered bill with the text of a related House bill, H.R. 796, which had passed the House in the previous session of the Congress. The so-called "Freedom of Access to Clinic Entrances Act of 1993" was not without controversy, and the rule was designed to permit a variety of points for debate and for motions to test the will of the House on how to proceed. Some of these procedural alternatives were

mentioned in the debate on the rule.[18]

MR. [JOHN JOSEPH] MOAKLEY [of Massachusetts]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 374 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 374

Resolved, That upon the adoption of this resolution it shall be in order to take from the Speaker's table the bill (S. 636) to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes, and to consider the Senate bill in the House. All points of order against the Senate bill and against its consideration are waived. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 796 as passed by the House. All points of order against that motion are waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendments to S. 636 and request a conference with the Senate thereon.

THE SPEAKER:[19] The gentleman from Massachusetts [Mr. Moakley], is recognized for one hour. . . .

MR. [ANTHONY C.] BEILENSON [of California]: . . . The rule makes it in order to take the Senate bill, S. 636, from the Speaker's table and consider it in the House. All points of order against the Senate bill and its consideration are waived.

The rule also makes in order a motion to strike out all after the enacting clause of the Senate bill and insert the provisions of H.R. 796 as passed by the House. All points of order against that motion are waived. . . .

MR. [JAMES H.] QUILLEN [of Tennessee]: . . . Mr. Speaker, as the gentleman from California, Mr. Beilenson, has explained, this rule provides for the consideration of S. 636, the Senate-passed version of the Freedom of Access to Clinic Entrances Act.

The rule makes in order motions to consider the Senate bill, to substitute the text of the House-passed version, H.R. 796, to pass the amended bill, to insist on the amendments and to request a conference. All points of order are waived against S. 636 and its consideration, as well as the motion to amend the bill.

Now, that may seem simple enough, but let me describe the potential debate and votes that this rule would allow. First, we have up to 1 hour of debate on the rule, a possible vote on the previous question and a vote on adoption of the rule.

Then we have up to 1 hour of debate on the Senate bill. There could be a vote on the motion to strike the text of S. 636 and insert the language of H.R. 796 as passed by the House. That might be followed by a vote on the motion to commit the Senate bill to the appropriate House committee. Then there could be a vote on passage of the Senate bill as amended.

There is still more, Mr. Speaker. After passage, we have up to 1 hour of debate on the motion to go to confer-

18. See 140 CONG. REC. 5389, 5390, 5398, 103d Cong. 2d Sess., Mar. 17, 1994.

19. Thomas S. Foley (Wash.).

ence, followed by a possible vote on that motion. And finally, we have up to 1 hour of debate on the motion to instruct conferees to agree to the Hatch amendment providing protection to places of worship. I strongly support the Hatch amendment, and there may be a vote on the motion to instruct conferees. I hope my explanation clears up any existing questions or confusion about this rule, and I am strongly opposed to this bill. . . .

MS. [LOUISE M.] SLAUGHTER [of New York]: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a simple housekeeping procedure to get to conference. It is not an unusual device or a closed rule. We have considered rules to hook up with a Senate bill and go to conference 19 times in the 102d Congress and several times already in this Congress, as recently as last month on the Independent Counsel bill. . . .

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Parliamentarian's Note: The waivers specified in the rule were designed to protect the Senate bill and the motion to amend with the text of the House bill from possible points of order under the Budget Act. Both the bill and the amendment provided for criminal penalties and there was some question whether increases in penalties should be scored as new budget authority. Points of order had been waived against such provisions on previous occasions.

Sending Bill to Conference and Waiving Points of Order Against Report

§ 26.16 In an effort to facilitate the passage of a House bill with Senate amendments before an impending adjournment, the House adopted a special order both sending the matter to conference and waiving the two-thirds requirement for same-day consideration of a subsequent rule providing for consideration of the conference report if filed later on that same legislative day.

Where it would be difficult either to get unanimous consent to send a bill to conference or to schedule a meeting of the appropriate legislative committee to authorize a motion to accomplish that result, the Committee on Rules may be called upon to expedite the process by a special order. Under the form of resolution utilized in this instance,[20] no motion to send the bill to conference was necessary from the floor since the

20. See 139 CONG. REC. 31810, 31814, 103d Cong. 1st Sess., Nov. 22, 1993.

adoption of the rule placed the matter in conference. A motion to instruct conferees was thus in order immediately after the adoption of the resolution, before the Speaker named conferees.

MR. [BUTLER] DERRICK [of South Carolina]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 322 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 322

Resolved, That upon the adoption of this resolution the House shall be considered to have taken the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm, with a Senate amendment thereto, from the Speaker's table, to have disagreed to the Senate amendment, and to have agreed to the request of the Senate for a conference thereon. The requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to a resolution reported on the legislative day of November 22, 1993, providing for the consideration or disposition of a conference report to accompany that bill.

THE SPEAKER PRO TEMPORE:[1] The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour. . . .

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

MR. [F. JAMES] SENSENBRENNER [Jr., of Wisconsin]: Mr. Speaker, I have a parliamentary inquiry.

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

MR. SENSENBRENNER: Does the gentleman from Texas [Mr. Brooks] have to make the motion to send the bill to conference provided for under this rule?

THE SPEAKER PRO TEMPORE: No, the adoption of the rule accomplishes that.

MR. SENSENBRENNER: I thank the Chair.

APPOINTMENT OF CONFEREES ON H.R. 1025

MR. SENSENBRENNER: Mr. Speaker, I offer a motion to instruct conferees.

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

The Clerk read as follows:

Mr. Sensenbrenner 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 bill, H.R. 1025, be instructed to accept section 302(d) of the Senate amendment, and subsection (i)(1)(A) of the matter proposed to be added by section 302(e) of the Senate amendment.

Special Orders Protecting Conference Reports Where Disagreements are Bundled Inside the Report

1. Thomas H. Andrews (Maine).

§ 26.17 In the 104th Congress, many of the conference reports on general appropriation bills were protected from points of order by privileged resolutions granting "blanket waivers," a necessity since amendments in disagreement were routinely brought back "inside the conference report" instead of being reported in disagreement for disposition by separate motions.

The standard form of the special orders reported from the Committee on Rules is set forth below.[2] By waiving "[a]ll points of order against the report and its consideration" items in the report containing legislative or unauthorized items in violation of Rule XX clause 2,[3] were protected. Matters included by the conferees which were beyond the differences committed to conference were also safe from attack under Rule XXVIII clause 3.[4] Reading was usually dispensed with so the report could be considered prior to the expiration of the three-day availability requirement in Rule XXVIII clause 2(c).[5]

WAIVING POINTS OF ORDER AGAINST FURTHER CONFERENCE REPORT ON H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

MS. [DEBORAH] PRYCE [of Ohio]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 253 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 253

Resolved, That upon adoption of this resolution it shall be in order to consider the further conference report to accompany the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

THE SPEAKER PRO TEMPORE:[6] The gentlewoman from Ohio [Ms. Pryce] is recognized for 1 hour.

MS. PRYCE: . . . The blanket waiver includes a waiver of clause 2 of rule XX as well as a waiver of clause 3 of rule XXVIII which permits the House to discuss provisions which may exceed the scope of differences between the House and Senate. Under the normal

2. See 141 CONG. REC. 32601, 104th Cong. 1st Sess., Nov. 15, 1995 (H. Res. 253).
3. *House Rules and Manual* § 829 (1997).
4. *Id.* at § 913a.
5. *Id.* at § 912d.
6. Dan Burton (Ind.).

rules of the House, we will have 1 hour of debate on the conference report itself in addition to the minority's customary right to offer a motion to recommit with or without instructions. . . .

Special Order Placing Before House a Corrected Version of a Conference Report Originally Filed With an Error

§ 26.18 Form of a special order vacating the filing and printing of a conference report on a preceding day, authorizing the refiling of the report in a corrected form as delineated in the resolution, accepting original signature sheets as valid for purposes of second report, waiving points of order against the report and its consideration, and permitting one motion to recommit without instructions.

House Resolution 272 in the 104th Congress provided for the consideration of a corrected version of a conference report on the bill H.R. 2491.

The resolution, a portion of the explanation of the special order by its proponent from the Committee on Rules, David Dreier, of California, and the filing of the corrected report are carried below.(7)

AUTHORIZING CORRECTION IN CONFERENCE REPORT AND WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

MR. DREIER: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 272 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 272

Resolved, That the proceedings of the legislative day of November 15, 1995, by which the conference report to accompany the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996 was presented to the House and ordered printed, are hereby vacated, to the end that the managers on the part of the House may immediately present the conference report in the form actually ordered reported to the House as a product of the meeting and signatures of the committee of conference and actually to be presented in the Senate, in pertinent corrected part as depicted in section 3 of this resolution. The existing signatures of the committee of conference shall remain valid as authorizing the presentation of the conference report to the House in corrected form.

SEC. 2. Upon adoption of this resolution it shall be in order to consider the conference report presented to the House pursuant to the first

7. See 141 CONG. REC. 33741, 104th Cong. 1st Sess., Nov. 17, 1995.

section of this resolution. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. After such debate the previous question shall be considered as ordered on the conference report to final adoption without intervening motion except one motion to recommit, which may not contain instructions and on which the previous question shall be considered as ordered. After disposition of the conference report, no further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

SEC. 3. The correction described in section 2 of this resolution is to insert between subtitles J and L of title XII a subtitle K (as depicted in the table of contents) as follows:

"Subtitle K—Miscellaneous

"SEC. 13101. FOOD STAMP ELIGIBILITY.

"Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by striking the third sentence and inserting the following: 'The State agency shall, at its option, consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or such income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which such individual is a member.'

"SEC. 13102. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.

"Section 2003(c) of the Social Security Act (42 U.S.C. 1397b) is amended—

"(1) by striking 'and' at the end of paragraph (4); and

"(2) by striking paragraph (5) and inserting the following:

'(5) $2,800,000,000 for each of the fiscal years 1990 through 1996; and

'(6) $2,240,000,000 for each fiscal year after fiscal year 1996.' ".

THE SPEAKER PRO TEMPORE:[8] The gentleman from California [Mr. Dreier] is recognized for 1 hour. . . .

MR. DREIER: Mr. Speaker, due to a technical error committed during the filing of the conference report on H.R. 2491, this rule vacates the proceedings by which the conference report on H.R. 2491, the Seven-Year Balanced Budget Act, was filed. The rule authorizes the managers to immediately refile the report in the form actually signed and ordered reported, with the corrected part printed in section 3 of the rule. The rule further provides that the existing signatures of the conferees shall remain valid as authorizing the presentation of the conference report to the House in its corrected form.

The rule then provides for the consideration of the newly filed conference report to accompany H.R. 2491. The rule waives all points of order against the conference report and against its consideration. The rule provides for two hours of debate equally divided and controlled by the chairman and ranking member of the Budget Committee.

The rule provides for one motion to recommit the conference report which may not contain instructions. Finally, the rule provides that following disposition of the conference report, no fur-

8. Ray LaHood (Ill.).

ther action on the bill is in order except by subsequent order of the House. . . .

CONFERENCE REPORT ON H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. Kasich submitted the following conference report and statement on the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996:

(For conference report and statement see proceedings of the House of November 15, 1995, as corrected by the following:)

SEC. 3. The correction described in section 2 of this resolution is to insert between subtitles J and L of title XII a subtitle K (as depicted in the table of contents) as follows:

"Subtitle K—Miscellaneous

"SEC. 13101. FOOD STAMP ELIGIBILITY.

"Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by striking the third sentence and inserting the following: 'The State agency shall, at its option, consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or such income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which such individual is a member.'

"SEC. 13102. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.

"Section 2003(c) of the Social Security Act (42 U.S.C. 1397b) is amended—

"(1) by striking 'and' at the end of paragraph (4); and

"(2) by striking paragraph (5) and inserting the following:

'(5) $2,800,000,000 for each of the fiscal years 1990 through 1996; and

'(6) $2,240,000,000 for each fiscal year after fiscal year 1996.' ".

MR. [JOHN R.] KASICH [of Ohio]: Mr. Speaker, pursuant to House resolution 272, I call up the conference report on the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

The Clerk read the title of the bill.

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

Parliamentarian's Note: This special order, putting a corrected version of the conference report before the House, was possible since the original conference report had not been filed in the Senate. The other parliamentary steps which might have been used to correct the error in the report—to call up the original report and then recommit it to conference or to call up the original report and then have a concurrent resolution correcting the enrollment—would have been more cumbersome and would have involved more procedural steps than the method utilized here.

While Rule XI clause 4(b)[9] precludes a special order from preventing a motion to recommit under Rule XVI clause 4[10] with instructions (if offered by the Minority Leader or his designee), that restriction on the authority of the Committee on Rules does not cover a conference report where the motion to commit or recommit is made pursuant to Rule XVII clause 1[11] and not Rule XVI.

Special Rule Waiving Three-fifths Vote Requirement on Tax Increase

§ 26.19 A special rule waiving points of order against a conference report on a budget reconciliation bill may also waive the applicability of Rule XXI clause 5(c),[12] requiring a three-fifths vote on any measure carrying an income tax increase.

The Committee on Rules, in reporting H. Res. 495, waiving points of order against the conference report on the bill H.R. 3734, the Welfare and Medicaid Reform Act of 1996, included the waiver of the super-majority vote in Rule XXI out of caution. No income tax rate increase was noted in the measure but because of the complicated legislation involved and the ambiguity of the rule, the waiver was thought prudent. The relevant proceedings of July 31, 1996,[13] are carried below.

CONFERENCE REPORT ON H.R. 3734, PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Mr. Solomon, from the Committee on Rules, submitted a privileged report (Rept. No. 104–729) on the resolution (H. Res. 495) waiving points of order against the conference report to accompany the bill (H.R. 3734) to provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997, which was referred to the House Calendar and ordered to be printed.

MR. [GERALD B. H.] SOLOMON [of New York]: Mr. Speaker, I call up the resolution (H. Res. 495) waiving points of order against the conference report to accompany the bill (H.R. 3734) to provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997 and ask for its immediate consideration.

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9. *House Rules and Manual* § 729a (1997).

10. *Id.* at § 782.

11. *Id.* at § 804.

12. *House Rules and Manual* § 846c (1997).

13. 142 CONG. REC. 20697, 104th Cong. 2d Sess.

The Clerk read the resolution, as follows:

H. RES. 495

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3734) to provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The yeas and nays shall be considered as ordered on the question of adoption of the conference report and on any subsequent conference report or motion to dispose of an amendment between the houses on H.R. 3734. Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon.

THE SPEAKER PRO TEMPORE:(14) The gentleman from New York [Mr. Solomon] is recognized for 1 hour.

MR. SOLOMON: . . . Additionally, the rule provides that the conference report shall be considered as read. The rule also orders the yeas and nays on the adoption of the conference report and on any subsequent conference report or motion to dispose of an amendment between the Houses.

Finally, the rule provides that the provisions of clause 5(c) of rule XXI requiring a three-fifths vote on any income tax rate increase shall not apply to the bill, amendments thereto, or to the conference report thereon.

14. Joel Hefley (Colo.).

Waiving Points of Order Against Motions To Dispose of Amendments in Disagreement Reported From Conference Committee

§ 26.20 The House adopted a resolution waiving points of order against a conference report, and making in order motions to recede from disagreement to any Senate amendment (reported from this conference still in disagreement) and concur therein with amendments not otherwise in order.(15)

On Aug. 2, 1955,(16) the following occurred in the House:

Mr. [James W.] Trimble [of Arkansas], from the Committee on Rules, reported the following privileged resolution (H. Res. 337) which was referred to the House calendar and ordered to be printed:

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill H.R. 7117, making appropriations for the legislative branch for the fiscal year ending June 30, 1956, and for other purposes, and all

15. For a more detailed discussion of the unusual procedure utilized during the consideration of these amendments reported in disagreement, see § 29.38, infra.

16. 101 CONG. REC. 13051–56, 84th Cong. 1st Sess.

points of order against the conference report are hereby waived; that during the consideration of the amendments of the Senate to the bill H.R. 7117 reported from the conference committee in disagreement it shall be in order, notwithstanding any rule of the House to the contrary, to move that the House recede from its disagreement to any such amendment and concur therein with an amendment inserting in the proper place in the bill any or all of the parts of the provisions of the bill H.R. 7440 and any amendments thereto as agreed upon by the House conferees on the bill H.R. 7117. . . .

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

The resolution was agreed to.

Mr. [John J.] Rooney [of New York] submitted the following conference report and statement on the bill (H.R. 7117) making appropriations for the legislative branch for the fiscal year ending June 30, 1956, and for other purposes: . . .

MR. ROONEY: Mr. Speaker, I call up the conference report on the bill (H.R. 7117) making appropriations for the legislative branch for the fiscal year ending June 30, 1956, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House may be read in lieu of the report.

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

There was no objection.

The Clerk read the statement.

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

The conference report was agreed to.

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

After the Clerk read Senate amendment No. 52, Mr. Rooney offered the following motion:

Mr. Speaker, I move that the House recede and concur in the Senate amendment with an amendment. . . .

After the Clerk read Mr. Rooney's motion, Mr. Rooney explained,

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

THE SPEAKER: The question is on the motion.

The motion was agreed to.

A motion to reconsider was laid on the table.

§ 26.21 The House adopted a resolution waiving points of order against a conference report, and which made in order and waived points of order against a motion to be made by the chairman of the managers on the part of the House to recede from disagreement to a Senate amendment reported in disagree-

17. Sam Rayburn (Tex.).

ment and to concur therein with an amendment.[18]

On Dec. 24, 1963,[19] the following occurred in the House:

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I call up House Resolution 600 and ask for its immediate consideration.

THE SPEAKER:[20] The Clerk will report the resolution.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to consider without the intervention of any point of order the conference report on the bill (H.R. 9499) making appropriations for foreign aid and related agencies for the fiscal year ending June 30, 1964, and for other purposes, and that during the consideration of the amendment of the Senate numbered 20 to the bill, it shall be in order to consider, without the intervention of any point of order, a motion by the chairman of the managers on the part of the House to recede and concur in said Senate amendment numbered 20 with an amendment.

THE SPEAKER: The gentleman from Virginia [Mr. Smith] is recognized for 1 hour. . . .

MR. SMITH of Virginia: Mr. Speaker, I hope we may adopt this resolution unanimously and get through with this matter.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

Parliamentarian's Note: Since the motion that would be offered to recede and concur in the Senate amendment with an amendment would have been subject to a point of order on the grounds that the language proposed was legislation on an appropriation bill, the resolution was prepared to waive points of order against the motion.

Special Order Protecting Conference Report and Amendment in Disagreement

§ 26.22 The House adopted a resolution reported from the Committee on Rules, waiving points of order against a Senate amendment in disagreement (the conferees having reported in total disagreement) and against a motion to recede from disagreement and concur in the amendment with a further amendment.

On July 1, 1976,[1] Mr. Richard W. Bolling, of Missouri, from the

18. See also § 29.38, infra.
19. 109 CONG. REC. 25520, 25528, 88th Cong. 1st Sess.
20. John W. McCormack (Mass.).

1. 122 CONG. REC. 21829, 21830, 21832, 21834, 21835, 21840, 94th Cong. 2d Sess.

Committee on Rules, called up House Resolution 1393, waiving all points of order against a conference report, the Senate amendment in disagreement, and a motion to recede and concur therein with an amendment.

The conferees on the bill H.R. 12455, which amended title XX of the Social Security Act, had agreed informally on an agreement in conference which would have, if filed, been subject to a point of order as exceeding the scope of the matters committed to conference. The Senate amendment and the agreed upon motion to recede and concur were also vulnerable to points of order under the Congressional Budget Act. By waiving points of order against the conference report, the Senate amendment and the motion, the path was cleared to resolve the difference between the two Houses:

MR. BOLLING: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1393 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1393

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider, any rule of the House to the contrary notwithstanding, the conference report, the Senate amendments reported from conference in disagreement, and the motions to dispose of said Senate amendments, on the bill (H.R. 12455) to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV–A and VI of the Social Security Act, may continue to receive services under title XX of that Act without individual determinations, and all points of order against said motions to dispose of the Senate amendments reported from conference in disagreement are hereby waived.

THE SPEAKER:[2] The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour. . . .

So the resolution was agreed to. . . .

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, pursuant to House Resolution 1393, I call up the conference report on the bill (H.R. 12455) to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV–A and VI of the Social Security Act, may continue to receive services under title XX of that act without individual determinations, and ask for its immediate consideration.

The Clerk read the title of the bill.

THE SPEAKER: The Clerk will read the conference report. . . .

The Chair lays before the House the Senate amendments, which the Clerk will read.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That (a)(1) section 2002(a) of the Social Security Act is amended by

2. Carl Albert (Okla.).

striking out paragraphs (4), (5), and (6) thereof.

(2) The amendments made by paragraph (1) shall be effective on and after October 1, 1975. . . .

MOTION OFFERED BY MR. CORMAN

MR. [JAMES C.] CORMAN [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Corman moves that the House recede from its disagreement to the amendment of the Senate to the text of the bill, and concur therein with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That (a) section 2002(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph: . . .

THE SPEAKER: The gentleman from California (Mr. Corman) will be recognized for 30 minutes and the gentleman from Michigan (Mr. Vander Jagt) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. Corman). . . .

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. CORMAN

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

The Clerk read as follows:

Mr. Corman moves that the House recede from its disagreement to the Senate amendment to the title of the bill and concur therein.

The motion was agreed to.

A motion to reconsider was laid on the table.

Form of Resolution Protecting Motions To Dispose of Certain Amendments in Disagreement

§ 26.23 Form of resolution waiving points of order against a conference report which had not been printed in the Record for the three days required by the rule, and protecting certain motions (printed in the statement of the managers) to dispose of certain Senate amendments reported in disagreement which would be subject to a point of order under Rule XVI clause 7, as not germane to the Senate amendment, if not protected.

The special order noted here was adopted by the House on Nov. 14, 1989.[3] The specific waivers against the motions to dispose of some of the amendments in disagreement were included in the rule at the request of the Committee on Appropriations.

3. 135 CONG. REC. 28738, 101st Cong. 1st Sess.

CONFERENCE REPORT ON H.R. 2939, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1990

MS. [LOUISE MCINTOSH] SLAUGHTER of New York: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 288 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 288

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2939) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes, and all points of order against consideration of the conference report for failure to comply with the provisions of clause 2 of rule XXVIII are hereby waived. All points of order against the motions printed in the joint statement of the managers to dispose of Senate amendments numbered 22, 23, 44, 69, 122, 201, 289, and 295 for failure to comply with the provisions of clause 7 of rule XVI are hereby waived.

Special Orders Related to Budget Resolutions

§ 26.24 While a conference report on a concurrent resolution on the budget is privileged for consideration under the Budget Act,[4] special orders are often used to expedite consideration, to curtail and apportion the debate time, to waive points of order, and to defuse the provisions of the rule[5] which automatically creates a debt limit, to have passed the House.

House Resolution 418, governing the consideration of the conference report on the concurrent resolution on the budget for fiscal years 1995–99, is more or less typical of several which have been used to protect such conference reports.[6]

CONFERENCE REPORT ON H. CON. RES. 218, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1995

MR. [ANTHONY C.] BEILENSON [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 418 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 418

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to ac-

4. § 305(a); *House Rules and Manual* § 1007 (1997).
5. Rule XLIX, *House Rules and Manual* § 945 (1997).
6. See 140 CONG. REC. 9411, 9412, 103d Cong. 2d Sess., May 5, 1994.

company the concurrent resolution (H. Con. Res. 218) setting forth the congressional budget for the United States Government for the fiscal years 1995, 1996, 1997, 1998, and 1999. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

SEC. 2. Rule XLIX shall not apply with respect to the adoption by the Congress of the conference report to accompany the concurrent resolution (H. Con. Res. 218) setting forth the congressional budget for the United States Government for the fiscal years 1995, 1996, 1997, 1998, and 1999.

MR. BEILENSON: . . . Mr. Speaker, at this point I do wish to advise the Members that the conference report was filed only yesterday and that it does, therefore, violate the 3-day layover requirement. The committee generally does not like waiving the 3-day layover rule. Members usually do need time to read the conference report to become fully informed about it. In this case, however, the Committee on Rules felt that there were simple and persuasive reasons to waive that particular requirement. First is that the broad outline of the conference committee agreement has been known, with the exception of some details about Senate budget rules, since Monday, and the change provided from the report originally passed in the House are relatively minor. But more important, if we do not take up the conference report today, we will not be able to take it up again until next Thursday. The Committee on Appropriations has been waiting on the budget appropriation to make their allocation and be able, therefore, to begin moving on their bills and another week's delay would push the appropriations bill past the Memorial Day recess.

Therefore, we felt that there was substantial and good reason to waive that particular layover rule for that particular reason.

The rule before the Members also provides that rule XLIX will not apply upon adoption of the conference report. House rule XLIX provides for the automatic adoption by the House of a joint resolution changing the statutory limit on the public debt to conform to amounts in the budget resolution.

Special Order Addressing Conference Report and Remaining Amendment in Disagreement

§ 26.25 Form of special order waiving all points of order against a conference report and its consideration, as well as against a specified motion to recede and concur, with amendment, in the only Senate amendment remaining in disagreement outside of the conference report, providing for one hour of debate on the motion, ordering the previous question thereon, and prohibiting any intervening

motion or demand for division of the question.

The motion to recede and concur protected by this special order was set forth in the report of the Committee on Rules accompanying the resolution. It could only be offered by the chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations, Porter J. Goss, of Forida.(7)

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

MR. GOSS: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 249 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 249

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. The motion printed in the report of the Committee on Rules accompanying this resolution to dispose of the amendment of the Senate numbered 115 may be offered only by Representative Callahan of Alabama or his designee. That motion shall be considered as read and shall be debatable for one hour equally divided and controlled by the proponent and an opponent. All points of order against that motion are waived. The previous question shall be considered as ordered on that motion to final adoption without intervening motion or demand for division of the question.

Special Order Making in Order One Motion To Adopt Conference Report and To Dispose of Remaining Disagreement

§ 26.26 Example of a special order protecting a conference report, waiving all points of order against the report and its consideration, and then "self-executing" the adoption of a motion to disagree with the only Senate amendment in disagreement remaining outside the conference agreement.

The special order was designed to bring to a final conclusion the dispute over an item in H.R. 2020, Treasury and postal appropriations for fiscal year 1996. The conferees had reached agreement on all the amendments in disagreement and had placed them inside the conference report, thus necessitating a special order protecting the conference report from

7. See 141 CONG. REC. 30973, 104th Cong. 1st Sess., Oct. 31, 1995.

challenge under Rule XX clause 2,[8] (legislative provision and unauthorized items of appropriation) and Rule XXVIII clause 3,[9] provisions going beyond the scope of difference committed to conference. The one remaining amendment in disagreement dealt with a restriction on the use of federal grant funds for political advocacy. Since both Houses had provisions on this topic that were irreconcilable, the special order provided that if the conference report were adopted, the House would automatically inform the Senate of its disagreement to this controversial amendment.

The rule and a portion of the debate are carried here.[10]

MR. [LINCOLN] DIAZ-BALART [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 267 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 267

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2020) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. If the conference report is adopted, then a motion that the House insist on its disagreement to the amendment of the Senate numbered 132 shall be considered as adopted.

MR. DIAZ-BALART: Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. Beilenson], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only. . . .

The rule waives points of order against the conference agreement and its consideration. In addition, the rule disposes of the amendment in disagreement by including a provision which considers the House's insistence on its disagreement to the amendment of the Senate, numbered 132, as adopted with the conference report's adoption. In other words, to demonstrate the resolve of the House, the rule self-executes out the amendment in disagreement so that the conference report can be passed expeditiously by both Chambers and sent to the President without further delay.

The amendment in disagreement concerned language prohibiting the use of funds for political advocacy by certain Federal grant recipients, and the conferees were unable to decide on advocacy language between Senator Simpson's version and Congressman Istook's proposed compromise. The

8. *House Rules and Manual* § 829 (1997).
9. *Id.* at § 913a.
10. 141 CONG. REC. 32583, 32584, 104th Cong. 1st Sess., Nov. 15, 1995.

President has indicated that a veto would be likely if this political advocacy language were to be included with the Treasury, Postal bill, and, in a spirit of compromise and in order to get this bill signed as soon as possible, without risking another trip back from the Senate in the interim, this lone amendment in disagreement is disposed of in the rule.

Effect of Suspension of the Rules on Points of Order

§ 26.27 Points of order may not be raised against a conference report which is being considered under a motion to suspend the rules.

On Aug. 20, 1937,[11] Mr. Marvin Jones, of Texas, called up the conference report on H.R. 7667, the Sugar Act of 1937, and asked unanimous consent that the statement of the managers be read in lieu of the report. Mr. Millard F. Caldwell, of Florida, was then recognized:

> Mr. Speaker, I reserve the right to object in order to make a point of order against the conference report. I have no objection to the statement being read in lieu of the report, but I do not want to lose the opportunity to make the point of order to the report.
>
> MR. JONES: Mr. Speaker, in order to save time I move to suspend the rules and adopt the conference report on the bill H.R. 7667, the sugar bill of 1937.
>
> THE SPEAKER:[12] The gentleman from Texas moves to suspend the rules and adopt the conference report, which the Clerk will report. . . .

After the Clerk read the report, the Speaker again recognized Mr. Caldwell:

> Mr. Speaker, as I stated, I don't want to waive any rights that I have to make a point of order on the conference report.
>
> MR. JONES: If the House agrees to suspend the rules, that suspends all rules and does away with points of order.
>
> MR. CALDWELL: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. CALDWELL: Am I to understand that if the rules are suspended the point of order will not lie to the conference report?
>
> THE SPEAKER: A motion to suspend the rules, if agreed to, suspends all rules. It must be adopted by a two-thirds vote. That would include a point of order against the conference report.
>
> MR. CALDWELL: Then, Mr. Speaker, if this report actually exceeds the authority of the conferees by including matters neither in the House nor the Senate bill, am I given to understand that the suspending of the rules will prevent the making of a point of order on that account?
>
> THE SPEAKER: The motion to suspend the rules, if adopted by a two-thirds

11. 81 CONG. REC. 9463–69, 75th Cong. 1st Sess.

12. William B. Bankhead (Ala.).

vote, waives the right of any Member to make a point of order against the conference report. . . .

After 40 minutes of debate had transpired on the motion to suspend the rules and adopt the conference report, the proceedings concluded with the following:

The House divided and there were—ayes 198, noes 23.

So, two-thirds having voted in favor thereof, the rules were suspended and the conference report was agreed to.

Use of Suspension Motion To Consider Conference Report Previously Ruled Out on Point of Order

§ 26.28 Instance where the Speaker recognized a Member to move to suspend the rules and agree to a conference report which had been ruled out on a point of order because the managers had included a provision which was beyond the scope of the matter in disagreement in violation of Rule XXVIII clause 3.

On Dec. 20, 1974,[13] the House rejected a motion to suspend the rules and agree to a conference report, two-thirds not supporting the motion.

MR. [LLOYD] MEEDS [of Washington]: Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 620) to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs and for other purposes.

The Clerk read the title of the bill.

THE SPEAKER:[14] Is a second demanded?

MR. [DON] YOUNG of Alaska: Mr. Speaker, I demand a second.

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

There was no objection.

(For conference report and statement, see proceedings of the House of December 7, 1974.)

THE SPEAKER: The gentleman from Washington (Mr. Meeds) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. Young) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Washington (Mr. Meeds).

MR. MEEDS: Mr. Speaker, first of all I apologize for taking the time of the Members at this late hour, but this bill was knocked out just a little while ago as a conference report on a very technical little matter, and I think the House should have the opportunity to consider it on its merits. The purpose of this legislation is to provide for an Assistant Secretary of the Interior for Indian Affairs . . . .

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13. 120 CONG. REC. 41860, 41861, 93d Cong. 2d Sess.

14. Carl Albert (Okla.).

THE SPEAKER: The question is on the motion offered by the gentleman from Washington (Mr. Meeds) to suspend the rules and agree to the conference report on the bill H.R. 620.

The question was taken.

MR. MEEDS: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken by electronic device, and there were—yeas 109, nays 132, not voting 193.

§ 27. Time for Consideration; the Three-day Rule

Prior to the 92d Congress, a conference report was eligible for consideration once it and the accompanying statement of the managers had been printed in the *Congressional Record*. As a practical matter this meant that a conference report could not be considered until the day after it had been filed, since the daily edition of the *Congressional Record* for a particular day is not printed and published until the following day. This restriction was not in effect during the last six days of a session.[15]

The Legislative Reorganization Act of 1970 amended the rules of the House in this regard and imposed a three-day layover period before conference reports could be considered in the House. This qualification of the privilege of considering conference reports is inapplicable during the last six days of a session.[16] This provision was perfected late in the 92d Congress to clarify the method for calculating the three-day period.[17] However, this three-day layover requirement is often waived by the House, either by a suspension of the rules,[18] by unanimous consent,[19] or pursuant to a resolution reported by the Committee on Rules.[20] Such a waiver may provide for consideration on the day after the report is

15. Rule XXVIII clause 2, *House Rules and Manual* § 912 (1969).

16. 84 Stat. 1140, Pub. L. No. 91–510, § 125(b)(2) (Oct. 26, 1970), the provisions of which became part of the rules of the House pursuant to H. Res. 5, 92d Cong. 1st Sess. (Jan. 22, 1971); Rule XXVIII clause 2(a), *House Rules and Manual* § 912a (1997).

17. See § 27.1, infra, especially *Parliamentarian's Note.*

18. § 27.3, infra.

19. §§ 27.3, 27.4, 27.7–27.9, infra. See also §§ 22.2, 22.6, 22.7, 22.19, supra, for comparable precedents which predate the three-day rule.

20. §§ 27.5, 27.6, infra. See also §§ 22.8, 22.18, supra, for comparable precedents which predate the three-day rule.