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CONFERENCES AND CONFERENCE REPORTS

See also "Amendments Between Houses," pp. 126–143.

Conference committees are created by the two Houses of Congress to resolve the differences in the respective versions of any item of legislation which they both pass. This is made necessary because bills and resolutions on the same general subject, especially controversial ones, are regularly passed or adopted by the two bodies in different forms. Before any such single measure can become law, however, any differences in the two passed versions must be compromised. Both Houses must eventually pass every measure in an identical form before any such measure may be enrolled or become law.

The two Houses may first attempt to resolve their differences by considering amendments between the Houses. In this process one House can recede from its position and concur in the amendment or amendments of the other House, or it can recede from its position and concur in the amendment or amendments of the other House with further amendments of its own. The other House then must decide whether or not it will concur in any or all of these new amendments. Unless all differences between the two versions are eliminated, the measure cannot become law. Since this approach to eliminate any differences between the two Houses over proposed legislation is cumbersome, most controversial bills not passed in identical form in both Houses end up in conference.

When a bill or resolution which has been passed by one House is passed by the other House with amendment or amendments, the latter House messages that proposal back to the House of origin, informing that body that it has passed the bill with amendment or amendments, and its concurrence therein is requested. This is done on the assumption that the House of origin might accept the amendment or amendments added to the bill by the second House. If it does not accept them, it could disagree to the amendments and request a conference on the disagreeing votes of the two Houses and appoint conferees; a message would then be sent back to the other House, together with all the papers (that is the bill as passed by both Houses, and any messages from one House to the other), informing the other body of its action. The second House to pass the bill could then insist on its amendments and agree to the conference requested by the House of origin, and appoint its conferees.

The number of conferees from each House may vary usually from three to any larger number, and need not be the same number from each House since they do not vote as a body; to the contrary, the conferees from each House vote as a unit as to what should be done about each amendment or each difference in the bill as passed by the two Houses.

The language of any measure which has been approved by both Houses is never in conference, nor may the conferees amend any part of a bill which has been approved by both Houses. All that goes to conference is the amendment or amendments in disagreement. Of course, if one House passes a bill and the other House passes the same bill after striking out all after the enacting clause and inserting new language in lieu thereof, all of both versions of the bill goes into conference in disagreement, and the conferees might agree on either version thereof, or write a third version. In this case there is only one amendment in conference, and the comprise reached by the conferees must embrace all of it, or none of it; they have no authority to report out of conference more than one amendment, or to write a conference report that contains their agreement on some of the issues in conference while reporting out other issues in "amendments in disagreement."

This situation is different when more than one amendment is sent to conference (as is usually the case with general appropriations bills). When this occurs, the conferees are free to include in their report their recommendations with respect to any or all of the amendments that had been sent to conference. They report in disagreement all those amendments which they did not include in their report. The Senate must vote on the conference report as a whole, since conference reports are never amendable. The amendments in disagreement are voted on after the disposition of the conference report.

The conferees usually make one of three types of recommendations concerning an amendment sent to conference. They may recommend that the amending House (usually the Senate in the case of appropriations bills) recede from its amendment, which restores the position of the House on that amendment (or removes that issue from the bill if the House had no language on the issue). They may recommend that the House recede from its disagreement to the amendment of the Senate, in which case the language contained in the Senate amendment is included in the conference report. Or the conferees may recommend that the House recede from its disagreement and concur in the amendment of the Senate with an amendment (a compromise amendment agreed upon by the conferees).

In theory, at any rate, the body agreeing to a conference acts first on the conference report and the body asking for the conference acts last. The reason being that the body agreeing to the conference must send the message back to the body asking for the conference, notifying it of that action. The body asking for the conference then takes the papers into conference. In conference, if a compromise is reached, the papers change hands and the conferees of the body agreeing to the conference take the papers, together with the conference report, back to their House where the first action on the conference report will be taken. Under any circumstances, the body acting on the conference report must be in possession of the papers.

In the Senate, a conference report may not be amended, but as indicated above, if more than one amendment has been sent to conference, the conferees may report in disagreement any of those amendments on which they cannot reach an accord, and after the conference report is disposed of the Senate may then proceed to dispose of the amendments reported in disagreement.

A conference report may not be recommitted by one House after it has been approved by the other House, since under the

precedents and practices the conferees are deemed to have been discharged when the conference report has been agreed to by one House. However, the second House may disagree to the report and ask for further conference.

Rule XXVIII

[Conference Committee; Reports; Open Meetings]

1. The presentation of reports of committees of conference shall always be in order when available on each Senator's desk, except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is voting, or ascertaining the presence of a quorum; and when received, the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

2. Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

3. (a) In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees, it shall be in order for the conferees to report a substitute on the same subject matter; but they may not include in the report matter not committed to them by either House. They may, however, include in their report in any such case matter which is a germane modification of subjects in disagreement.

(b) In any case in which the conferees violate subparagraph (a), the conference report shall be subject to a point of order.

4. Each report made by a committee of conference to the Senate shall be printed as a report of the Senate. As so printed, such report shall be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. Such statement shall be sufficiently detailed and explicit to inform the Senate as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or propositions relate.

5. If time for debate in the consideration of any report of a committee of conference upon the floor of the Senate is limited, the time allotted for debate shall be equally divided between the majority party and the minority party.

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

Amendments Acted on While Bill in Conference:

In 1916, while two bills were pending in conference, a motion was made and agreed to, no objection being made, that the Senate recede from its disagreement to the House amendments, and agree to the same, thereby concluding action on the bills.[1] Again on December 15, 1980, the Senate by unanimous consent further insisted on its amendment to a House amendment to a Senate amendment to a House joint resolution while that resolution was in conference.[2]

Amendments Between Houses:

See "Amendments Between Houses," pp. 126–143, particularly sections on "Concur," pp. 133–134; "Disagree," p. 137; "Insist," pp. 139–140; "Recede," pp. 141–142.

Amendments Not in Order:

A conference report, after it has been signed by the conferees and submitted to the Senate,[3] is not susceptible of amendment;[4] the question then put is on agreeing to the report, with the vote being taken on adoption of the report in its entirety.[5] A motion to agree to a conference report in part,[6] or insofar as certain amendments are concerned,[7] is not in order. A demand for a separate vote on an amendment embraced in a conference report is not in order.[8]

A motion to disagree to certain amendments embraced in a conference report and to instruct conferees relative thereto is not in order.[9]

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[1] July 3 and 15, 1916, 64–1, *Journal*, p. 479, *Record*, pp. 10409, 11123.

[2] Dec. 15, 1980, 96–2, *Record*, p. 34221.

[3] Mar. 3, 1899, 55–3, *Record*, p. 2779.

[4] July 10, 1888, 50–1, *Record*, p. 6066; Mar. 3, 1899, 55–3, *Record*, p. 2779; June 28, 1939, 76–1, *Record*, p. 8060; Feb. 24, 1927, 69–2, *Record*, p. 4668; May 29, 1924, 68–1, *Record*, p. 9855; June 29, 1916, 64–1, *Record*, p. 10221; *see* June 3, 1947, 80–1, *Record*, p. 6243; Aug. 1, 1955, 84–1, *Record*, p. 12610; June 28, 1939, 76–1, *Record*, p. 8060.

[5] Mar. 3, 1885, 48–2, *Journal*, p. 487, *Record*, pp. 2501–02; July 10, 1888, 50–1, *Record*, p. 6066; July 24, 1914, 63–2, *Record*, pp. 12606–09; June 29, 1916, 64–1, *Record*, p. 10221; Feb. 24, 1917, 64–2, *Record*, p. 4096; May 29, 1924, 68–1, *Record*, p. 9855; Feb. 24, 1927, 69–2, *Record*, p. 4668; Dec. 20, 1930, 71–3, *Record*, p, 1244.

[6] Feb. 24, 1917, 64–2, *Record*, p. 4096.

[7] For House precedent on, *see* Aug. 22, 1940, 76–3, *Record*, p. 10763.

[8] Mar. 3, 1885, 48–2, *Journal*, p. 487, *Record*, pp. 2501–02; Dec. 20,1930, 71–3, *Record*, p. 1244.

[9] July 24, 1914, 63–2, *Record*, pp. 12606, 12609.

Amendments, Point of Order Against Language Previously Agreed to by the Senate:

A point of order may lie against an amendment (to a House amendment) on the grounds that it violates section 311 of the Budget Act of 1974 even though the identical language had been agreed to during the consideration of that measure before it was sent to conference.[10]

Amendments Reported in Disagreement:

For details see "Amendments Reported in Disagreement by Conferees," pp. 131–133; "Concur," pp. 133–134; "Amendments Reported in Disagreement," p. 469.

After a conference report has been agreed to, if there are any amendments reported by the conferees in disagreement, the Chair lays them before the Senate for action.[11]

Amendments reported in disagreement by conferees are acted on after the adoption of the conference report, the question of agreeing to the report having precedence over motions relating to amendments upon which the conferees had not agreed.[12] The Senate should first take action upon agreeing to the conference report and thereafter take action with reference to the amendments still in disagreement.[13] The adoption of the report will not prevent separate votes on House amendments reported in disagreement.[14]

Amendments reported in disagreement by the conferees and concurred in with a House amendment or reported in disagreement without action may be insisted on by the Senate, after rejection of the House amendment.[15]

In order to secure further consideration of a Senate amendment to a House bill which had been dropped by the conferees from its conference report thereon, it would first be necessary for the Senate to reject the report and ask for a further conference, the report already having been previously adopted by the House.

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[10] March 22, 1983, 98–1, *Record*, p. 6628.
[11] *See* Oct. 17, 1972, 92–2, *Record*, p. 36848.
[12] July 24, 1914, 63–2, *Record*, pp. 12606–09; Feb. 25, 1885, 48–2, *Record*, p. 2119; *see* also Sept. 19, 1962, 87–2, *Record*, pp. 19913–14.
[13] *See* July 30, 1959, 86–1, *Record*, pp. 14698–99.
[14] *See* Sept. 19, 1962, 87–2, *Record*, pp. 19913–14.
[15] Sept, 29, 1966, 89–2, *Record*, pp. 24403–04.

A motion for a further conference would then be in order and, if agreed to, the conferees, prior to their appointment, could be instructed to insist upon including in their report the provisions of such amendment.[16]

A House amendment reported in disagreement by the conferees can be concurred in by the Senate with an amendment.[17]

The Senate may not recede from one of its amendments, reported in disagreement, with an amendment.[18]

If a bill is sent back to conference after the first report is agreed to, anything agreed to in the first conference report does not go back to conference; the only matters that would go back to conference would be the amendments reported in disagreement upon which the two Houses could not agree.[19]

All matters reported in disagreement must be disposed of by both Houses before the bill goes to the President.[20]

If the Senate refuses to concur in a House amendment to a Senate amendment reported in disagreement, the amendment would still remain in disagreement for the House to recede from its amendment and concur in the Senate amendment or ask for further conference thereon.[21]

After the adoption of a conference report, an amendment upon which the conferees had reported in disagreement is not subject to a point of order that the conferees had exceeded their authority with respect thereto, but is before the Senate for its consideration.[22]

Appointment of Conferees:

Appointment by Chair Under Order of Senate:

See also "Division of Pending Question," pp. 807–812.

A motion to disagree to the amendments of the House, ask for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate, is divisible; and a motion relative to the appointment of conferees is debatable.[23]

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[16] *See* Sept. 22, 1961, 87–1, *Record*, p. 20773.
[17] *See* Oct. 17, 1972, 92–2, *Record*, p. 36848.
[18] *See* Oct. 9, 1968, 90–2, *Record*, pp. 30188–89.
[19] *Ibid.*
[20] *Ibid.*
[21] *Ibid.*
[22] *See* June 10, 1938, 75–3, *Record*, p. 8769.
[23] June 18, 1968, 90–2, *Record*, pp. 17618–24.

The Senate itself may elect conferees by adopting a motion to that effect.[24]

The Chair in 1964 on one occasion informed the Senate that he did not appoint conferees under any rule of the Senate, but that he made such appointments only when the Senate authorized him to do so.[25]

It is the universal practice in the appointment of conferees for the Presiding Officer to name the Senators suggested to him by the Member in charge of the particular bill,[26] the Senate already having agreed to an order in each instance, as follows:

"*Resolved*, That the Senate insist upon its amendments to the said bill, ask a conference with the House of Representatives thereon, and that the conferees on the part of the Senate be appointed by the Chair."

or

"*Resolved*, That the Senate disagree to the amendments of the House to the said bill, agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and that the conferees on the part of the Senate be appointed by the Chair."

In 1935, however, Vice President Garner announced that when he was authorized by the Senate to appoint conferees on a bill, it would thereafter be his policy to exercise some discretion in their selection.[27]

A motion to disagree and ask a conference, and authorize the appointment of conferees by the Presiding Officer may be divided upon demand.[28]

A request that the Chair be authorized to appoint conferees on the part of the Senate, if agreed to, permits the Chair to appoint different Senators for the consideration of different parts of the matters in conference.[29]

On one occasion, the Chair used the authority given to it by the Senate to appoint conferees from several committees and to place conditions on their authority.[30]

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[24] *Ibid.*

[25] *See* Sept. 15, 1964, 88-2, *Record*, pp. 22104-06.

[26] June 5, 1933, 73-1, *Record*, p. 4965; Feb. 27, 1883, 47-2, *Record*, pp. 3328-34; Mar. 22 and 23, 1906, 59-1, *Journal*, pp. 321, 323, *Record*, pp. 4114, 4155; Feb. 18, 20, 24, and 25, 1905, 58-3, *Record*, pp. 2812-15, 2895-98, 3245, 3359; Oct. 7, 1970, 91-2, *Record*, pp. 35561-62; *See* Sept. 15, 1964, 88-2, *Record*, pp. 22104-06.

[27] Apr. 9, 1935, 74-1, *Record*, pp. 5296-98; July 10, 1935, 74-1, *Journal*, p. 507, *Record*, p. 10917; July 12, 1935, 74-1, *Record*, pp. 11091-92.

[28] Oct. 22, 1945, 79-1, *Record*, pp. 9880-81; *see also* July 2, 1960, 86-2, *Record*, pp. 15639-40.

[29] Apr. 29, 1981, 97-1, *Record*, p. 7689.

[30] July 28, 1982, 97-2, *Record*, p. 18253.

On one occasion the Chair appointed conferees some time after having been granted authority to do so.[31]

Authority of Appointment in Senate—Not in Chair:

The Presiding Officer unless authorized by the Senate has no power to appoint conferees.[32]

Under Rule XXIV, "the Senate may elect its conferees, if it sees fit to do so. The Senate has a right to elect its own conferees. A motion to elect certain conferees is amendable by substituting other conferees." [33]

Conferees Represent Senate and Not Committee Only:

"It is also almost the invariable practice to select managers from the members of the committee which considered the bill * * *. But sometimes in order to give representation to a strong or prevailing sentiment in the House the Speaker goes outside the ranks of the committee.[34] * * *"

In one instance in 1956, after the passage by the Senate, with amendments of a House bill, providing, in Title I, for the construction of highways, and, in Title II, increasing certain excise taxes as a means of their financing, conferees from different committees were appointed on the respective titles.[35]

The conferees in theory are appointed by the Presiding Officer but in fact are designated by friends of the measure,[36] who are in sympathy with the prevailing view of the Senate,[37] and with consideration for the usual party ratio.[38] And the Senate, on motion, may elect its conferees as it sees fit.[39]

In order to obtain the appointment of certain conferees on the Muscle Shoals Bill in 1925 favorable to the position of the Senate, members of the committee senior in rank were successively elected and excused by unanimous con-

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[31] Sept. 12, 1986, 99-2, *Record*, p. 23090.

[32] Feb. 27, 1883, 47-2, *Record*, pp. 3328-34; Oct. 7, 1970, 91-2, *Record* pp. 35561-62; *see also* footnote 28 above.

[33] *See* May 2, 1964, 88-2, *Record*, pp. 9849-50; Apr. 5, 1950, 81-2, *Record*, pp. 4802-03.

[34] *Senate Manual*, "Cleaves' Manual of the Law and Practice in Regard to, Conferences and Conference Reports," p. 181 of 96th Congress.

[35] May 29, 1956, 84-2, *Record*, p. 9250.

[36] Aug. 3, 1888, 50-1, *Record*, p. 7223.

[37] Mar. 22 and 23, 1906, 59-1, *Journal*, pp. 321, 323, *Record*, pp. 4114, 4155; Apr. 7 and 8, 1952, 82-2, *Record*, pp. 3580, 3678-79; *see* Apr. 5, 1950, 81-2, *Record*, pp. 4802-03.

[38] Feb. 10, 1944, 78-2, *Record*, pp. 1518-23; June 29, 1943, 78-1, *Record*, p. 6722.

[39] Apr. 5, 1950, 81-2, *Record*, pp. 4802-03.

sent until the desired conferees were reached in the order of their seniority.[40]

In 1952, a motion to reconsider was entered for the purpose of securing the appointment of a majority of conferees favorable to the provisions of the bill as passed by the Senate.[41]

Senators not members of the committee which reported a bill have been appointed as conferees thereon.[42]

Debate of Appointment:

A motion to appoint by the Chair or to elect conferees is debatable.[43]

Discharge of Conferees:

A concurrent resolution would be required to discharge the conferees of both Houses.[44]

House Notified of Appointments and Changes Therein:

Not only is a message sent to the House informing that body of Senate action on agreeing to a conference or asking for a conference and the appointment of conferees, but it is the practice of the two Houses to notify each other when changes are made in the membership of their respective conferees.[45]

Number To Be Appointed:

There is no rule which limits the number of conferees to be appointed by either House.[46] While the usual number of conferees on a bill is three, the Senate may authorize the appointment of any number it sees fit.[47] It is common for the Senate to appoint more than three conferees on the part of the Senate.[48] In 1913, nine were appointed on

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[40] Jan. 28, 1925, 68-2, *Journal*, pp. 120-21, *Record*, pp. 2552-63.

[41] Apr. 7 and 8, 1952, 82-2, *Record*, pp. 3580, 3678-79.

[42] May 28, 1896, 54-1, *Record*, p. 5857; *See also*, proceedings on S. 1081 for Sept. 5., 1973 and Sept. 12, 1973, 93-1, *Journal*, pp. 801, 833.

[43] *See* May 2, 1964, 88-2, *Record*, pp. 9849-50.

[44] *See* Aug. 17, 1959, 86-1, *Record*, pp. 15951-62.

[45] May 14, 1900, 56-1, *Journal*, p. 354, *Record*, p. 5223; May 16, 1900, 56-1, *Journal*, p. 364, *Record*, pp. 5601, 5668; May 29, 1906, 59-1, *Journal*, p. 545, *Record*, pp. 7591, 7627.

[46] Mar. 2, 1903, 57-2, *Record*, p. 2868. *See* practice in appointment of conferees on general appropriation bill for 1951. *See* H.R. 7786; Aug. 8, 1950, 81-2, *Record*, pp. 11949-50; Aug. 4, and 7, 1950, 81-2, *Record*, pp. 11894-95. Note also proceedings of Senate for May 14, 1900, 56-1, *Journal*, p. 354; May 16 and 17, 1900, 56-1, *Journal*, p. 364; and May 29, 1906, 59-1, *Journal*, p. 545.

[47] Feb. 27, 1883, 47-2, *Record*, pp. 3328-34.

[48] Sept. 10, 1890, 51-2, *Journal*, p. 515; July 7, 1897, 55-1, *Journal*, p. 150; June 27, 1902, 57-1, *Journal*, pp. 529, 533.

the Federal Reserve Bank Bill.[49] In one instance the entire subcommittee of the Committee on Appropriations was appointed as conferees on a bill.[50]

In 1950, both Houses passed a so-called "one package" general appropriation bill for 1951, and each House, in naming conferees thereon, named a separate set of them for each chapter, of which there were nine.[51]

Additional conferees on the part of the Senate on particular bills, including "ex officio conferees" in addition to the conferees already appointed, have been appointed subsequent to sending the bill to conference and the appointment of the conferees.[52]

Recess Appointments:

Under order of the Senate, appointments of conferees have been made during a recess of the Senate [53] and the announcement of the appointment was made at a subsequent date.[54]

Resignation or Declination To Serve:

Senators have declined to serve as conferees in some instances because they were not in sympathy with the provisions of bills as passed by the Senate [55] or, after a conference report was rejected, a Senator declined to serve on a second conference committee because of views not in harmony with the action of the Senate.[56]

Conferees have resigned because they were not in sympathy with the action of the Senate on the bill or opposed to the bill in question.[57]

Second Conference:

If and when a motion that the Senate further insist on its amendments in disagreement and ask for another con-

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[49] Dec. 19, 1913, 63-2, *Record*, p. 1230.
[50] Apr. 7, 1942, 77-2, *Record*, pp. 3405, 3410.
[51] Aug. 4, 7, and 8, 1950, 81-2, *Record*, pp. 11894-95, 11949-50.
[52] Feb. 16 and 22, 1917, 64-2, *Journal*, pp. 159, 177, *Record*, pp. 3405, 3860; Feb. 24, 1925, 68-2, *Journal*, p. 228, *Record*, p. 4519; Sept. 7 and 12, 1973, 93-1, *Record*, pp. 28875, 29476-77.
[53] Apr. 11, 1938, 75-3, *Journal*, p. 301, *Record*, p. 5224.
[54] Apr. 14, 1938, 75-3, *Journal*, p. 302, *Record*, p. 5375.
[55] Mar. 28, 1935, 74-1, *Record*, pp. 4615-16.
[56] Apr. 20, 1909, 61-1, *Record*, p. 1410; Jan. 28, 1925, 68-2, *Journal*, p. 120.
[57] Mar. 28, 1935, 74-1, *Record*, pp. 4615-16; Jan. 23, 1936, 74-2, *Journal*, p. 48, *Record*, p. 892.

ference is agreed to, the Senate has a right to appoint new conferees if it desires to do so.[58]

Serve Until Relieved:

A conferee having been appointed must serve unless he obtains leave of the Senate to be relieved.[59]

Subcommittee Members Handling Bill Appointed:

In the case of appropriation bills, it has been the uniform practice of the Senate, for members of the subcommittee of the Committee on Appropriations in charge of the particular bill to be appointed as the conferees thereon.[60]

Time of Appointing:

Under the practice of the Senate, the Chair regularly appoints the conferees as soon as the order of authority has been adopted, but on occasion several days have elapsed before they were designated.[61] In another instance, an order was made by the Senate for disagreement to any House amendments that might be made to a Senate bill and authorizing the appointment of conferees prior to its passage by the House. The order agreed to follows:

"*Ordered*, That notwithstanding the adjournment or recess of the Senate today, the Secretary of the Senate be, and he is hereby, authorized to receive a message from the House of Representatives on the bill (S. 1774) to promote the general welfare, national interest, and foreign policy of the United States by providing supplies to certain European countries on an emergency basis; that the Senate disagree to any amendment or amendments of the House to the said bill, and either ask for a conference or agree to a conference thereon, and that the President pro tempore be authorized to appoint the conferees on the part of the Senate."

The Chair may say there is ample precedent for action of this sort, the most recent precedent in the Senate being on April 11, 1938; there also being precedents in the House of Representatives on August 4, 1939, and September 19, 1940.[62]

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[58] *See* Sept. 19, 1962, 87-2, *Record*, pp. 19913-14.
[59] Dec. 20, 1969, 91-1, *Record*, pp. 40433-34.
[60] Aug. 3, 1888, 50-1, *Record*, p. 7223; Apr. 7, 1942, 77-2, *Record*, pp. 3405, 3410.
[61] Sept. 12, 1989, 101-1, *Record*, p. S 10964; Apr. 10, 1946, 79-2, *Record*, p. 3693.
[62] Dec. 10, 1947, 80-1, *Record*, p. 11233.

Authority and Jurisdiction of Conferees

All Appointed To Compromise Differences Between the Two Houses:

"Committees of conference are appointed for the sole purpose of compromising and adjusting the differing and conflicting opinions of the two Houses * * * and * * * the committees of conference alone can grant compromises and modify propositions of either House within the limits of the disagreement [63] * * *." Conferees are limited to the consideration of differences between the two Houses.[64]

"Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses." No matter on which there is nothing in either the Senate or House passed versions of a bill may be included in the conference report and actions to the contrary would subject the report to a point of order.[65]

Amendments and Scope of Compromise:

See also "Amendments Between Houses," pp. 126–143; "Points of Order Against a Conference Report," pp. 483–485.

In a case where two amounts are involved, they may oscillate between the two extremes, but cannot go below the lower amount nor above the higher amount.[66] If the Senate appropriated $500,000 for three years for scholarships in private higher educational institutions, the conferees have authority to agree upon an appropriation of $300,000 for three years.[67]

In the case of multiple amendments to a bill, the conferees are limited as to what they can do in the case of a Senate amendment to a House bill. In such case, if figures are involved in the Senate amendment only, the general rule is that the conferees could accept anything from nothing to the highest figure in the Senate amendment.[68] Note the ruling of the Chair in such an instance:

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[63] July 27, 1894, 53–2, *Journal*, p. 316.

[64] *See* Apr. 29, 1960, 86–2, *Record*, p. 8978.

[65] Rule XXVIII; *See* Dec. 3, 1980, 96–2, *Record* p. 31722; *see also* statement of Chair for Aug. 30, 1940, 76–3, *Journal*, pp. 623–35, *Record*, pp. 11275–84; Mar. 7, 1904, 58–2, *Record*, pp. 2931–32, 2994. Oct. 26, 1977, 95–1, *Record*, pp. 35154–56.

[66] For House precedents on, *See* Mar. 2, 1915, 63–3, *Record*, pp. 5201–08; Jan. 12, 1917, 64–2, *Record*, pp. 1291–94.

[67] *See* June 23, 1959, 86–1, *Record*, p. 11615.

[68] Nov. 12, 1971, 92–1, *Record*, p. 40907.

The PRESIDING OFFICER. The Chair would state to the Senator from Wyoming that the Chair is not concerned with effect. We are only interpreting form. Our understanding under the general rule is that if 6 percent is the triggering device, then the conferees are limited to from zero to 6 percent. If 4.5 percent is the triggering device, the conferees are limited to from zero to 4.5 percent.

Beyond the statement of those facts the Chair does not comment on the effect.

If House language is stricken out by a Senate amendment without inserting any provision in lieu thereof, the conferees, not being bound by any restrictive language on the part of the Senate, have wider power to deal with the provision and may authorize its restoration with any germane modification.[69]

If the Senate disagrees to House amendments and asks for a conference on a bill, the conferees would have no authority to consider matters not in disagreement.[70] Conferees, in the case of a House bill, exceed their authority by including in their report new matter not embraced in either the House bill or Senate amendments thereto.[71]

The Chair has stated in response to a parliamentary inquiry, that if a Senate amendment added language at the end of a House amendment to a Senate amendment to a bill, only the "new items" would be in conference (meaning the amendment that the Senate added).[72]

Amendments in Disagreement Sent to a Second Conference:

When a conference report is agreed to by both Houses and there are amendments in disagreement on which another conference is agreed to, only the amendments in disagreement go back to the second conference. The matters agreed to in the first conference report itself are out of the picture. The Senate does send a message embodying the report and papers back to the House to show Senate action, but the conference report itself having been agreed to by both Houses, is no longer open to further conference.[73]

If a conference report, which does not embrace all amendments in disagreement, is adopted by the two Houses, and a further conference on the amendments in disagreement is agreed to, the conferees, in the second

[69] June 29, 1943, 78-1, *Record*, pp. 6691-92.
[70] *See* Feb. 16, 1956, 84-2, *Record*, pp. 2668-69.
[71] Aug. 23, 1958, 85-2. *Record*, pp. 19568-70, 19574-76.
[72] *See* Nov. 16, 1989, 101-1, *Record*, pp. S 12856, 12859.
[73] *See* Oct. 12, 1979, 96-1; *Record*, pp. 28027-32.

report can only deal with those amendments not agreed to in the first report; they have no authority to consider the amendments disposed of in the first report.[74]

When a conference report is either recommitted or rejected and sent back to conference, all amendments go back for further conference.[75]

If a conference report has been rejected and a further conference has been ordered, the conferees have the same power they had in the first instance of considering all amendments in disagreement.[76]

Authorized To Consider Questions Not in Disagreement by Concurrent Resolution:

Both Houses, in 1892, adopted the following House concurrent resolution to authorize conferees on a bill (H.R. 7818) to consider questions not in disagreement between the two Houses:

Resolved by the House of Representatives (the Senate concurring), That the conferees on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7818) "to provide for certain of the most urgent deficiencies in the appropriation for the service of the Government for the fiscal year 1892, and for other purposes," be, and they are hereby, authorize to consider, and if they deem the same to be necessary, to embrace in their agreement an appropriation for fees of witnesses in United States courts.[77]

Language Approved by Both Houses Not Submitted to Conference:

"There is no doubt that it is the rule that the language which has been agreed upon by both bodies cannot be changed by conferees, and that if changed it is subject to a point of order, and that if the point of order is sustained the entire conference report falls." [78] The measure will thereby be recommitted to the committee of conference, if the House had not already agreed to the report.[79]

The text of a measure to which both Houses have agreed may not be changed except by unanimous consent of both Houses.[80]

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[74] *See* June 15, 1932, 72-1, *Record*, p. 13005; July 6, 1921, 67-1, *Record*, pp. 3365-66; Sept. 19, 1962, 87-2, *Record*, pp. 19913-14; Oct. 9, 1968, 90-2, *Record*, pp. 30188-89.
[75] *See* June 13, 1933, 73-1, *Record*, pp. 5889-90.
[76] *See* House precedent, Feb. 28, 1950, 81-2, *Record*, p. 2510.
[77] May 9, 1892, 52-1, *Journal*, p. 254.
[78] June 14, 1938, 75-3, *Record*, pp. 9217-20.
[79] Aug. 25, 1922, 67-2, *Journal*, p. 407, *Record*, p. 11766.
[80] July 27, 1866, 39-1, *Globe*, pp. 4225-26, 4267, *Journal*, p. 765; June 16, 1862, 37-2, *Journal*, pp. 651-52; June 17, 1862, 37-2, *Journal*, pp. 658-59.

Life of a Conference:

Powers of a conference committee which has not reported continue over a recess or adjournment within the same Congress.[81]

Substitute Versions:

Where one House strikes out all after the enacting clause of a bill as passed by the other and inserts a substitute, the conferees have wider latitude or wider scope for compromise in dealing with the matters in dispute, or the differences between the two passed versions, than in the case of amendments made to various sections; and they may make any germane modifications; [82] in such cases, they have the entire subject before them with little limitation placed on their discretion, except as to germaneness, and they may report any germane bill.[83]

All parts of either bill, when it is a strike out and insert, go into the conference in disagreement.[84]

When one House strikes out all after the enacting clause of a bill passed by the other House and that bill goes to conference, everything is in conference. The conferees may accept either passed version or they may write a new bill but no new non-germane matter may be put in the third bill. All provisions in the third bill must be germane to the provisions of one or the other passed bills.[85]

A point of order will not lie against such a report because matter contained in both passed versions of the measure were omitted,[86] particularly if such language is not identical.[87]

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[81] June 8, 1872, 42-3, *Globe*, pp. 396, 404, 608-09; Aug. 3, 1886, 49-1, *Record*, p. 8018; 49-2, *Record*, pp. 67-68.

[82] Dec. 20, 1969, 91-1, *Record*, pp. 40411-14; *see* June 4, 1947, 80-1, *Record*, pp. 6381-82; Aug. 12, 1940, 76-3, *Record*, pp. 10174-77; Sept. 30, 1942, 77-2, *Record*, p. 7626; Feb. 3, 1927, 69-2, *Journal*, pp. 138-39, *Record*, pp. 2877, 2880; June 5, 1934, 73-2, *Journal*, p. 499, *Record*, pp. 10489-94; *see* Dec. 10, 1970, 91-2, *Record*, p. 40876; July 17, 1978, 95-2, *Record*, p. 21124.

[83] Feb. 11, 1938, 75-3, *Record*, pp. 1818-22; Oct. 1 and 2, 1951, 82-1, *Record*, pp. 12427-30, 12469-83; June 2, 1950, 81-2, *Record*, pp. 7961, 7975-76; Mar. 29, 1949, 81-1, *Record*, pp. 3330-31, 3341; Aug. 30, 1940, 76-3, *Record*, pp. 11275-85, 11764-66; Feb. 10 and 11, 1938, 75-3, *Journal*, pp. 158-59, *Record*, pp. 1773-75, 1818-22; Aug. 6, 1935, 74-1, *Journal*, p. 575, *Record*, pp. 12545-50; July 22, 1935, 74-1, *Record*, p. 11523; June 5, 1934, 73-2, *Journal*, p. 499, *Record*, pp. 10489-94; Feb. 26, 1925, 68-2, *Journal*, p. 244, *Record*, p. 4698; Feb. 3, 1927, 69-2, *Journal*, p. 138, *Record*, pp. 2877-80; Feb. 8, 1927, 69-2, *Journal*, p. 156, *Record*, pp. 3258-62; Jan. 20, 1913, 62-3, *Record*, pp. 1763-79.

[84] *See* Mar. 4, 1968, 90-2, *Record*, p. 4559.

[85] *Ibid.*; Sept. 2, 1965, 89-1, *Record*, p. 22685.

[86] Feb. 8 and 9, 1927, 69-2, *Journal*, pp. 156, 159, *Record*, pp. 3258-62, 3336; Feb. 11, 1938, 75-3, *Journal*, pp. 158-62, *Record*, pp. 1772-73, 1818-22.

[87] Feb. 27, 1919, 65-3, *Record*, pp. 4412-13; Sept. 15, 1922, 67-2, *Journal*, p. 452, *Record*, pp. 12678-92.

But the conferees, even in the case of a substitute bill for the House-passed bill, may not substitute new matter—that is, matter not germane [88] In 1948, in ruling on a conference report on a bill to increase the permitted rate of allowance and compensation for training on the job under Veterans Regulation No. 1(a), the Chair placed restrictions on germaneness, stating that the provision of the rule authorizing conferees to include in their report matter which is a germane modification of subjects in disagreement was not applicable or pertinent in that case, "for the reason that the legislative provision inserted in the conference report, while germane to the general subject, was not contained in any form in either the Senate bill or the House substitute, and is therefore a matter not in disagreement between the two Houses.

"The conferees, in section 2 of their report, have inserted a provision amending paragraph 3 of part VII of said Veterans Regulation No. 1(a) as amended. Neither the Senate bill nor the House substitute amended any portion of part VII of such regulation." [89]

The Senate on December 20, 1969, voted that conferees had not exceeded their authority when the Senate report on a bill had anticipated a specific project but the bill itself, being general in nature, did not specify the said project which the conferees included in their conference report on a bill that was a complete substitute by one House for the passed language by the other House.[90]

Conferences

See also "Amendments Between Houses," pp. 126–143.

A Bill Is Sent to Conference:

After a bill passes the second House with an amendment a request for a conference is then in order by the House then in possession of the papers.

If the Senate passes a House bill with amendments and sends it back to the House, the Senate, if the bill were sent to conference, would properly act first on the conference report, but the House would not be precluded from con-

[88] Feb. 19, 1925, 68-2, *Journal*, pp. 210, 215–16, 220–21, 223–24, *Record*, pp. 4124–37, 4243–50, 4310–14, 4321–26, 4395–4403; Mar. 21, 1950, 81–2, *Record*, pp. 3705–07; Feb. 3, 8, and 9, 1927, 69–2, *Journal*, pp. 138, 156–59.

[89] Apr. 2 and 15, 1948, 80–2, *Record*, pp. 4011–18, 4048–50, 4522–23.

[90] Dec. 20, 1969, 91–1, *Record*, pp. 40411–14.

curring in the Senate amendments without asking for a conference.[91]

The Senate under its practice, at the time of the passage of a House bill with amendments, may insist upon its amendments and ask for a conference.[92]

When the House amends a Senate bill, insists upon its amendments, asks for a conference, and appoints conferees, it is the uniform practice for the Senate first to disagree formally to such amendments prior to agreement to the conference and the appointment of conferees.[93]

A House amendment to a Senate bill, amended by the Senate, may be sent to conference. *See* pp. 138–139, 143.

The Senate may disagree to the amendments of the House without asking for a conference.[94]

A Senate bill which passed the House with an amendment striking out all after the enacting clause and substituting a new text therefor, the subject matter of which was not considered by the Senate when it passed the bill, may be sent to conference.[95]

A message from the House asking a conference on a bill may be laid before the Senate at any time as a privileged matter and its consideration does not have to lie over 1 day on objection.[96]

After a House bill, which has been amended and passed by the Senate, is transmitted to the House, it is not in order for the Senate to insist upon its amendment and ask a conference with the House on that bill.[97]

A Second Conference, as a Result of Recommittal, Rejection, or Tabling of Report:

See also "Points of Order Against a Conference Report," pp. 483–485; "Recommit: With or Without Instructions," pp. 486–488.

When a conference report is pending, a further conference cannot be requested; the report must first be disposed of—that is, a point of order against the report sus-

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[91] Mar. 28, 1935, 74–1, *Record*, pp. 4615–16.

[92] Apr. 24, 1945, 79–1, *Record*, p. 3734; July 3, 1894, 53–2, *Record*, p. 7136; Jan. 6, 1899, 55–3, *Journal*, p. 42; July 8, 1909, 61–1, *Record*, p. 4316. *See* pp. 126–143 on Amendments Between Houses.

[93] *See* Aug. 17, 1959, 86–1, *Record*, p. 15958.

[94] Feb. 17, 1896, 54–1, *Journal*, p. 132; June 2, 1900, 56–1, *Journal*, p. 418; June 25, 1906, 59–1, *Journal*, pp. 652, 655.

[95] Mar. 2, 1891, 51–2, *Record*, p. 3631.

[96] Feb. 18, 1905, 58–3, *Record*, pp. 2812–16; Feb. 20, 1905, 58–3, *Record*, p. 2895; *see also* June 26, 1952, 82–2, *Record*, p. 8151.

[97] *See* Sept. 1, 1960, 86–2, *Record*, p. 19031.

tained, defeated or tabled; if defeated or tabled, a further conference could be requested.[98]

A point of order that a conference report contained new matter having been sustained, the report, under the rule, will be recommitted to the committee of conference if the report has not been agreed to by the other House.[99]

When the Senate rejects a conference report or a point of order is sustained in the Senate against a conference report which has been agreed to by the House,[100] it is in order for the Senate to ask for a further conference and reappoint the same conferees or appoint new conferees.[101]

If a conference report is rejected, a motion to insist further and ask a further conference is in order and a motion to instruct conferees is in order prior to the appointment of the conferees and after the motion for a conference has been adopted.[102]

Conference Requested Before Disagreement to Amendments by Other House:

Under precedents and practices of the Senate, a conference may be requested before the other body has disagreed to the amendments of the Senate,[103] or immediately after the passage of the bill.[104]

When Senate "Agrees to" Conference:

When the House passes a Senate bill with an amendment and requests a conference, the Senate, if it does not accept the House amendment, usually disagrees to it and agrees to the conference requested by the House on the disagreeing votes of the two Houses thereon, and authorizes the Chair to appoint conferees.[105]

If the House passes a Senate bill with an amendment (or amendments) returning it to the Senate, and the

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[98] Aug, 10, 1972, 92-2, *Record*, p. 27845.

[99] Mar. 13, 1918, 65-2, *Record*, pp. 3423-25; Feb. 24, 1919, 65-3, *Record*, p. 4114; Feb. 19, 1925, 68-2, *Journal*, p. 210, *Record*, pp. 4124-37; Aug. 25, 1922, 67-2, *Journal*, p. 407, *Record*, p. 11766: Aug. 23, 1922, 67-2, *Record*, pp. 11669-72; Apr. 18, 1918, 65-2, *Journal*, p. 175, *Record*, pp. 5239-41.

[100] Feb. 24, 1919, 65-3, *Record*, p. 4114.

[101] June 5, 1930, 71-2, *Journal*, p. 426; Feb. 10, 1938, 75-3, *Record*, p. 1775; Feb. 11, 1938, 75-3, *Record*, pp. 1818-19; *see* Feb. 24, 1919, 65-3, *Record*, p. 4114; Jan. 31, 1938, 75-3, *Record*, p. 1286.

[102] *See* June 29, 1959, 86-1 *Record*, p. 12054; June 18, 1947, 80-1, *Record*, p. 7217.

[103] May 8, 1884, 48-1, *Journal*, p. 628; May 13, 1884, 46-1, *Journal*, pp. 642-43.

[104] Jan. 6, 1899, 55-3, *Journal*, p. 42; Feb. 25, 1899, 55-3, *Journal*, p. 154.

[105] To illustrate the practice, *see* June 18, 1948, 80-2, *Record*, p. 8741; Aug. 2, 1955, 84-1, *Journal*, p. 603; July 29, 1955, 84-1, *Journal*, p. 559.

Senate disagrees to the amendment but does not ask for a conference on the bill, the House may then insist on its amendment and ask for a conference. When the message comes back to the Senate, the Senate could agree to the conference requested by the House.

When the Senate passes a House bill with an amendment (or amendments), and does not then ask for a conference on the bill, but instead sends it back to the House, which disagrees to the Senate amendments and asks for a conference, the Senate customarily, when in possession of the papers, insists on its amendment and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon.[106]

It is in order for the Senate at a subsequent session to agree to a conference requested by the House at a previous session of the same Congress.[107]

When Senate "Asks for" a Conference:

The Senate, at the time of the passage of a House bill with amendment or amendments, may insist upon the same and ask a conference with the House thereon.[108]

If the House, instead of agreeing to the request of the Senate for a conference on its amendments to a House bill, amends them, it is in order in the Senate to move to disagree to such House amendments and ask for a conference thereon.[109] Likewise, if the Senate amends an amendment of the House to a Senate bill, a motion is in order at that time that the Senate insist upon its amendment and ask for a conference with the House thereon.[110]

If the Senate passes a House bill with an amendment (or amendments) and returns it to the House, the latter may disagree to the Senate amendments and return the papers without asking for a conference thereon; the Senate could then insist upon its amendments and ask for a conference. But a motion to recede from a Senate amendment after the state of disagreement has been

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[106] July 13, 1955, 84-1, *Journal*, p. 487; July 30, 1955, 84-1, *Journal*, p. 571.

[107] June 30, 1902, 57-1, *Journal*, p. 546; Dec. 3, 1902, 57-2, *Journal*, pp. 14, 30.

[108] Apr. 24, 1945, 79-1, *Record*, p. 3734; May 8, 1884, 48-1, *Journal*, p. 628, *Record*, pp. 3974-76; July 3, 1894, 53-2, *Record*, p. 7136; Jan. 6, 1899, 55-3, *Journal*, p. 42; July 8, 1909, 61-1, *Record*, p. 4316.

[109] Aug. 8, 17, and 18, 1921, 67-1, *Journal*, pp. 223, 237, 238, *Record*, pp. 4742, 5093, 5149-51.

[110] *See* Aug. 19, 1921, 67-1, *Record*, p. 5269.

reached has precedence over a motion to insist and ask for a conference.[111]

A motion that the Senate recede from certain amendments upon which conferees have been unable to agree has precedence over a motion to insist further and ask a further conference.[112]

If the Senate asks for a conference with the House on a bill, the request does not take effect upon the House until the state of disagreement has been reached.[113]

If the House, prior to disagreeing, desires to agree to the amendment or amendments of the Senate, it has the right to do so, and that would obviate the necessity for a conference.[114]

If the House passes a Senate bill with an amendment or amendments and returns the bill to the Senate without requesting a conference, and the Senate does not concur therein, the Senate usually disagrees to the House amendments and asks a conference with the House on the disagreeing votes of the two Houses thereon.[115]

The Senate may agree to an amendment of the House to a Senate bill with an amendment, disagree to the residue of the amendments, and ask for a conference thereon.[116]

For action on messages of the House requesting a conference during the call of the Calendar under a unanimous consent agreement, *see* "Calendar," pp. 253–267, and "Communications and Messages to the Senate," pp. 430–441.

While a conference report is under consideration, a motion that the Senate insist upon an item stricken out by the Senate and restored by the conferees, and ask a further conference with the House thereon, is not in order.[117]

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[111] May 23, 27, and 29, June 16, 19, 23, and 25, 1902, 57-1, *Journal*, pp. 438, 449, 492, 507, 519, 523, *Record*, pp. 5844, 5958, 6081, 6859–64, 7075, 7195, 7210, 7355; Aug. 5, 1912, 62-2, *Record*, p. 10211; Feb. 26, 1915, 63-3, *Record*, p. 4682; Mar. 3, 1887, 49-2, *Record*, p. 2619; Oct. 21, 1918, 65-2, *Record*, pp. 11406–408; June 4, 1924, 68-1, *Journal*, p. 422, *Record*, p. 10474; Apr. 14, 1938, 75-3, *Record*, p. 5413.

[112] Aug. 5, 1912, 62-2, *Record*, p. 10211.

[113] Jan. 14 and 15, 1897, 54-2, *Journal*, p. 54, *Record*, pp. 833–34.

[114] Mar. 28, 1935, 74-1, *Record*, pp. 4615–16.

[115] July 22, 1955, 84-1, *Journal*, p. 516; June 27, 1955, 84-1, *Journal*, p. 430.

[116] For House precedent on, *see* Jan. 18, 1907, 59-2, *Journal*, pp. 129–30; Jan. 23, 1907, 59-2, *Journal*, pp. 151–52.

[117] Apr. 16, 1926, 69-1, *Record*, pp. 7558–59.

When Senate Asks for a Further Conference and Instructions Out of Order:

Conferees having failed to agree upon a Senate amendment striking out a provision of a House joint resolution, it is not in order in the Senate to amend a motion to insist further and ask a further conference by providing that the Senate insist upon the substitution of specific language, for that stricken out by the House.[118]

Consideration of Conference Report

Adoption, Motion to:

It is not in order to offer a motion to adopt a conference report, since there is no motion in the Senate to adopt a question. When Senators have ceased to debate the report, the question on its adoption will be put.[119]

Amendments Reported in Disagreement:

See also "Amendments Reported in Disagreement by Conferees," pp. 131–133; "Concur," pp. 133–134 and "Amendments Reported in Disagreement," pp. 453–454.

A conference report on a bill is agreed to before the Senate acts on any amendments reported by the conferees in disagreement.[120]

Each item reported in disagreement by the conferees, on demand, is considered separately by the Senate and they are taken up in the order in which they are reported by the conferees.[121]

The Senate may disagree to a House amendment to a Senate amendment reported in disagreement and insist on its amendment and ask for a further conference on that item after the first conference report is agreed to.[122]

Debate of:

See also "Conference Reports, Debate of," pp. 731–733.

A conference report is debatable.[123]

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[118] Feb. 1, 1939, 76–1, *Journal*, p. 86, *Record*, pp. 1007–09.
[119] Aug. 19, 1982, 97–2, *Record* p. 22544.
[120] *See* Oct. 9, 1968, 90–2, *Record*, p. 30188–89; Oct. 12, 1978, 95–2, *Record*, p. 36112.
[121] *Ibid.*
[122] *Ibid.*
[123] May 15, 1985, 99–1, *Record*, p. 12026.

Disagree to Report:

Motion out of order. *See* "Question Put on Agreeing to the Report," pp. 475–476.

Disagreement, Report of:

See "Report of Disagreement," pp. 489–490.

Filing of Report Not in Order Until Senate Notified of House Appointment of Conferees:

It is not in order for managers on the part of one House to file its conference report until the other House has been notified of the appointment of managers on the part of the first House, and a meeting held.[124]

Filing or Presentation of Conference Reports:

A conference report is submitted first to the body agreeing to the request for a conference,[125] the body which is entitled to the papers.[126]

The submission of a conference report is a matter of privilege,[127] and is in order during the consideration of the morning business;[128] during a call of the Calendar;[129] during the Morning Hour;[130] or while another matter is pending before the Senate.[131] The Chair ruled in 1885, that the laying before the Senate, immediately after the approval of the *Journal*, of House bills and messages from the President, etc., upon the Presiding Officer's table, was of higher privilege than the right of the presentation of a conference report.[132] The submission of a report, however, does not bring it before the Senate.[133]

While one report is under consideration it is in order to present a conference report on another measure, but the

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[124] June 9, 1880, 46–2, *Journal*, pp. 697–99, *Record*, pp. 4315, 4346.

[125] *See* Sept. 14, 1922, 67–2, *Record*, p. 12565. In 1961, on one occasion, the House asking acted first on the report. *See* proceedings for Apr. 20, 1961, 87–1, *Record*, p. 6496.

[126] *See* June 3, 1890, 51–1, *Record*, p. 5518.

[127] May 27, 1908, 60–1, *Record*, pp. 7036–38; June 7, 1924, 68–1, *Record*, pp. 11188–89; Mar. 31, 1950, 81–2, *Record*, p. 4452; Dec. 13, 1945, 79–1, *Record*, pp. 11939–940; July 9, 1937, 75–1, *Journal*, p. 406; Apr. 22, 1914, 63–2, *Record*, pp. 7068, 7076; Feb. 21, 1901, 56–2, *Record*, p. 2743; *see also* Jan. 21, 1933, 72–2, *Record*, p. 2200; Mar. 3, 1931, 71–3, *Record*, p. 6906; Aug. 1, 1957, 85–1, *Record*, p. 13268; Apr. 2, 1958, 85–2, *Record*, p. 6060; July 21, 1958, 85–2, *Record*, p. 14385.

[128] *See* Feb. 17, 1931, 71–3, *Record*, p. 5128; June 6, 1924, 68–1, *Record*, pp. 10927–28.

[129] *See* Aug. 18, 1937, 75–1, *Record*, p. 9229.

[130] Feb. 17, 1931, 71–3, *Record*, p. 5128.

[131] June 25, 1886, 49–1, *Record*, p. 6123.

[132] Feb. 28, 1885, 48–2, *Record*, p. 2279.

[133] *See* Jan. 28, 1938, 75–3, *Record*, p. 1197.

consideration of the report is a matter for subsequent determination by the Senate.[134]

The presentation of a conference report during the consideration of a concurrent resolution providing for the final adjournment of the two Houses has been held to be a matter of privilege under the rule.[135]

In 1887, during the reading of a committee amendment to a bill under consideration, the Presiding Officer held it was in order to interrupt the reading to present a conference report.[136]

By unanimous consent or without objection a Senator can yield for the presentation or consideration of a conference report without losing the floor.[137]

A conference report can be presented only by unanimous consent while the Senate is dividing on a motion;[138] the same is true while an amendment is pending during the consideration of a bill under a unanimous consent agreement providing for a limitation of debate and control of time on amendments.[139]

Under Rule XXVIII, the presentation of reports is not in order "when the *Journal* is being read or a question of order or a motion to adjourn is pending, or while the Senate is voting on ascertaining the presence of a quorum * * *."

A conference report may be presented and ordered to lie on the table. *See* "Lie on Table," p. 482.

Conference reports have been filed with the Secretary of the Senate during a recess of the Senate, under unanimous consent agreements.[140]

Printing of Report:

See "Printing of Report," p. 486.

Privileged Business and Immediate Consideration

Motion To Consider:

See also "Conference Reports, Debate of," pp. 731–733.

A conference report is privileged for consideration (it may be proceeded to by non-debatable motion) but not for

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[134] Mar. 2, 1909, 60–2, *Record*, p. 3600; June 19, 1948, 80–2, *Record*, pp. 9135–37.
[135] Aug. 3, 1886, 49–1, *Record*, p. 7882.
[136] Feb. 18, 1887, 49–2, *Record*, p. 1905.
[137] June 13, 1938, 75–3, *Record*, p. 8992; *see* Oct. 1, 1940, 76–3, *Record*, p. 12926.
[138] May 21, 1896, 54–1, *Journal*, p. 334, *Record*, pp. 5511–12.
[139] June 11, 1952, 82–2, *Record*, p. 7028.
[140] June 3, 1938, 75–3, *Record*, p. 8100; Aug. 20, 1937, 75–1, *Journal*, p. 554.

disposition since the question of its adoption is debatable.[141]

A motion to proceed to the consideration of a conference report is a privileged matter,[142] even if made to consider a report which was previously ordered to lie on the table for future consideration.[143] An objection to the consideration of a conference report having been made when it was presented, the Presiding Officer held that it could be taken up by majority vote without debate.[144]

A conference report cannot be called up automatically by a Senator, but a motion to proceed to the consideration of a report may be made at any time,[145] and does not have to lie over a day under the rule; [146] but if a demand is made that it be read, its consideration is not in order until after it has been read.[147]

While a motion to proceed to the consideration of a conference report is privileged, such a motion would not be in order unless a Senator who had the floor yielded for such purpose.[148]

It is not in order to request consideration of a conference report and at the same time move its adoption.[149] When a report is submitted, if objection is made to a request for its consideration, in the absence of unanimous consent therefor,[150] a motion is in order and shall be put immediately for determination by the Senate [151] by a majority vote,[152] without debate.[153]

The Senate having given unanimous consent for the consideration of a conference report, an objection to its consideration is not in order.[154]

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[141] May 15, 1985, 99-1, *Record*, p. 12026.

[142] May 24, 1928, 70-1, *Journal*, pp. 533-34, *Record*, p. 9693; *see also* July 19, 1947, 80-1, *Record*, p. 9351; June 18, 1934, 73-2, *Record*, p. 12355; Feb. 26, 1929, 70-2, *Record*, pp. 4409-10.

[143] June 10, 1929, 71-1, *Record*, p. 2666.

[144] Oct. 12, 1978, 95-2, *Record*, p. 35966 *see* Aug. 23, 1958, 85-2, *Record*, pp.19555-56.

[145] July 24, 1914, 63-2, *Record*, p. 12603; *see also* Mar. 31, 1950, 81-2, *Record*, pp. 4456-57; July 24, 1956, 84-2, *Record*, p. 14198.

[146] June 9, 1930, 71-2, *Record*, p. 10252; May 15, 1933, 73-1, *Record*, p. 3380; Jan. 8, 1917, 64-2, *Record*, pp. 994-95; *see* June 5, 1924, 68-1, *Record*, p. 10650.

[147] Oct. 2, 1913, 63-1, *Record*, pp. 5307-09.

[148] *See* Feb. 10, 1938, 75-3, *Record*, p. 1747.

[149] July 6, 1921, 67-1, *Record*, pp. 3365-67.

[150] June 4, 1924, 68-1, *Record*, p. 10449.

[151] June 7, 1924, 68-1, *Record*, pp. 11188-89; Dec. 4, 1942, 77-2, *Record*, p. 9332; Apr. 4, 1914, 63-2, *Record*, p. 6222; May 27, 1908, 60-1, *Record*, pp. 7036-38; May 21, 1896, 54-1, *Record*, p. 5514.

[152] Apr. 22, 1914, 63-2, *Record*, p. 7068; Rule XXVII, par. 1; Feb. 21, 1901, 56-2, *Record*, p. 2743; *see* Feb. 26, 1903, 57-2, *Record*, p. 2702.

[153] Dec. 8, 1967, 90-1, *Record*, p. 35602; *see* under Conference Reports, Debate of, pp. 395-97.

[154] June 4, 1924, 68-1, *Record*, p. 10449.

Unanimous consent having been given in executive session for the presentation of a conference report as in legislative session, its consideration upon objection being made, shall be determined by the Senate without debate.[155]

Less than a quorum having voted on a motion to take up a conference report, the motion, on objection, cannot be withdrawn by the mover upon the subsequent development of a quorum.[156]

Papers Must Be in Possession of Body:

See "When Consideration Not in Order, Including When Not in Possession of Papers," pp. 477–478.

Precedence Over Other Business:

The consideration of a conference report, being a privileged matter has precedence over the consideration of the unfinished business at the expiration of the Morning Hour and will be continued without interruption to lay before the Senate its unfinished business.[157]

A motion to take up a conference report is privileged and has precedence during the consideration of morning business; [158] is in order on Calendar Monday during the Morning Hour, and has precedence over a call of the Calendar under Rule VIII.[159]

Where a call of the Calendar for the consideration of unobjected-to bills was interrupted by the presentation and consideration of a conference report, the report, if not disposed of on that day, would be the unfinished business for the succeeding day.[160]

A motion to proceed to the consideration of a conference report is in order as a privileged question, pending a motion to proceed to the consideration of a bill [161] or resolution.[162]

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[155] Feb. 27, 1920, 66–2, *Record*, pp. 3577–78.

[156] Sept. 5, 1914, 63–2, *Record*, p. 14772.

[157] June 9, 1930, 71–2, *Journal*, p. 450, *Record*, p. 10294; Jan. 5, 1891, 51–2, *Record*, p. 909; Dec. 17, 1930, 71–3, *Record*, p. 937; for old precedents to contrary *see* June 11, 1906, 59–1, *Record*, p. 8246; Aug. 7, 1912, 62–2, *Record*, p. 10341; Mar. 10, 1914, 63–2, *Record*, p. 4578.

[158] Mar. 2, 1909, 60–2, *Record*, p. 3621; Mar. 3, 1909, 60–2, *Record*, p. 3712; Feb. 17, 1931, 71–3, *Record*, p. 5128.

[159] *See* Rules VII and VIII; Nov. 11, 1918, 65–2, *Record*, pp. 11580–81. Rulings to contrary will be found in proceedings for July 2, 1918, 65–2, *Journal*, p. 290, *Record*, p. 8616; Feb. 22, 1919, 65–3, *Record*, pp. 4038–39.

[160] *See* Oct. 1, 1951, 82–1, *Record*, pp. 12425–26; Oct. 2, 1951, 82–1, *Record*, pp. 12484–86.

[161] Dec. 21, 1886, 49–2, *Record*, p. 307.

[162] *See* July 19, 1947, 80–1, *Record*, p. 9351.

Conferees having reported a disagreement to the Senate, the question of agreeing to such report has precedence over a resolution favoring acceptance by the Senate conferees of a compromise proposed by the House conferees.[163]

Under a unanimous consent agreement providing for a vote on a bill and that in the meantime it should not be laid aside except for the consideration of privileged matters, it would be in order to take up a conference report during the consideration of another matter taken up by unanimous consent.[164] A motion to recess has precedence over a motion to proceed to the consideration of a conference report.[165]

Suspends Other Business But Does Not Displace:

The consideration of a conference report on motion is in order while the unfinished business or pending business is before the Senate;[166] and the adoption of a motion to take up a conference report since it is privileged business, does not displace but merely suspends the consideration of the unfinished or pending business,[167] including a pending motion for the reference of a resolution to a committee.[168] Unfinished business which has been temporarily laid aside by unanimous consent will not be displaced by agreement to a motion to take up a conference report.[169]

The status of unfinished business is not changed nor does it lose any of its rights by the adoption of a motion to take up a conference report.[170] If a report is so brought up the unfinished business automatically will again be laid before the Senate after the report is disposed of,[171]

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[163] Mar. 26, 1928, 70-1, *Record*, p. 5347.

[164] *See* May 2, 1950, 81-2, *Record*, p. 6146.

[165] Aug. 24, 1921, 67-1, *Record*, p. 5625.

[166] May 24, 1928, 70-1, *Journal*, pp. 533-34, *Record*, p. 9693; Apr. 10, 1950, 81-2, *Record*, P. 4969; Mar. 31, 1950, 81-2, *Record*, p. 4452.

[167] Apr. 10, 1950, 81-2, *Record*, p. 4969; Mar. 31, 1950, 81-2, *Record*, pp. 4452, 4456-57; May 30, 1940, 76-3, *Record*, p. 7197; Jan. 28, 1938, 75-3, *Record*, p. 1197; Dec. 17, 1930, 71-3, *Record*, p. 937; May 24, 1928, 70-1, *Journal*, pp. 533-34, *Record*, p. 9693; Feb. 12, 1917, 64-2, *Record*, p. 3068; *see also* Feb. 4, 1897, 54-2, *Record*, p. 1518; July 21, 1958, 85-2, *Record*, p. 14385; July 31, 1957, 85-1, *Record*, pp. 13113-14; Jan. 28, 1938, 75-3, *Record*, p. 1197; Mar. 3, 1931, 71-3, *Record*, p. 6906; May 31, 1934, 73-2, *Record*, p. 10110; June 22, 1940, 76-3, *Record* p. 8925; July 8, 1937, 75-1, *Journal*, p. 404.

[168] *See* Jan. 21, 1932, 72-1, *Record*, p. 2407.

[169] *See* Feb. 26, 1929, 70-2, *Record*, pp. 4409-10.

[170] *See* June 5, 1924, 68-1, *Record*, p. 10650; Dec. 17, 1930, 71-3, *Record*, p. 937.

[171] May 24, 1928, 70-1, *Journal*, pp. 533-34, *Record*, p. 9693; Apr. 10, 1950, 81-2, *Record*, p. 4969; Mar. 31, 1950, 81-2, *Record*, p. 4452.

and its consideration will be resumed upon the disposition of said conference report.[172]

Pending the consideration of a conference report taken up by unanimous consent, it is in order, as a privileged matter, to present a conference report on another measure, the consideration of which may be proceeded with by a majority vote.[173]

A conference report taken up by unanimous consent, if the regular order is called for, may be proceeded with on motion, which only suspends the consideration of the unfinished business.[174]

The consideration of a veto message will not displace a pending conference report.[175]

Tabling of:

See "Table," pp. 491–492.

Privileged Business Displaced on Motion:

A conference report will be displaced by a non-privileged matter taken up on motion; [176] likewise, while one report is under consideration a second report may be presented [177] or brought up on motion for consideration, the first report being displaced, but a subsequent motion to proceed to the consideration of the former is in order and is not debatable.[178]

Question Put on Agreeing to the Report:

A motion to consider a conference report having been agreed to, the question is automatically put on agreeing to the report.[179] But the question of agreeing to the report is not in order until the Senate has determined that it will proceed to its consideration.[180]

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[172] Dec. 17, 1930, 71-3, *Record*, p. 937.
[173] *See* Aug. 5, 1912, 62-2, *Record*, p. 10201.
[174] *See* Dec. 13, 1945, 79-1, *Record*, pp. 11939-40.
[175] *See* Mar. 3, 1931, 71-3, *Record*, p. 7048.
[176] *See* Sept. 20, 1950, 81-2, *Record*, pp. 15184-85.
[177] Mar. 2, 1909, 60-2, *Record*, pp. 3613, 3621.
[178] June 19, 1948, 80-2, *Record*, pp. 9135-37; Mar. 2, 1909, 60-2, *Record*, pp. 3600, 3613, 3621.
[179] Oct. 5, 1914, 63-2, *Record*, p. 16168; Sept. 15, 1922, 67-2, *Journal*, p. 452, *Record*, pp. 12682-96; July 6, 1921, 67-1, *Record*. pp. 3365-67.
[180] Feb. 21, 1923, 67-4, *Record*, p. 4189; May 15, 1924, 68-1, *Record*, pp. 8574, 8580.

A motion to disagree to or reject a conference report is not in order; the question is put in the affirmative since a refusal to concur is equivalent to a disagreement.[181]

A motion to reject a conference report and to instruct conferees is not in order; the question should be put on agreeing to the report.[182] A motion to reject a conference report previously agreed to by the House of Representatives, and to instruct the conferees on the part of the Senate to insist further upon the provisions of a Senate amendment, is not in order, the conferees having been discharged.[183]

Reading of Report:

The presentation of a conference report includes its reading.[184]

The report must be read if a demand therefor is made [185] and its reading can be dispensed with only by unanimous consent.[186] The question of consideration cannot be raised until after the report has been read,[187] and the reading may not be interrupted even for a quorum call—a a quorum call would be in order after the reading is over.[188]

The reading was interrupted on one occasion when the Senate proceeded to the consideration of executive business.[189]

Reference:

The Presiding Officer, held in order, under Rule XXII, a motion to refer to the Committee on Foreign Relations a conference report, previously agreed to by the House of Representatives, on a bill considered by the Committee on Agriculture and Forestry.[190]

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[181] Mar. 2, 1895, 53-3, *Record*, p. 3129; Jan. 31, 1938, 75-3, *Record*, pp. 1275-76; Aug. 1, 1955, 84-1, *Record*, pp. 12614-15; Nov. 12, 1942, 77-2, *Record*, p. 8779; June 5, 1939, 76-1, *Record*, p. 6561; Feb. 5 and 7, 1927, 69-2, *Journal*, p. 147, *Record*, pp. 3026, 3123-24; Feb. 24, 1926, 69-1, *Journal*, p. 189, *Record*, p. 4497; Sept. 15, 1922, 67-2, *Journal*, p. 452, *Record*, pp. 12682-96; Apr. 18, 1898, 55-2, *Record*, p. 4040; Apr. 23, 1890, 51-1, *Record*, p. 3721.

[182] June 5, 1939, 76-1, *Record*, p. 6561.

[183] Jan. 31, 1938, 75-3, *Journal*, pp. 119-20, *Record*, pp. 1269, 1275.

[184] Mar. 2, 1909, 60-2, *Record*, p. 3600.

[185] Feb. 10, 1938, 75-3, *Record*, p. 1748; May 21, 1896, 54-1, *Journal*, p. 334, *Record*, pp. 5511-12.

[186] July 22, 1914, 63-2, *Record*, p. 12468.

[187] Oct. 2, 1913, 63-1, *Record*, pp. 5307-09.

[188] Oct. 12, 1978, 95-2, *Record*, p. 35965.

[189] July 20, 1897, 55-1. *Record*, pp. 2754-76.

[190] Sept. 23, 1964, 88-2, *Record*, pp. 22574-75, 22768-70.

The motion to refer, after debate, was rejected.[191]

Report Under Consideration, Various Questions Out of Order:

While a conference report is under consideration it is not in order to move to insist upon an amendment rejected by the conferees,[192] or to move to recede from an amendment upon which the conferees have not agreed.[193]

A motion to agree to a conference report was decided by the Senate, on appeal, to have precedence over a resolution instructing the conferees on the part of the Senate to present to the House conferees an amendment providing for the exclusion of certain Japanese from the United States.[194]

Unfinished Business:

A conference report, when brought up without any bill before the Senate, becomes the unfinished business at the adjournment of the Senate if it has not been disposed of.[195]

When Consideration Not in Order, Including When Not in Possession of Papers:

A conference report cannot be considered while the Senate is in executive session; [196] and cannot be considered or acted upon by the Senate until the official papers are in the Senate's possession; [197] nor can a report which has been agreed to by the House be considered if the Senate conferees have not submitted their report.[198]

It is not in order to proceed to the consideration of a conference report if the Senate is not in possession of all of the official papers.[199]

On one occasion, the Chairman of the Armed Services Committee secured the official papers from the Senate desk for the purpose of delivering them to the House prior

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[191] *Ibid.*
[192] May 23, 1941, 77-1, *Record*, p. 4372.
[193] June 4, 1924, 68-1, *Record*, p. 10450.
[194] Feb. 15 and 16, 1907, 59-2, *Journal*, p. 291, *Record*, pp. 3039, 3099.
[195] Aug. 24, 1965, 89-1, *Record*, pp. 21496-97.
[196] Oct. 28, 1919, 66-1, *Record*, p. 7629.
[197] June 16, 1884, 48-1, *Record*, p. 5173; Feb. 25, 1885, 48-2, *Record*, p. 2117; June 23, 1949, 81-1, *Record*, p. 8202; Dec. 20, 1922, 67-4, *Record*, p. 736.
[198] *See* Jan. 25, 1938, 75-3, *Record*, p. 1062; Jan. 27, 1938, 75-3, *Record*, pp. 1168-69; July 26, 1956, 84-2, *Record*, p. 14744.
[199] Dec. 21, 1982, 97-2, *Record*, pp. 33156-63.

to presentation of the report to the Senate.[200] On another occasion however, the Chairman of the Labor and Human Resources Committee sought unanimous consent to receive from the desk the papers and conference report on a measure in order to deliver them to the House of Representatives, but an objection to this request was heard.[201]

Under an agreement providing that a bill shall be kept continuously before the Senate until disposed of, a conference report could only be considered by unanimous consent.[202]

In one case, where a conference was asked by the Senate and granted by the House, and the report was submitted to the Senate first, the Presiding Officer held it was irregular and should first be presented to the House.[203]

Yield Floor for, Without Losing Right Thereto:

A Senator yielding by unanimous consent for the consideration of a conference report will not be considered as having lost his right to the floor,[204] and is entitled to the floor after disposition of the report.[205]

Contents of Conference Reports:

The conference report *per se* includes whatever the managers of the two Houses were able to agree upon as to the amendment, or amendments, sent to conference; when considered in either House, this is what is submitted to the said House for approval or disapproval. Any amendment reported in disagreement is presented to the said body for disposition as soon as, but is not in order before, the conference report has been acted on.[206]

Debate of:

See "Conference Reports, Debate of," pp. 731–733.

Disagreement, Report of:

See "Report of Disagreement," pp. 489–490.

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[200] Nov. 19, 1987, 100-1, *Record*, p. S 16493.
[201] June 28, 1990, 101-2, *Record*, pp. S 8988-89.
[202] Apr. 4, 1950, 81-2, *Record*, pp. 4664-65.
[203] Feb. 25, 1885, 48-2, *Record*, p. 2144.
[204] Jan. 24, 1933, 72-2, *Record*, p. 2378; *see* Oct. 1, 1940, 76-3, *Record*, p. 12926.
[205] Dec. 8, 1942, 77-2, *Record*, pp. 9384, 9386-88.
[206] July 24, 1914, 63-2, *Record*, pp. 12606-09.

Division of Conference Report Not in Order:

In the Senate, a conference report must be accepted or rejected as a whole. It may not be divided.[207]

Division of Question—Appointment of Conferees:

See "Appointment of Conferees," pp. 454–459.

Instruction of Conferees:

It is in order to instruct conferees after the Senate has voted to insist on its amendments or to disagree to the amendments of the House and has adopted a motion to ask or agree to a conference with the House on the disagreeing votes of the two Houses; but the resolution of instructions must be offered before the conferees are appointed.[208]

It is also in order to authorize the Chair to appoint conferees before the Senate votes to instruct them, but they must not be named.[209]

Instructions on items reported in disagreement by conferees are in order after the said conference report has been agreed to and another conference ordered on the disagreeing votes.[210]

The Senate may instruct its conferees while the bill is in conference by the use of a resolution, which of course is amendable.[211] On September 14, 1978, by a vote of 63 to 21, the Senate adopted a resolution to instruct its conferees on a particular bill.[212]

If a conference report is disagreed to, a motion for a further conference is in order and a motion to instruct conferees may be made.[213] Likewise, instructions to con-

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[207] *Ibid.*

[208] Cleaves' Manual, *Senate Manual*, p. 181 of 96th Congress; Dec. 20, 1969, 91–1, *Record*, pp. 40433–34; June 22, 1953, 83–1, *Record*, pp. 6957–58; May 26, 1949, 81–1, *Record*, pp. 6855–56; July 10, 1946, 79–2, *Record*, p. 8561; Nov. 12, 1942, 77–2, *Record*, p. 8779; Sept. 9, 1940, 76–3, *Record*, pp. 11760, 11776; Jan. 31, 1938, 75–3, *Record*, pp. 1275–76; May 25, 1928, 70–1, *Journal*, pp. 537–38, *Record*, pp. 9836–38; *see also*, May 27, 1920, 66–2, *Record*, pp. 7718–20; Aug. 17, 1959, 86–1, *Record*, pp. 15951–62; June 29, 1959, 86–1 *Record*, p. 12054; June 18, 1947, 80–1, *Record*, p. 7217; June 19, 1947, 80–1, *Record*, p. 7284; Feb. 25, 1955, 84–1, *Record*, p. 2158; Sept. 13, 1940, 76–3, *Record*, p. 12100; June 12, 1933, 73–1, *Record*, p. 5744; July 14, 1932, 72–1, *Record*, p. 15340; June 24, 1932, 72–1, *Record*, p. 13852; Dec. 15, 1930, 71–3, *Record*, pp. 676–80; June 6 and 7, 1906, 59–1, *Record*, pp. 7932–33, 7984, 7987–88.

[209] Dec. 20, 1969, 91–1, *Record*, pp. 40433–34.

[210] July 24, 1914, 63–2, *Record*, p. 12609.

[211] For a case in point *see* Oct. 27, 1977, 95–1, *Record*, pp. 35523–25.

[212] Sept. 14, 1978, 95–2, *Record*, p. 29411.

[213] *See* June 18, 1947, 80–1, *Record*, p. 7217.

ferees are in order when a second conference has been ordered, but before the conferees have been appointed.[214]

The motion to instruct conferees is in order and amendable,[215] and separate and distinct instructions in a motion to instruct conferees may be divided upon the demand of a Senator.[216]

Conferees may be instructed not to accept provisions of a Senate-passed or House-passed bill when said bill is sent to conference.[217]

If a substitute is adopted for proposed instructions, no further amendments would be in order but, of course, the Senate could continue to discuss the issue until the conferees are appointed.[218]

A conference report may be received although it may be in violation of instructions given to the conferees.[219] Conferees are not bound by instructions; "the conferees could even ignore the instructions," and the report would not be subject to a point of order.[220]

The instructions are limited to the subject matter submitted to the conference, and all that is in conference is the differences between the two passed versions of the two Houses.[221]

The following motions relative to the instruction of conferees have been held out of order:

To disagree to certain amendments embraced in a conference report and to instruct conferees relative thereto; [222]

To instruct the conferees on the part of the Senate as to an amendment during the consideration of the conference report; [223]

To instruct conferees after one House has agreed to the report, the conferees of that body having been discharged; [224]

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[214] Dec. 29, 1970, 91-2, *Record*, p. 43872.

[215] Cleaves' Manual, *Senate Manual*, p. 181 of 96th Congress; *see also* Jan. 22, 1968, 40-2, *Journal*, pp. 119-20.

[216] *See* Sept. 9, 1940, 76-3, *Record*, p. 11791.

[217] Oct. 29, 1977, 95-1, *Record*, pp. 35906-07.

[218] *See* Dec. 29, 1970, 91-2, *Record*, pp. 43871-72, 43875-76.

[219] Cleaves' Manual, *Senate Manual*, p. 181 of 96th Congress.

[220] *See* Apr. 1, 1970, 91-2, *Record*, p. 9999; Dec. 29, 1970, 91-2, *Record*, pp. 43871-72, 43874-76; Sept. 14, 1966, 89-2, *Record*, p. 22664; Oct, 29, 1977, 95-1, *Record*, pp. 35906-07.

[221] *See* Dec. 29, 1970, 91-2, *Record*, pp. 43872, 43874.

[222] July 24, 1914, 63-2, *Record*, pp. 12606, 12609.

[223] Mar. 3, 1907, 59-2, *Record*, p. 4549.

[224] Jan. 31, 1938, 75-3, *Record*, pp. 1275-76.

To instruct the Senate conferees to adhere to an amendment upon which the conferees recommended that the Senate recede, the report already having been presented to the Senate; [225]

To instruct when the papers in point are in the hands of the House conferees; [226]

To reject a conference report and to instruct the conferees, since the question should be put on agreeing to the report; [227]

To instruct conferees to insert certain language in lieu of a provision of House text stricken out by a Senate amendment,[228] since that would be in the nature of an amendment; and

To instruct conferees after a report has been made, but a motion to recommit may carry with it instructions to the conferees.[229]

Pending a motion to insist upon certain amendments and agree to a further conference asked by the House, the Senate, by a tie vote, overruled a decision of the Chair that a motion to instruct the Senate conferees, when appointed, to recede from a portion of a Senate amendment was not in order.[230]

By unanimous consent, a motion was made to instruct conferees to recede from an amendment while the bill was pending before the conference committee.[231]

The House having instructed its managers at a first conference, and having so notified the Senate, the Senate conferees declined to act. Subsequently, the House asked the Senate for a free conference, which was acceded to by the Senate, and an agreement was ultimately reached.[232]

In 1864 the House, in requesting a second conference, instructed its conferees, but in the Senate, a resolve was adopted to disagree to the proposed instructions by the House, and ask for a "free conference" with the House on the said bill, and appoint conferees on the part of the Senate; the House, upon receipt of the message from the Senate, agreed to the conference requested by the Senate and appointed conferees.[233]

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[225] *See* Mar. 2, 1920, 66-2, *Record*, p. 3749.
[226] Sept. 14, 1922, 67-2, *Journal*, p. 448, *Record*, p. 12566.
[227] June 5, 1939, 76-1, *Record*, p. 6561.
[228] Feb. 1, 1939, 76-1, *Record*, p. 1009; Jan. 27, 1914, 63-2, *Record*, pp. 2361-64.
[229] Aug. 19, 1937, 75-1, *Record*, pp. 9343-44.
[230] July 26, 1894, 53-2, *Journal*, p. 315, *Record*, pp. 7891-94.
[231] July 8, 1943, 78-1, *Record*, pp. 7425-33.
[232] Mar. 3, 1891, 51-2, *Journal*, p. 217, *Record*, pp. 3860, 3862-63.
[233] Mar. 2, 1864, 38-1, *Journal*, pp. 207-08.

In 1886 the Senate agreed to a further conference after the House had asked for a conference and had instructed its conferees.[234]

In 1890, the Senate, in one instance, further insisted on its amendments to a bill and asked for a further conference with the House, but refused to instruct its conferees,[235] and in 1902, after protest by certain Members against the action of the House for instructing its conferees, the Senate agreed to the request of the House for a further conference.[236]

Lie on Table:

Conference reports, on various occasions, have been presented to the Senate and ordered to lie on the table for future consideration.[237]

Life or Duration of a Conference Report:

See also "When Senate 'Agrees to' Conference," pp. 466–467.

A conference report which is not acted upon during the first session of a Congress does not die, but retains its status and may be acted upon during the next session.[238]

Meetings of Conferees:

The attendance by an employee of the Government at a session of a conference committee upon the invitation of the conferees of one House is a matter of procedure to be determined by the conferees,[239] but under the present rule as amended, paragraph 6 provides for open sessions of the conferees except when the managers of either House in open session vote to close them.[240]

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[234] July 27, 1886, 49–1, *Journal*, pp. 1186–88.

[235] July 1, 1890, 51–1, *Journal*, pp. 410–11, *Record*, pp. 6826–28.

[236] May 13, 14, and 19, 1902, 57–1, *Record*, pp. 5363, 5404, 5619.

[237] July 5, 1862, 37–2, *Journal*, p. 760; July 11, 1862, 37–2, *Journal*, pp. 807–08; Feb. 15, 1869, 40–3, *Journal*, pp. 267–68; Mar. 3, 1885, 48–2, *Journal*, p. 487, *Record*, pp. 2501–02; Feb. 26, 1907, 59–2, *Journal*, p. 365; Mar. 1, 1907, 59–2, *Journal*, p. 404; Feb. 22, 1907, 59–2, *Journal*, p. 339; May 25, 1906, 59–1, *Journal*, p. 537; Mar. 20, 1906, 59–1, *Record*, pp. 4026–27; Mar. 19, 1906, 59–1, *Journal*, p. 308; Feb. 26, 1908, 57–2, *Journal*, p. 219, *Record*, p. 2704; June 30, 1902, 57–1, *Journal*, p. 552; May 1, 1902, 57–1, *Journal*, p. 372; Feb. 27, 1901, 56–2, *Journal*, p. 229, *Record*, p. 3702; Dec. 20, 1891, 51–2, *Journal*, p. 41.

[238] *See* Oct. 19, 1949, 81–1, *Record*, p. 14993.

[239] For House precedent on, *see* July 29, 1935, 74–1, *Record*, pp. 12007–13.

[240] Rule XXVIII, par. 6.

Memorials on Bill Referred to Conference Committee:

In 1906, the Senate referred memorials on a bill in conference directly to the conferees on the part of the Senate.[241]

Minority Reports:

A minority member of a conference committee cannot make a report, under a ruling in the House.[242]

Modify—Not in Order:

A conference report that has been submitted to the Senate may not be modified; it could be sent back to conference where the report could be changed.[243]

Official Papers:

It is not in order for the Senate to take action on an amendment of the House of Representatives to a Senate bill prior to the receipt of the official papers from the House.[244]

Open Meetings of Conferees:

In Rule XXVIII, paragraph 6, conferees hold open meetings unless the managers of one House vote in open session to close them. The rule follows:

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

Points of Order Against a Conference Report:

See also "A Second Conference, as a Result of Recommittal. Rejection, or Tabling of Report," pp. 465–466; "Recommit: With or Without Instructions," pp. 486–488.

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[241] June 18, 1906, 59–1, *Journal*, p. 620, *Record*, p. 8667.
[242] For House precedent on, *see* July 29, 1935, 74–1, *Record*, pp. 12007–13.
[243] *See* May 23, 1972, 92–2, *Record*, pp. 18434–35.
[244] July 31, 1953, 83–1, *Record*, p. 10631.

A point of order may be raised against a conference report at any time during its consideration prior to its adoption,[245] but is out of order pending its reading.[246]

Conferees may not add new matter not committed to them in a conference,[247] by either House; [248] a conference report may not include new "matter entirely irrelevant to the subject matter," [249] not contained in the House- or Senate-passed versions of a measure as distinct from a substitute therefor.[250] The conferees on the concurrent resolution on the budget did not exceed their authority to include matter not entirely irrelevant to the subject matter contained in either version of a measure in directing the Finance and Ways and Means committees to report an increase in the public debt limit as part of their reconciliation instructions, since the resolution, as it passed the Senate, specified a figure for the public debt limit and also contained reconciliation instructions to the Finance committee.[251] If conferees exceed their authority with respect to any matter, the report of the conferees is subject to a point of order.[252]

Various points of order have been sustained on grounds that conferees had exceeded their authority.[253]

When conferees have before them a series of amendments, they may include in their report any matter which is not entirely irrelevant to any version of the matters submitted to them, and be within their authority under Rule XXVII, paragraph 2, as decided by the Senate in overturning a ruling by the Chair. [254]

On various occasions when a point of order was raised against a report on the ground that conferees had exceed-

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[245] Feb. 22, 1919, 65-3, *Record*, pp. 4046-48; *see* May 27, 1930, 71-2, *Record*, pp. 9636-37.

[246] Oct. 2, 1913, 63-1, *Record*, pp. 5307-09.

[247] Dec. 3, 1980, 96-2, *Record*, p. 31722.

[248] Aug. 12, 1982, 97-2, *Record*, pp. 20887-89, 20897.

[249] June 6, 1932, 72-1, *Journal*, p. 554.

[250] *See* June 6, 1932, 72-1, *Journal*, p. 554; June 21 and 22, 1930, 71-2, *Journal*, pp. 421, 425; Feb. 24, 1927, 69-2, *Journal*, p. 217; Feb. 26, 1925, 68-2, *Journal*, p. 245, *Record*, p. 4698; Feb. 22 and 24, 1919, 65-3, *Journal*, pp. 171, 173; Oct. 9, 1914, 63-2, *Record*, pp. 16351-52, 16372; *see also* May 28, 1924, 68-1, *Journal*, p. 400; May 27, 1930, 71-2, *Journal*, p. 391.

[251] June 24, 1987, 100-1, *Record*, pp. S 8580-83.

[252] *See* Apr. 29, 1960, 86-2, *Record*, p. 8978.

[253] June 4 and 5, 1930, 71-2, *Journal*, pp. 421, 425, *Record*, pp. 10029-30, 10091; May 27, 1930, 71-2, *Journal*, p. 391, *Record*, pp. 9636-37, 9640; Feb. 19, 20, and 23, 1925, 68-2, *Journal*, pp. 210, 215, 224, *Record*, pp. 4124-37, 4244, 4395-4403; Aug. 23 and 25, 1922, 67-2, *Journal*, p. 407, *Record*, pp. 11669-72, 11765-66; Feb. 22, 1919, 65-3, *Journal*, p. 171, *Record*, pp. 4044-48; Mar. 11 and 13, 1918, 65-2, *Journal*, pp. 109, 112, *Record*, pp. 3305-16, 3417-23.

[254] Dec. 11, 1985, 99-1, *Record*, pp. 35870-71.

ed their authority, the Chair submitted the question to the Senate for decision.[255]

A point of order that conferees had exceeded their authority will not lie against a report on the ground that it restores language stricken out by a Senate amendment.[256]

If conferees tacitly approve a substitute for a Senate amendment but report the Senate amendment in disagreement and the House subsequently adopts that substitute for the Senate amendment, the latter would not be subject to a point of order in the Senate as being action of the conferees.[257]

When a report is recommitted, the same conferees continue to act,[258] unless some action to the contrary is taken by the Senate.

Postpone:

A motion to postpone the (further) consideration of a conference report for 1 day,[259] to a day certain [260] [which may be renewed if materially different from the first motion] [261] or indefinitely [262] is in order.

A motion to lay aside temporarily a conference report and to proceed to the consideration of a bill is not in order, but a motion simply to take up such a bill is in order.[263]

Under Rule XXVIII, paragraph 4:

> Each report made by a committee of conference to the Senate shall be printed as a report of the Senate. As so printed, such report shall be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. Such statement shall be sufficiently detailed and explicit to inform the Senate as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or propositions relate.

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[255] Aug. 30, 1940, 76-3, *Journal*, pp. 623-35, *Record*, pp. 11275-84; Feb. 14, 1907, 59-2, *Record*, pp. 2939-43; Oct. 9 and 10, 1914, 63-2, *Journal*, pp. 544-45, *Record*, pp. 16351, 16407; Dec. 20, 1969, 91-1, *Record*, pp. 40411-14.

[256] Feb 13, 1931, 71-3, *Journal*, p. 205.

[257] May 5, 1922, 67-2, *Record*, pp, 6377-82.

[258] *See* July 31, 1935, 74-1, *Record*, p. 12161; June 8, 1942, 77-2, *Record*, pp. 4995-96.

[259] June 17, 1884, 48-1, *Journal*, p. 778; June 24, 1884, 48-1, *Journal*, pp. 825-26.

[260] *See* Apr. 19, 1946, 79-2, *Record*, p. 4034.

[261] *See* Sept. 22, 1961, 87-1, *Record*, p. 20744.

[262] *See* July 22, 1947, 80-1, *Record*, p. 9673.

[263] Feb. 12, 1931, 71-3, *Record*, p. 4681.

Printing of Report:

Under Rule XXVIII, conference reports are required to be printed but unanimous consent having been given that a conference report not be printed as a Senate report rescinds the necessity of printing such a report.[264]

Also under various unanimous consent agreements, conference reports agreed to by the House will not be printed as a Senate report unless a specific request therefor is granted.[265]

Progress Report on a Conference Committee:

A resolution requesting Senate conferees to inform the Senate as to progress in reaching an agreement with House conferees on the revenue bill of 1894 was held not to be privileged and was ordered to lie over a day.[266]

Quorum Call Not Required Before Fixing Time for Vote:

A quorum call is not required preceding the submission of a unanimous consent agreement setting the time for a vote on a conference report.[267]

Recede From Amendments Reported in Disagreement:

See "Amendments Between Houses," pp. 126–143.

Recess Motion Takes Precedence Over:

See also "Consideration of Conference Report," pp. 469–478; "Privileged Business and Immediate Consideration," pp. 471–475.

A motion to recess has precedence over a motion to proceed to the consideration of a conference report.[268]

Recommit: With or Without Instructions:

See also "A Second Conference as a Result of Recommittal, Rejection, or Tabling of Report," pp. 465–466; "Points of Order

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[264] June 29, 1971, 92–1, *Record*, p. 22719.
[265] *See* June 28, 1972, 92–2, *Journal*, p. 643; *see also Record* for January 6, 1973.
[266] Aug. 10, 1894, 53–2, *Record*, p. 8363.
[267] Sept. 18, 1922, 67–2, *Record*, pp. 12832–33; June 1, 1950, 81–2, *Record*, p. 7915.
[268] Aug. 24, 1921, 67–1, *Record*, p. 5625.

Against a Conference Report," pp. 483–485; "Recommit," pp. 486–488.

A motion to recommit a conference report without instructions is in order if the other House has not agreed to it; [269] and the same is true of a motion to recommit with instructions.[270] The mover of a motion to recommit with instructions has a right to modify the instructions,[271] until the Senate takes some action thereon.[272]

Where one House has agreed to a conference report, thereby discharging its conferees, a motion in the other House to recommit such a report with or without instructions is not in order,[273] but it could be recommitted to the conferees by a concurrent resolution taken up by unanimous consent.[274]

A motion to recommit takes precedence over the question of agreeing to the report.[275]

If a conference report is recommitted, with or without instructions, the same conferees continue to act unless some other action to the contrary is taken,[276] but the conferees are required to submit a new report.[277]

In the event a report is rejected and sent back or recommitted for a further conference, all of the amendments are again before the conferees *de novo* for consideration.[278]

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[269] Mar. 3, 1899, 55–3, *Journal*, pp. 201–04, *Record*, pp. 2823–24, 2842–43, 2923–25; June 6, 1933, 73–1, *Record*, p. 5095; Oct. 5, 1914, 63–2, *Record*, p. 16168; Apr. 11, 1904, 58–2, *Journal*, p. 363, *Record*, p. 4610; Mar. 21, 1944, 78–2, *Record*, p. 2807; May 23, 1972, 92–2, *Record*, pp. 18434–35.

[270] Dec. 18, 1950, 81–2, *Record*, pp. 16705, 16735; Aug. 1, 1955, 84–1, *Record*, pp. 12614–15; Aug. 19, 1937, 75–1, *Record*, pp. 9343–44; *see* Feb. 21, 1931, 71–3, *Record*, p. 5613; May 25, 1928, 70–1, *Journal*, pp. 537–38, *Record*, pp. 9836–38.

[271] *See* June 28, 1961, 87–1, *Record*, p. 11596; May 23, 1972, 92–2, *Record*, p. 18435.

[272] *See* May 23, 1972, 92–2, *Record*, pp. 18434–35.

[273] Apr. 23, 1890, 51–1, *Record*, p. 3721; Mar. 3, 1915, 63–3, *Record*, p. 5236; June 30, 1939, 76–1, *Record*, p. 8445; June 28, 1939, 76–1, *Record*, p. 8060; June 15, 1933, 73–1, *Journal*, p. 300; June 13, 1933, 73–1, *Journal*, p. 291, *Record*, p. 5849; June 24, 1932, 72–1, *Journal*, p. 636, *Record*, p. 13850; Mar. 24, 1928, 70–1, *Journal*, p. 295, *Record*, p. 5304; Feb. 5, 1927, 69–2, *Journal*, p. 147, *Record*, pp. 3026, 3123–24; Feb. 24, 1926, 69–1, *Journal*, p. 189, *Record*, pp. 4486–97; *see also* June 9, 1952, 82–2, *Record*, p. 6828; Jan 2, 1951, 81–2, *Record*, p. 17135; Oct, 18, 1949, 81–1, *Record*, p. 14841; May 25, 1949, 81–1, *Record*, p. 6810; June 26, 1946, 79–2, *Record*, p. 7548; Dec. 13, 1945, 79–1, *Record*, p. 11938; Sept. 20, 1940, 76–3, *Record*, p. 12401; June 15, 1933, 73–1, *Journal*, p. 300; *see also* May 23, 1972, 92–2, *Record*, pp. 18434–35.

[274] Apr. 21, 1926, 69–1, *Journal*, p. 331, *Record*, p. 7907; May 3, 1926, 69–1, *Journal*, p. 372, *Record*, p. 8605.

[275] Oct. 5, 1914, 63–2, *Record*, p. 16168; Feb. 17, 1931, 71–3, *Record*, p. 5185; Aug. 1, 1955, 84–1, *Record*, pp. 12614–15; *see also* Jan. 14, 1887, 49–2, *Journal*, p. 151, *Record*, pp. 661–63; *see also* May 23, 1972, 92–2, *Record*, pp. 18434–35.

[276] *See* July 31, 1935, 74–1, *Record*, p. 12161; June 8, 1942, 77–2, *Record*, pp. 4995–96.

[277] *See* June 8, 1942, 72–2, *Record*, pp. 4995–96.

[278] *See* June 13, 1933, 73–1, *Record*, pp. 5889–90; Apr. 1, 1970, 91–2, *Record*, p. 9999.

When a conference report is recommitted, it goes back to the same conferees, the conferees not having been discharged.[279]

The action of the House in recommitting a conference report, and notifying the Senate of same, with instructions to its conferees to agree to certain amendments was held in the Senate not to change the nature of the conference and to impose no limitations on the Senate conferees.[280]

Reconsider:

See also "Reconsideration," pp. 1124–1149.

A motion to reconsider the vote on a conference report which has gone out of the Senate's jurisdiction must be accompanied by a motion requesting the House to return all the papers.[281] The House, in one case, refused to return a conference report, in compliance with such a request of the Senate.[282]

When the House, in one instance, after agreeing to a conference report, transmitted the papers to the Senate in connection with a request for a further conference on certain amendments upon which the conferees had not agreed, the President pro tempore held that a motion to reconsider, which had previously been entered in the Senate, had no standing, inasmuch as it had not been accompanied by a motion to request the House to return the papers.[283]

While the entering of a motion to reconsider is privileged, the consideration of such a motion including the vote agreeing to a conference report, is not a privileged matter.[284] A Senator having the floor, during the consideration of the unfinished business, however, may move to reconsider the vote on a conference report.[285] Such a motion is in order while the unfinished business is pend-

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[279] *See* Apr. 1, 1970, 91–2, *Record*, p. 10019.

[280] Sept. 14, 1922, 67–2, *Record*, p. 12565.

[281] Mar. 19, 1930, 71–2, *Journal*, p. 219, *Record*, pp. 5578, 5607–08; *see also* Mar. 18, 1930, 71–2, *Journal*, p. 222; June 28, 1906, 59–1, *Journal*, p. 680, *Record*, p. 9459.

[282] Oct. 1, 1917, 65–1, *Journal*, p. 277, *Record*, p. 7545.

[283] Mar. 19, 1930, 71–2, *Journal*, pp. 219, 222, *Record*, p. 5578.

[284] *See* Jan. 21, 1933, 72–2, *Record*, p. 2210.

[285] Feb. 27, 1915, 63–3, *Journal*, p. 156, *Record*, pp. 4812–14; Sept. 18, 1950, 81–2, *Record*, p. 14996.

ing,[286] and if agreed to, it will displace that unfinished business.[287]

After a conference report has been rejected, and the bill again sent to conference, a motion to reconsider the vote rejecting the report is not in order as having been made too late.[288]

Refer:

A motion to refer a conference report to a committee is in order, even if previously agreed to by the House of Representatives.[289]

Rejection of:

A conference report agreed to by the House may be rejected by the Senate and the Senate further insist on its amendments without asking for further conference.[290]

Report Must Be Official:

A report entered into by prospective conferees, prior to their appointment is not binding, unless subsequently submitted to both Houses as an official report by the duly appointed conferees.[291]

Report of Disagreement:

A conference report in disagreement must be disposed of before any amendment in disagreement may be considered.[292]

A conference report of disagreement must be acted upon before a motion to further insist and ask for a further conference is in order,[293] or before moving to recede and concur in the House amendment with an amendment.[294]

An instance in 1972 of a conference report in disagreement being filed, and the House, without taking up the

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[286] Apr. 10, 1933, 73-1, *Record*, pp. 1424-25; May 28, 1930, 71-2, *Record*, pp. 9713-14.
[287] *Ibid.*
[288] Apr. 12, 1918, 65-2, *Journal*, p. 164, *Record*, pp. 5010-13.
[289] Sept. 23, 1964, 88-2, *Record*, pp. 22574-75, 22768-70.
[290] Sept. 29, 1966, 89-2, *Record*, pp. 24403-04.
[291] *See* Dec. 15, 1930, 71-3, *Record*, pp. 676-80.
[292] Mar. 13, 1986, 99-2, *Record*, pp. 4774-75.
[293] Mar. 1, 1913, 62-3, *Record*, pp. 4376-78; Aug. 24, 1912, 62-2, *Journal*, p. 617, *Record*, p. 11792; *See* June 10, 1896, 54-1, *Record*, p. 6378.
[294] June 15, 1959, 86-1, *Record*, pp. 10770-71.

conference report, receded and concurred in the Senate amendments which had been sent to conference.[295]

Signing of Conference Report:

A conference report to be valid must be signed by a majority of the conferees of each House,[296] and the signatures should be affixed before the report is submitted to the Senate.[297]

In 1901, a majority of the managers on the part of the House having refused to sign a conference report of disagreement, the Senate conferees presented a report signed by them and by one House manager, but it was subsequently withdrawn.[298]

A report submitted to the House of Representatives by the managers on the part of the House of a conference committee, which had not been agreed to by the Senate conferees, is not a conference report within the meaning of the parliamentary practice of the two Houses,[299] as ruled by the Speaker.

In 1944, a conferee's name was signed by another Senator, and so initialed; [300] on another occasion, a Senate conferee was authorized by the adoption of a concurrent resolution by the two Houses to affix the name of an absent Senate conferee to the report,[301] and in 1907, a House manager was authorized by a concurrent resolution to affix his name to a conference report after it had been presented.[302]

On occasions certain of the conferees have signed conference reports, but indicated disagreement or exception to action with respect to one or more amendments embodied therein,[303] with a notation on the signature sheet

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[295] *See* proceedings of the House and Senate on H.R. 15390 found in *Record* of June 30, 1972.

[296] Aug. 1, 1894, 53-2, *Record*, p. 8065; *see* Feb. 10, 1938, 75-3, *Record*, p. 1748.

[297] May 18, 1910, 61-2 *Record*, p. 6443.

[298] Mar. 2, 1901, 56-2, *Journal*, p. 265, *Record*, pp. 3490-92, 3496, 3705.

[299] July 31, 1935, 74-1, *Record*, pp. 12237-38.

[300] May 29, 1944, 78-2, *Journal*, p. 283, *Record*, p. 5079.

[301] Feb. 7 and 11, 1919, 65-3, *Journal*, p. 141, *Record*, pp. 2897, 3116.

[302] Feb. 20, 1907, 59-2, *Journal*, p. 318, *Record*, p. 3449.

[303] May 21, 1908, 60-1, *Record*, p. 6668; June 2, 1906, 59-1, *Journal*, pp. 553-57; July 27, 1955, 84-1, *Record*, p. 11853; June 3, 1952, 82-2, *Record*, p. 6628; Oct. 10, 1951, 82-1, *Record*, pp. 12983-84; Aug. 20, 1951, 82-1, *Record*, p. 10466; Sept. 22, 1950, 81-2, *Record*, p. 15480; Aug. 5, 1935, 74-1, *Journal*, p. 573, *Record*, p. 12486; Mar. 1, 1933, 72-2, *Journal*, p. 282, *Record*, p. 5469: Feb. 24, 1933, 72-2, *Journal*, p. 239, *Record*, p. 4890; May 17, 1924, 68-1, *Journal*, pp. 360-61, *Record*, p. 8790.

that there were parts of the bill to which a conferee strongly objected.[304]

Members of conference committees on different occasions have declined to sign reports.[305]

For a discussion of the right of one conferee to affix signatures of other conferees when authorized by them to do so, *see* Senate proceedings for May 29, 1944.[306]

Statement To Accompany:

Rule XXVIII, paragraph 4 provides:

> Each report made by a committee of conference to the Senate shall be printed as a report of the Senate. As so printed, such report shall be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. Such statement shall be sufficiently detailed and explicit to inform the Senate as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or propositions relate.[307]

There have been unanimous consent agreements to encompass entire sessions since the adoption of the above rule to modify or to suspend it so that reports and statements accompanying them would not be printed as Senate reports if they had already been agreed to by the House—the reports already having been printed as House reports—unless a specific request is made in the Senate in each instance to have such a report printed. In the case of conference reports acted on by the Senate first, requests are frequently made to suspend the requirement of printing them as a Senate report since such reports and statements may have already been printed by the House of Representatives.[308]

Table:

A motion to table a conference report which is under consideration is in order at any time prior to a vote upon such report.[309]

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[304] June 2, 1920, 66–2, *Journal*, p. 351, *Record*, p. 8164.

[305] *See* May 27, 1908, 60–1, *Record*, pp. 7043–45.

[306] May 29, 1944, 78–2, *Journal*, p. 283, *Record*, p. 5079.

[307] Feb. 26, 1907, 59–2, *Record*, p. 3993; May 6, 1908, 60–1, *Record*, p. 5776; Aug. 15, 1911, 62–1, *Record*, p. 3945; Jan. 31, 1927, 69–2, *Record*, pp. 2588–90; July 11, 1921, 67–1, *Journal*, p. 190, *Record*, p. 3519; July 17, 1912, 62–2, *Record*, p. 9167; *see also* Sept. 15, 1950, 81–2, *Record*, p. 14877, for adoption of S. Con. Res. 79, to provide for statements in both Houses.

[308] For examples of such request, *see* proceedings of June 28, 1972, 92–2, *Journal*, p. 643; and Jan. 6, 1973, 93–1, *Record*, p. S 295.

[309] *See* Sept. 21, 1961, 87–1, *Record*, p. 20642.

The motion to table a conference report is in order and if the conference report is tabled it would then be in order to ask for a further conference.[310]

The tabling of a conference report kills the report but it does not take the bill with it.[311]

If a conference report is tabled, a Senator may request a further conference and after it is agreed to have a further conference, it is in order to instruct the conferees; [312] or after the report is tabled without asking for a further conference, the Senate may agree to a motion to insist on its amendments.[313]

Vote by Conferees:

"The managers of the two Houses while in conference vote separately, the majority determining the attitude to be taken toward the propositions of the other House." [314]

Withdrawal of:

A conference report, when made first to the Senate and upon which the House has not acted, may be withdrawn on leave, which may be granted by a majority vote of the Senate.[315]

The chairman of the conferees on the part of the Senate has authority to withdraw a conference report in the absence of the ordering of the yeas and nays, and to submit immediately in lieu thereof a second report.[316]

A report may be withdrawn for the purpose of correcting an error when it has not been presented to the House.[317]

On one occasion, the Chairman of the Foreign Relations Committee which had jurisdiction of the subject matter of a conference report removed the official papers from the desk thereby preventing further consideration of the report. The House had adopted the conference report, and during its consideration in the Senate, the Senate had failed to table it, had defeated two cloture motions on it,

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[310] Dec. 29, 1970, 91-2, *Record*, pp. 43871-72, 43874-76; Dec. 20, 1969, 91-1, *Record*, pp. 40433-34; Dec. 4, 1974, 93-2, *Record*, pp. 38070-71.

[311] *See* Aug. 10, 1972, 92-2, *Record*, p. 27845.

[312] *Ibid.*

[313] July 10, 1974, 93-2, *Record*, p. 22611.

[314] Cleaves' Manual, *Senate Manual*, p. 153 of the 93d Congress.

[315] June 12, 1906, 59-1, *Journal*, p. 596, *Record*, pp. 8308-09.

[316] Mar. 28, Apr. 3, 10, and 11, 1906, 59-1, *Record*, pp. 4384, 4656, 4991, 5042, 5044.

[317] Sept. 12, 1890, 51-1, *Journal*, p. 517, *Record*, p. 1004.

as well as a cloture motion on a motion to proceed to it.[318] Two weeks later, a series of inquiries was made of the Chair regarding the foregoing events.[319]

CONFIRMATIONS

See "Nominations," pp. 938–953.

[318] *See* Sept. 12, 1985, 99-1, *Record,* pp. 23582–84.
[319] *See* Sept. 26, 1985, 99-1, *Record,* pp. 25116–29.