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Chapter 13
Conferences Between the Houses

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I. Generally

§ 1. In General; Purpose

Before a measure can become law, both Houses must agree to the same bill—either a House bill or a Senate bill—and they must agree on each provision of the bill. 5 Hinds §§ 6233–6240. Although the two Houses may pass similar measures on the same subject, neither can become law unless both Houses pass the same numbered bill with the identical text. 4 Hinds § 3386.

In many cases disagreements between the House and Senate over the provisions in a bill can be resolved through amendments that are messaged

between the Houses. Such action is taken in the expectation that one House will eventually concur (or recede and concur) with the amendments of the other House and thereby finally pass the bill. See SENATE BILLS; AMENDMENTS BETWEEN THE HOUSES. Another approach aimed at reconciling differences is a conference committee, consisting of managers from each Chamber, with authority to report on negotiated agreements. Sometimes these procedures are pursued simultaneously: one House will (1) concur as to certain amendments and (2) insist on disagreement as to other amendments and request a conference thereon. 5 Hinds §§ 6287, 6401. If a conference fails to reconcile the differences, and reports this fact back to the two Houses, motions to dispose of any amendments remaining in disagreement are permitted. §§ 36–38, infra.

The request for a conference is made by the House in possession of the papers. § 4, infra. The House receiving the request may agree to the conference or it may disregard the request and act on the pending unresolved amendments. 5 Hinds §§ 6313–6315. In the latter case it may simply concur in the amendments or recede from disagreement, thereby rendering a conference unnecessary if no further issues remain to be disposed of between the Houses. 5 Hinds §§ 6316–6318. It also has the option of postponing action on the request to a time certain or indefinitely. 5 Hinds § 6199.

§ 2. Questions Sent to Conference

It was Jefferson's view that a House-Senate conference may be sought ''in all cases of difference of opinion between the two Houses on matters depending between them.'' *Manual* § 530. Conferences between the two Houses are usually held over differences as to amendments to a particular bill. 5 Hinds § 6254. On occasion, several bills have been sent to a single conference by a single House action. Deschler Ch 21 § 27.6. Differences over a joint or concurrent resolution also may be sent to conference. 5 Hinds §§ 6258, 7063.

House-Senate conferences have sometimes been sought to resolve questions unrelated to any pending bill or other legislative proposition. Conference committees have on rare occasions been used to resolve differences as to:

- The prerogatives of the two Houses in the origination of revenue measures. 2 Hinds § 1487.
- The instructions given by one House to its managers. 5 Hinds § 6401.
- The procedures to be followed in an impeachment proceeding. 3 Hinds § 2304.

- The time for the convening of the next session of Congress. 5 Hinds § 6255.
- Papers in the nature of petitions. 5 Hinds § 6263.

§ 3. Sending to Conference

Generally; By Unanimous Consent

Amendments in disagreement between the Houses may be sent to conference by unanimous consent. The disagreement may relate to a Senate amendment or to an insistence by the House on its own amendment. *Manual* § 533; 6 Cannon § 732.

> MEMBER: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R._____, with the Senate amendments thereto, disagree to the amendments, and ask a conference with the Senate [or agree to a conference asked by the Senate] on the disagreeing votes of the two Houses.

By Motion

A matter may be sent to conference pursuant to a motion offered under rule XXII clause 1. The motion is privileged in the discretion of the Speaker if the motion is offered by direction of the primary committee and of all reporting committees that had initial referral of the measure. *Manual* §§ 1069, 1070. This restraint is intended to prevent the use of that motion as a dilatory tactic. *Manual* § 535. The motion may be offered only while the House is in possession of the papers.

Initial Senate amendments may be taken from the Speaker's table and sent to conference by motion under this rule. *Manual* §§ 533, 1069, 1070. The motion permitted by the rule also may be raised at subsequent stages of the amendment process between the Houses and may include a motion to disagree to a Senate amendment to a House amendment to a Senate bill and request a conference (92–2, Mar. 8, 1972, p 7540) or a motion to insist on a House amendment to a Senate amendment to a House bill and request a conference (*Manual* § 1070).

A Member offering a motion to send a bill to conference under this rule is recognized for one hour and is in control of the debate on the motion. Deschler-Brown Ch 33 § 2.14. When the previous question is ordered on the motion, further debate may be had on it only by unanimous consent. Deschler-Brown Ch 33 § 2.15.

Rule XXII clause 1 requires a separate committee authorization with respect to each particular bill to be sent to conference. Where a measure has been reported by two or more committees of initial referral, each reporting committee must authorize the motion sending it to conference. A committee

receiving sequential referral of a bill or not reporting thereon need not authorize the motion. On a Senate bill with a House amendment consisting of the text of two corresponding House bills that were previously reported to the House, the motion must be authorized by the committees reporting those corresponding bills. *Manual* § 1070. The primary committee of jurisdiction may authorize the motion on an unreported measure. 106–2, Oct. 11, 2000, p ____.

Motions to send a measure to conference pursuant to rule XXII clause 1 are generally made by the chairman of the legislative committee with primary jurisdiction over the measure, acting by direction of that committee as follows:

> MEMBER: Mr. Speaker, pursuant to clause 1 of rule XXII and by direction of the Committee on _____, I move to take from the Speaker's table the bill (H.R. _____) with the Senate amendments thereto, disagree with the Senate amendments and agree to the conference requested by the Senate [or request a conference with the Senate thereon].
>
> MEMBER: Mr. Speaker, pursuant to clause 1 of rule XXII and by direction of the Committee on _____, I move to take from the Speaker's table the bill (S. _____) with the House amendments thereto, insist on the House amendments and agree to the conference requested by the Senate [or request a conference with the Senate thereon].

A motion to send a bill to conference may not be amended to include instructions to House managers; instructions are properly offered by separate motion following the adoption of the motion to go to conference and before managers are appointed. Deschler-Brown Ch 33 § 2.18. For a discussion of motions to instruct, see § 11, infra.

§ 4. — When in Order; Stage of Disagreement

Generally

Under the former practice, it was customary to allow the House insisting on its amendment (the other House having disagreed thereto) to request a conference. 5 Hinds §§ 6278–6280. Under the modern practice, a conference may be requested as soon as one House has either disagreed to an amendment of the other or has insisted on its own amendment. 5 Hinds §§ 6273–6277. In any event, the request for a conference must always be by the House that is in possession of the papers. *Manual* § 530.

Motions

A motion to disagree or insist and request a conference is in order before, or after (subject to preferential motions), the Houses have reached the stage of disagreement if made pursuant to rule XXII clause 1. *Manual*

§§ 528, 535, 1069; see also SENATE BILLS; AMENDMENTS BETWEEN THE HOUSES.

Once a motion to request a conference has been rejected, its repetition at the same stage of the proceedings has not been permitted where no other motion to dispose of the matter in disagreement has been considered. 5 Hinds § 6325. However, a motion under rule XXII clause 1 may be repeated, if again authorized by the committee concerned, and if the Speaker again agrees to recognize for that purpose, even though the House has once rejected a motion to send the same matter to conference. *Manual* §§ 535, 1070.

Unanimous-consent Requests

A unanimous-consent request to seek a conference is in order even though the House and Senate have not yet reached the stage of disagreement. Indeed, there have been rare instances where the House by unanimous consent has ''deemed'' a House bill with *possible* Senate amendment sent to conference before Senate passage of the bill with amendment, effective when subsequently in possession of the papers, in order to permit managers to be appointed and to formally meet if the House is not in session. See, *e.g.*, 105–2, Apr. 1, 1998, p ____.

§ 5. Effect of Special Rules

Amendments may be sent to conference pursuant to a special rule from the Committee on Rules. 4 Hinds §§ 3242–3249. The special rule may or may not preclude intervening motions, and may direct the Speaker to appoint the managers. 4 Hinds § 3242. The special rule may:

- Take a House bill with Senate amendments from the Speaker's table and send it directly to conference. 7 Cannon § 826.
- Make in order a motion to take a bill with Senate amendments from the Speaker's table, disagree to the amendments, and request a conference. 7 Cannon § 822.
- Provide for consideration of Senate amendments and for a motion to agree to a conference, and for appointment without instructions to the managers. 4 Hinds §§ 3243, 3244.
- Discharge a committee from consideration of a bill with Senate amendments and ask for, or agree to, a conference thereon. 7 Cannon §§ 820, 821.

II. Conference Managers

§ 6. In General; Appointment of Managers

Generally

Appointments of Members to serve as managers on the part of the House at a conference are made by the Speaker pursuant to rule I clause 11. *Manual* § 637. The terms ''manager'' and ''conferee'' are used synonymously in the modern precedents and are so used in this chapter. The Speaker observes the guidelines set forth in rule I as to the designation of managers. That rule requires the Speaker to appoint:

- A majority of Members who generally supported the House position, as determined by the Speaker.
- Members who are primarily responsible for the legislation.
- To the fullest extent feasible, Members who were the principal proponents of the major provisions of the bill as it passed the House.

These guidelines permit the exercise of broad discretion by the Speaker in making appointments. *Manual* § 637. He may specify the legislative issues on which individual managers are to confer. *Manual* § 536.

Number of Managers

In the early practice of the House, three Members were usually appointed to a conference by the Speaker. 5 Hinds § 6336. Today, the number of Members to be designated is at the discretion of the Speaker, and he may consider the complexity of the bill and the number of committees with jurisdiction. 8 Cannon § 3221. A motion to instruct the Speaker as to the number of managers to be appointed is not in order. *Manual* § 637; 8 Cannon § 3221.

Conference agreements are reached when a majority of House managers agree with a majority of Senate managers, which is indicated by their signing of the conference report. The number of managers appointed by the Senate does not affect the Speaker's determination as to the number of House managers because the managers of one House vote separately from those of the other. 5 Hinds § 6334. For a discussion of conference meetings, see § 10, infra.

Time of Appointment

Conferees are usually appointed by the Speaker immediately after the request for a conference is granted, but they may be appointed at a subsequent time. In one instance, the Speaker did not announce his appointment

of conferees until the second session on a bill on which the House had requested a conference in the first session. Deschler-Brown Ch 33 § 6.17.

§ 7. Committee Representation

The Speaker in making his appointments to a conference normally consults with the chairman of the committee having jurisdiction over the bill. Members of that committee are ordinarily designated as managers. Deschler-Brown Ch 33 § 6.1. The Speaker may make such appointments without regard to committee seniority. 99–2, July 16, 1986, p 16705. On a comprehensive matter, the Speaker may appoint separate groups of conferees from several committees for consideration of provisions within their respective jurisdictions. *Manual* § 637.

The Speaker may appoint members from a nonreporting committee as conferees on a provision in a Senate measure within that committee's jurisdiction. *Manual* § 637. The Speaker may, after appointing general conferees from a reporting committee on all Senate provisions, appoint additional conferees from an additional reporting or nonreporting committee on a specified section. 107–2, Mar. 7, 2002, p ____.

In the current practice, the Speaker has announced a policy of simplifying conference appointments by noting on the occasion of a relatively complex appointment that, inasmuch as conference committees are select committees that dissolve when their report is acted upon, conference appointments should not be construed as jurisdictional precedent. *Manual* § 637.

§ 8. Changing or Adding Managers; Removal or Resignation

At any time after the appointment of a conference committee, the Speaker may remove a conferee or appoint additional conferees. Rule I clause 11; 5 Hinds §§ 6341–6368. In making additional appointments, the Speaker may specify that a conferee be authorized to act only with respect to a certain provision (96–1, Aug. 2, 1979, p 22101), or that additional conferees from certain committees act solely on matters within those committees' jurisdictions (99–1, Oct. 24, 1985, p 28743). Under clause 11, the Speaker may supplement an appointment of conferees by modifying the array of separate panels and by further specifying the subject matter to be considered by such panels. Deschler-Brown Ch 33 § 8.7.

Where several conferences are held on the same bill, it was the early practice to change the managers at each conference. 5 Hinds §§ 6288–6291, 6324. So fixed was this practice that their reappointment had a special significance, indicating an unyielding temper. 5 Hinds §§ 6352–6368. However,

the later practice is to reappoint the same managers (5 Hinds §§ 6341–6344) unless a change is necessary to enable the sentiment of the House to be represented (5 Hinds § 6369). For motions to discharge and appoint new conferees, see § 14, infra.

Vacancies on a conference committee are filled through appointment by the Speaker. 5 Hinds § 6372; 8 Cannon § 3228. The Speaker may appoint a conferee to fill a vacancy caused by death or ill health, resignation, or removal. Deschler-Brown Ch 33 §§ 8.3, 8.8. The Speaker may appoint the successor conferee with all or part of the authority of the original conferee. 98–2, Mar. 21, 1984, p 6249.

Usually a conferee resigns by sending a letter of resignation to the Speaker. The letter is laid before the House. A conferee may be excused by unanimous consent at the request of another Member, particularly where time is of the essence. Deschler-Brown Ch 33 § 8.2.

Managers have resigned from conference committees because of policy differences with other managers. In one instance, a Member declared that his resignation was based on the fact that other House conferees had agreed to a motion in conference limiting their participation to specified portions of the matters committed to conference, though originally all Members had been appointed without restriction. The Member's resignation was accepted by unanimous consent. Deschler-Brown Ch 33 § 8.10.

Under rule I clause 11, conferees may be removed from a conference committee by the Speaker. Before the adoption of that rule, conferees were removed only by action of the House by unanimous consent. Deschler-Brown Ch 33 § 8.1.

§ 9. Power and Discretion of Managers

Generally

There are limitations on the authority of the managers with respect to the legislative matters they may address. The managers:

- May not change text that has already been agreed to by both Houses. 5 Hinds §§ 6417, 6418, 6420.
- May not address new items or a new subject not committed to the conference. 5 Hinds §§ 6407, 6408; 8 Cannon §§ 3254, 3255; 107–2, Nov. 14, 2002, p ____.
- Must confine themselves to matters that are within the scope of the difference between the House position and the Senate position. *Manual* § 1088.

These limitations stem from the fundamental principle that when a bill is sent to conference, matters in disagreement between the Houses—and

only matters in disagreement between the Houses—are before the conferees. *Manual* § 1088. A matter not within the scope of the differences committed to the conference lies beyond the authority of the managers even though germane to the question at issue. 5 Hinds § 6419.

Rule XXII clause 9 permits managers to propose a substitute that is a ''germane modification'' of the matter in disagreement but proscribes the presentation of ''specific additional'' matter not committed to conference. Clause 9 further prohibits the report of the managers from including matter not committed to the conference by either House or a modification of any specific matter committed to the conference if that modification is beyond the scope thereof. *Manual* § 1088. For a discussion of points of order against the report, see § 22, infra; for the use of special rules to protect against a point of order for exceeding ''scope,'' see § 28, infra.

Differences as to Time Periods

When the two Houses fix different periods of time for certain legislative action, the conferees have latitude to compromise only between the two time frames, and may not exceed the longer or go below the shorter. 8 Cannon § 3264. Likewise, where the Senate has amended a House-passed bill to change the effective date therein, the authority of the conferees on the bill is limited to the time frame between the dates in each version. Where the dates contained in both versions have since passed, the conferees may report the Senate amendment back in technical disagreement so that the effective date can be reconsidered. Deschler-Brown Ch 33 § 7.12.

Differences as to Numbers or Amounts

Where the legislative differences between the two Houses on a measure involve numerical figures, managers at conference are limited to the range between the highest figure proposed by one House and the lowest proposed by the other. If, for example, the House proposes a tariff rate of 30% for a certain product and the Senate proposes a 35% tariff, the managers may agree on 30% or 35% or any tariff falling within that range; but they may not agree on a tariff that is less than 30% or more than 35%. 8 Cannon § 3263. Similarly, where sections of a conference report contain higher entitlements for certain veterans' benefits than those contained in either the House bill or in the Senate amendment, the conferees may be held to have exceeded their authority. Deschler-Brown Ch 33 § 7.7. By the same token, conferees may report back in total disagreement where the informal decisions reached by the conferees would have exceeded the scope of the differences committed to conference by *reducing* certain aggregate totals below

those in either the House or the Senate version. 95–1, Sept. 13, 1977, p 29021.

Amendments to Existing Law

Where one House has amended an existing law and the other House has implicitly taken the position of existing law by remaining silent on the subject, the scope of differences committed to conference lies between those issues presented in the amending language on the one hand and the comparable provisions of existing law on the other. 95–2, Feb. 28, 1978, p 5010. In such cases, the Speaker may examine existing law to determine whether House conferees have remained within the scope of the differences committed to conference. *Manual* § 1088.

Extending Authority of Managers by Resolution

On rare occasions, the managers of a conference have been permitted to take up a matter not in issue between the Houses pursuant to a concurrent resolution. 5 Hinds §§ 6437–6439. Concurrent resolutions permitting managers to consider matters not technically committed to conference are considered by unanimous consent. *Manual* § 527.

§ 10. Meetings

Generally; Voting

The managers of the two Houses while in conference vote separately, the majority in each body determining the attitude to be taken toward the proposition(s) at issue. 5 Hinds § 6336. When the report is made, the unqualified signatures of a majority of the managers from each House are sufficient. For a more thorough discussion of signatures on a conference report, see § 18, infra.

Meetings as Open or Closed

Rule XXII clause 12 requires a conference meeting of each conference committee to be open to the public except where the House by record vote determines otherwise. *Manual* § 1093. The rule permits a point of order in the House against the report if the House managers fail to meet at least once in open session as required. See *Manual* § 548. If the point of order is sustained, it results in rejection of the report (signatures notwithstanding) and in an automatic request for a new conference, and it permits the appointment of new conferees without intervening motion to instruct. Deschler-Brown Ch 33 § 5.13.

Motions to Close a Conference Meeting

Under rule XXII clause 12, a motion to close a conference meeting is privileged for consideration in the House after the House has agreed to go to conference. The motion is not debatable and must be decided by a record vote. The motion may be amended only if the Member offering the motion yields for that purpose (or the previous question is rejected). *Manual* § 1093. The motion may provide for exceptions or limitations, such as a stipulation that the meeting may be closed only when certain matters are under discussion or that any sitting Member of Congress shall have the right to attend such meeting. 95–2, July 14, 1978, p 20960.

Points of Order as to Meeting Irregularities

There are no formal House rules that govern procedures to be followed in conducting a meeting of the conferees. The conferees offer motions or consider and debate propositions according to their own informal guidelines or ad hoc rules, with each House having one vote. The Speaker will not normally sustain a point of order against consideration of a conference report signed by a majority of House and Senate conferees based upon irregularities at the conference meeting, other than the requirement for one open meeting. 96–2, Mar. 25, 1980, p 6430. This position reflects the policy that unqualified signatures of a majority of House and Senate conferees constitute a ratification of any procedural irregularity alleged to have occurred in a conference committee. The Speaker will not look behind the signatures to determine whether the report has incorporated all the agreements informally made in conference. Deschler-Brown Ch 33 § 18.2. In one instance the Speaker overruled a point of order against a conference report signed by a majority of the conferees, although the Member raising the point of order alleged that the form of the report was inconsistent with a motion agreed to in the conference meeting. Deschler-Brown Ch 33 § 7.13.

III. Instructions to Managers; Motions

§ 11. In General

Instructions In Order

Instructions are used primarily to indicate priorities considered important to the House or to identify positions or amendments it would support or oppose. The House may instruct its conferees to:

- Insist on a portion of a House amendment to a Senate bill. 93–1, July 24, 1973, pp 25539–41.
- Agree to a numbered Senate amendment with an amendment that is within scope. *Manual* § 941.
- Insist on certain provisions in a House-passed bill. 96–1, Dec. 19, 1979, p 36895.
- Disagree to one of several Senate amendments (notwithstanding that the House has just disagreed to all Senate amendments in toto). 91–1, Oct. 9, 1969, p 29315.
- Insist on a meeting with Senate conferees. *Manual* § 1079.

Limitations on Instructions

Instructions may not direct conference managers to do that which they might not otherwise do (5 Hinds §§ 6386, 6387; 8 Cannon §§ 3235, 3244), such as to change a part of a bill not in disagreement (5 Hinds §§ 6391–6394). Instructions may not:

- Change the text to which both Houses have agreed. 5 Hinds § 6388.
- Direct the conferees to agree to something not committed to conference. *Manual* § 1088.
- Agree to the deletion of certain language committed to conference if the effect of such deletion results in broadening the scope of the matter in disagreement. *Manual* § 1088.
- Direct conferees to concur in a Senate amendment with an amendment not germane thereto. 8 Cannon § 3235.
- Include argument. Rule XXII clause 7(d).

One House has no jurisdiction over conferees appointed by the other. Instructions apply only to managers on the part of the House giving the instructions. 8 Cannon §§ 3241, 3242.

Conferring Authority to Agree to Certain Senate Amendments

A motion to instruct also may be used to authorize House conferees, pursuant to rule XXII clause 5, to agree to certain Senate amendments. Clause 5 requires such authorization for Senate amendments that, if originating in the House, would violate rule XXI clause 2 (legislation on an ap-

propriation bill or an unauthorized appropriation) or propose an appropriation on a bill other than a general appropriation bill. *Manual* § 1076. However, clause 5 does not permit a motion to instruct conferees on a general appropriation bill to include additional legislation to that contained in the Senate amendment. *Manual* § 1076.

§ 12. Consideration of Motions to Instruct

Generally

The opportunity for the House to instruct conferees arises at three distinct stages of the legislative process: (1) at the time the House votes to go to conference, (2) 20 calendar days and, concurrently, 10 legislative days after the second House has appointed conferees, the conferees having failed to report (§ 14, infra), and (3) immediately before adoption of a conference report by the first House, in a motion to recommit the conference report to conference (§ 15, infra). For a discussion of recognition and debate of such motions, see § 13, infra.

On Going to Conference

After the House has voted to go to conference with the Senate, the House may consider a timely motion to instruct its managers. A motion to instruct the House managers at a conference is in order after the House has agreed to a conference and before the appointment of the conferees, although the motion may be postponed by unanimous consent until a time after the appointment. 5 Hinds §§ 6379–6382. The motion is not in order until the House has voted to ask for or agree to a conference. Deschler-Brown Ch 33 § 10.5. Only one motion to instruct conferees is in order at this stage. *Manual* § 541; 8 Cannon § 3236.

Tabling of Motion

A motion to instruct House managers at a conference is subject to the motion to lay on the table; and, if adopted, does not carry the bill to the table. *Manual* § 541. The motion to lay the motion to instruct on the table is in order after the motion to instruct has been read or after debate thereon before ordering the previous question. If the motion to table is voted down, the previous question may be moved on the motion to instruct. Deschler-Brown Ch 33 § 9.13.

Withdrawal or Postponement of Motion

A motion to instruct the House managers at a conference has been withdrawn after debate thereon. Deschler-Brown Ch 33 § 9.14. The postponement of consideration of such a motion is permitted by unanimous consent.

Deschler-Brown Ch 33 § 10.4. Under rule XX clause 8, the Speaker may postpone the vote on a motion to instruct. However, proceedings may not resume on a postponed question of agreeing to a motion to instruct under rule XX clause 7 after the managers have filed a conference report in the House. *Manual* § 1079.

§ 13. — Debate on Motion; Recognition and Amendments

Recognition and Debate

Recognition to offer the initial motion to instruct House conferees, and the motion to recommit a conference report with instructions, is the prerogative of the minority. The Speaker recognizes the ranking minority member of the committee reporting the bill when that member seeks recognition to offer the motion. *Manual* § 541.

A motion to instruct conferees is debatable under the hour rule. Under rule XXII clause 7(b), the hour is equally divided between the majority and minority parties unless both support the motion. *Manual* § 1078. In that case a Member in opposition to the motion may demand one-third of the time for debate. No additional debate thereon is in order unless the previous question is rejected or unless the Member having the floor yields for amendment. See, *e.g.*, Deschler-Brown Ch 33 § 9.7. The hour of debate time on a motion to instruct may be terminated by laying the motion to instruct on the table before debate. Deschler-Brown Ch 29 § 68.29.

Amendments to Motion

No amendment to a motion to instruct is in order unless the previous question is rejected or unless the Member having the floor yields for amendment. *Manual* § 541.

§ 14. Motions After Failure of Managers to Report

Where conferees have been appointed for 20 calendar days and, concurrently, 10 legislative days (or for 36 hours during the last six days of a session) and have failed to file a report, motions to instruct the House managers—or discharge and appoint new ones—are in order. Rule XXII clause 7(c). This period runs from the time that the conference committee has been formed by appointment in both Houses. Deschler-Brown Ch 33 § 14.3. The Member offering such motion must give notice of one legislative day under the rule, and recognition does not depend on party affiliation. *Manual* § 1079. When the House adjourns while such motion is pending, the motion becomes unfinished business on the next day and does not need to be renoticed. *Manual* § 877.

The practice that precludes more than one motion in the House to instruct conferees before their appointment (§ 12, supra) is not applicable to motions to instruct (or discharge and appoint new) conferees who have failed to report to the House within the requisite period. *Manual* § 541. Indeed, a motion to instruct House conferees who have failed to report for 20 calendar days and, concurrently, 10 legislative days is in order even though its instructions are the same as those given to the conferees at the time the bill was sent to conference. 92–2, May 11, 1972, pp 16838–42. The motion remains available when a conference report is recommitted by the first House to act thereon, because the conferees are not discharged and the original conference remains in existence. *Manual* § 1079.

§ 15. Instructions in Motions to Recommit

A motion to recommit a conference report may include instructions to the House conferees. 8 Cannon § 3241; § 35, infra. A report may be recommitted with instructions to insist on disagreement or take other action on an amendment contained in the report. Deschler-Brown Ch 33 § 32.38; 94–2, Sept. 28, 1976, p 33034.

However, the motion may not instruct House conferees to include matter that is beyond the scope of differences committed to conference. For example, a motion to instruct conferees on a general appropriation bill may not instruct the conferees to include a funding limitation not contained in the House bill or Senate amendment or to add legislation to that contained in a Senate amendment. *Manual* § 1076. Similarly, a motion to recommit a conference report may not instruct conferees to expand definitions to include classes not covered under the House bill or Senate amendment or to include provisions not contained in the House bill or Senate amendment. A waiver of all points of order against a conference report and against its consideration does not inure to instructions contained in a motion to recommit such measure to conference. *Manual* § 1088.

Under rule XXII clause 7(d), instructions to conferees in a motion to recommit to conference may not include argument.

§ 16. Instructions as Binding on the Managers

Instructions by the House to its conferees are advisory in nature and are not binding as a limitation on their authority. *Manual* § 550. A failure of conferees to adhere to such instructions does not render their report subject to a point of order. *Manual* § 541; 5 Hinds § 6395; 8 Cannon §§ 3246–3248. Conferees are not required to seek further guidance if they are unable to comply with instructions suggested to them. Deschler-Brown Ch 33

§ 12.4. For these reasons, a point of order will not lie against a conference report because it is in contravention of instructions imposed on House conferees. It is for the House to determine by its vote on the report whether to accept or reject it or to recommit it. *Manual* § 541. For a discussion of voting on the report, see § 36, infra.

IV. Conference Reports

A. Generally; Form

§ 17. In General; Preparation and Filing

Generally; Partial Reports

A conference report contains the recommendations of the conference committee to the two Houses as to the disposition of the matter in disagreement. The report may recommend, for example, that the House (or Senate) recede from disagreement to a certain numbered amendment, or that it agree to a certain amendment with an amendment. A conference report may contain an entirely new amendment in the nature of a substitute. *Manual* § 543; 5 Hinds §§ 6465–6467.

The report will normally identify those amendments on which the committee has been unable to agree. Managers may report an agreement as to a portion of the numbered amendments in disagreement, leaving the remainder to be disposed of by subsequent House action. 5 Hinds §§ 6460–6464. For a discussion of disposition of amendments remaining in disagreement between the Houses, see SENATE BILLS; AMENDMENTS BETWEEN THE HOUSES.

A conference report is jointly prepared by the managers from the House and the Senate. The report must be signed by a majority of the managers of the House and a majority of the managers on the part of the Senate. Under House precedents, the signatures must be without qualification, exception, or argument. § 18, infra. Minority views are not in order. *Manual* § 543. The managers in the minority have no authority to make a formal report concerning the conference. 5 Hinds § 6406.

Filing a conference report and subsequent printing in the *Congressional Record* are necessary to initiate the three-day waiting period that must precede the consideration of the report on the floor of the House. *Manual* § 1082; § 30, infra. Under rule XXII clause 7 the filing of a conference report is privileged. Permission to file and print a report when the House is not in session may be given by unanimous consent.

In the case of recommittal of a conference report to a committee of conference, the subsequent conference report is filed as privileged, assigned a new number, and otherwise treated as a new and separate report. Deschler-Brown Ch 33 § 16.2.

Explanatory Statements

Under rule XXII clause 7(e), conference reports are to 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. This statement must inform the House as to the effect that the matter contained in the report will have upon the pending measure. *Manual* § 1080. This statement is signed by a majority of the managers of each House, which, under House precedents, must be without qualification, exception, or argument. *Manual* § 543.

A report may not be received without the accompanying statement. *Manual* § 1080. The Speaker may require the statement to be in proper form, but it is for the House, and not the Speaker, to determine its sufficiency. 5 Hinds §§ 6511–6513.

Although minority views are not in order on a conference report, the majority of the managers may, in the statement accompanying the report, indicate exceptions taken or objections raised by certain conferees who signed with the majority. Deschler-Brown Ch 33 § 20.4. A conferee may not revise or supplement a joint statement of managers by inserting in the *Congressional Record* by unanimous consent extraneous material. *Manual* § 1080.

§ 18. Signing and Signatures

To be valid in the House, a conference report must be signed by a majority of the managers of the House and by a majority of the managers of the Senate without qualification, exception, or argument. *Manual* § 543; 5 Hinds §§ 6497–6502 (even though under Senate practice signatures with conditions or exceptions are counted toward a majority). In the House each provision must receive signatures of a majority of the Members appointed for that provision only (including general and additional conferees). However, under Senate practice, signatures are counted strictly per capita. Reports bearing insufficient signatures are subject to a point of order and will not be received. 5 Hinds § 6497; 8 Cannon § 3295.

Reports are made in duplicate for the two Houses, the House managers signing first the report for their House and the Senate managers signing the other report first. 5 Hinds § 6500. The name of an absent manager may not be affixed to a conference report. However, the House and Senate may by

concurrent action authorize him to sign the report after it has been acted on. 5 Hinds § 6488. A quorum among the managers on the part of the House at a committee of conference is established by their signatures on the conference report and joint explanatory statement. *Manual* § 543.

Signatures with Qualifications

Conferees have been permitted to sign a conference report with qualification or exception. 5 Hinds §§ 6489–6496, 6538. However, recent precedents in the House weigh against allowing such signatures to be counted with the majority in support of the report. This is consistent with the general rule that conferees may not file separate or minority views. Managers on the part of the House must act on a conference report as a whole, either by signing it to indicate their support for all that is included in the report or by declining to sign it to indicate their opposition to any part thereof. *Manual* § 543; 8 Cannon § 3302. However, under Senate practice, House and Senate signatures with conditions or exceptions are counted toward a majority.

§ 19. Correction of Errors

A correction to language appearing in a conference report may be made by the Clerk or the Secretary of the Senate in the enrollment of the bill if authorized by concurrent resolution. Such a concurrent resolution may be considered by unanimous consent, under suspension of the rules, or by report from the Committee on Rules. *Manual* § 527. In one instance, a conference report and concurrent resolution making changes therein (by correcting the enrollment) were simultaneously adopted under a motion to suspend the rules. Deschler-Brown Ch 33 § 30.28.

The inadvertence of the conferees in failing to dispose of an amendment to a title does not prevent the amendment from coming back to the House for disposition by motion or unanimous consent following adoption of the conference report. 94–2, Apr. 28, 1976, p 11598; 94–2, Sept. 10, 1976, p 29759; 107–2, Oct. 10, 2002, p ____.

B. Limitations on Reports; Points of Order

§ 20. In General

A conference report is subject to a point of order for failure to comply with one or more rules of the House when the report is called up for consideration in the House and before debate on it begins. Deschler-Brown Ch 33 § 25.9. For a discussion of raising points of order, see § 27, infra.

§ 21. Reports Exceeding Authority of Managers

A point of order will lie against a conference report on the ground that the conferees have agreed to a provision that was beyond the limits of their authority. *Manual* § 1088; § 9, supra. If the point of order is sustained, the conference report is vitiated; and the bill and amendments are again before the House for consideration. *Manual* § 547; 8 Cannon § 3256; 107–2, Nov. 15, 2002, p ____.

Sustaining a point of order on a conference report on the ground that it contains a provision beyond scope does not preclude subsequent consideration of the same provision in the House by motion. The bill and amendments are again before the House and, the stage of disagreement having been reached, motions relating to amendments and a further conference are in order. Deschler-Brown Ch 33 § 25. A matter ruled out as ''beyond scope'' may constitute a germane amendment to a Senate amendment remaining in disagreement.

For a discussion of the Senate scope rule, Senate Rule XXVIII clause 2, see Deschler-Brown Ch 33 § 19.4

§ 22. — Conference Substitutes or Modifications

Under rule XXII clause 9, a conference report containing a substitute agreed to by the managers may not include matter not committed to the conference by either House. *Manual* § 1088. Points of order under the rule are confined to language in the conference report and do not extend to expressions of intent in the joint statement. Deschler-Brown Ch 33 § 7.4. Even a modification of a proposition will give rise to a point of order if it is beyond the scope of either the bill or the amendment as committed to conference. Deschler-Brown Ch 33 § 7.11. The deletion of provisions ''not committed to conference'' because the text has been agreed to by both Houses or is identical in the bill and the amendment also may give rise to a point of order. *Manual* § 527. The managers may eliminate specific words or phrases contained in either version and add words or phrases not included in either version only if they remain within the scope of their differences and do not incorporate additional topics, issues or propositions. Deschler-Brown Ch 33 § 7.4.

§ 23. Nongermane Senate Matter

A Member may raise a point of order against certain language in a conference report if such matter originated in the Senate but would have been considered as not germane if offered to the text when under consideration

in the House. The point of order may be raised with respect to a Senate amendment, a conference substitute, or a provision in a Senate bill (if not included in the House-passed version). The point of order must be raised before the report itself is debated. Rule XXII clause 10(a).

If the Chair sustains a point of order that conferees have agreed to a nongermane Senate provision, a motion to reject that provision is in order, which is debatable for 40 minutes, equally divided between the Member offering the motion and a Member opposed. Rule XXII clause 10(b). Recognition is not based on party affiliation. Deschler-Brown Ch 29 § 17.10. No other point of order may be made until disposal of the motion to reject. *Manual* § 1090.

If the motion to reject is not agreed to, the nongermane Senate matter is retained, and debate commences on the conference report itself. Deschler-Brown Ch 33 § 30.24.

Under rule XXII clause 10(d), if the House votes in favor of any motion to reject the nongermane matter, the report itself is considered as rejected. The House then automatically proceeds to consider a motion to recede and concur with an amendment (consisting of that portion of the report not rejected) or to insist on its own amendment. *Manual* § 1089. The adoption of clause 10(d) was based on the principle that a conference report must be acted on as a whole. It must be either agreed to or disagreed to in its entirety. Rejection of a portion of a conference report results in the rejection of the entire report. *Manual* § 549.

Points of order arising under rule XXII clause 10(a) are normally waived by a special rule from the Committee on Rules or by unanimous consent. § 28, infra.

§ 24. Senate Appropriations on House Legislative Bill

Under rule XXII clause 5, the House managers may not agree to a Senate amendment providing for an appropriation on any bill other than a general appropriation bill unless specific authority to agree to such amendment is first given by the House. *Manual* § 1076. Therefore, where a House legislative measure has been committed to conference and the conferees agree to a Senate amendment appropriating funds, the conference report thereon is subject to a point of order and may be ruled out. *Manual* § 1076. This point of order:

- Applies only to Senate amendments that are reported from conference and not to appropriations reported in Senate legislative bills. *Manual* § 1076.
- Does not apply if House conferees were authorized to agree to the amendment by separate House vote, such as a motion to instruct or a motion to recommit with instructions. *Manual* § 1076.

- Does not apply to a provision permitted by the House to remain in its own bill. *Manual* § 1076.
- May be waived by special rule or by unanimous consent. § 28, infra.

§ 25. Senate Legislation on House Appropriation Bill

Language changing existing law in violation of rule XXI clause 2(c)—often referred to as ''legislation on an appropriation bill''—may give rise to a point of order if it appears in a Senate amendment agreed to by the conference managers. The House managers may not agree to such an amendment unless specific authority to agree to the amendment is first given by the House by a separate vote, such as a vote on a motion to instruct or a motion to recommit with instructions. *Manual* §§ 1039, 1076. The purpose of this restriction is to prevent conference committees from using appropriation bills to legislate or to agree to unauthorized appropriations without the permission of the House. 7 Cannon § 1574.

Points of order arising under this requirement are normally waived by a special rule from the Committee on Rules or by unanimous consent. § 28, infra.

Because of the point of order that will lie against the conferees' agreement to a Senate legislative amendment to an appropriation bill under the rules, it was at one time a customary practice to report such amendments in technical disagreement, where such Senate amendments were separately numbered. The House would first consider a partial report consisting of the matter agreed to in conference and not in conflict with rule XXI, and then consider separately those amendments reported in real or technical disagreement. Such Senate amendments are not subject to a point of order when reported from conference in disagreement, and may be called up for disposition by separate motion. *Manual* § 1076. Under rule XXII clause 8(b)(3), a preferential motion to insist on disagreement to the Senate amendment is in order if offered by the House committee having jurisdiction thereof and if the original motion to dispose of the Senate legislative amendment offered by the House manager proposes to amend existing law. *Manual* § 1084; see SENATE BILLS; AMENDMENTS BETWEEN THE HOUSES. However, under modern practice, the Senate ordinarily amends a House-passed general appropriation bill with one amendment in the nature of a substitute, which precludes reporting in partial disagreement of portions thereof and necessitates waivers of points of order in the House.

§ 26. Congressional Budget Act Violations

Congressional action on legislation reported from a conference committee is subject to the Congressional Budget Act of 1974. *Manual* § 1127. The following points of order against consideration of a conference report under the Congressional Budget Act lie in the House:

- Containing spending, revenue, or debt-limit legislation for a fiscal year before a budget resolution for that year has been adopted. § 303(a).
- Containing matter within the jurisdiction of the House and Senate Budget Committees but not reported by those committees. § 306.
- On reconciliation legislation if containing a recommendation that changes Social Security. § 310(g).
- Breaching the allocation—to each committee with jurisdiction—of appropriate levels of budgetary spending authority. § 302(f).
- Breaching certain budgetary levels as set forth in the applicable concurrent resolution on the budget. § 311(a).
- Providing certain budget authority beyond that provided for in advance in appropriation acts. § 401.
- Increases in the costs of Federal intergovernmental mandates by amounts that exceed specified thresholds (to be determined by a vote on the question of consideration). § 425.
- In the Senate only, a conference report on a reconciliation bill that includes extraneous provisions (the ''Byrd Rule''). § 313.

§ 27. Raising Points of Order

Generally

A point of order against a conference report comes too late after debate has been had on the report. The point of order should be made when the report is called up for consideration and before debate thereon. Deschler-Brown Ch 33 § 25.9. Where a reading is required, a point of order against the report is not entertained until after the report has been read and cannot be reserved during a reading of the report. Deschler-Brown Ch 33 § 25.12; 94–1, Dec. 15, 1975, p 40671. Under rule XXII clause 8(c), a conference report is considered as read if it has been available for three days (having been printed in the *Congressional Record* on the day filed). The report also may be considered as read by special rule or by unanimous consent.

Multiple Points of Order

The Chair may rule on all points of order raised against a conference report, whether they are made separately or at one time. Deschler-Brown Ch 33 § 25.18. However, the Chair entertains and rules on points of order that, if sustained, will vitiate the entire conference report before entertaining

points of order against certain portions of the report under rule XXII clause 10. *Manual* § 1090.

Where a point of order against a conference report is overruled, a second point of order may be pressed against the report, providing that debate on the report has not intervened. Deschler-Brown Ch 33 § 25.17.

Points of Order and the Question of Consideration

The question of consideration may be raised against a conference report before the Chair entertains points of order against the report on the ground that it is useless to entertain points of order if the House is not going to consider the report. However, a point of order should be decided first if it concerns whether the matter is privileged to come up for consideration in the first instance. *Manual* § 909.

Under section 426 of the Congressional Budget Act of 1974, which provides for disposition of points of order that preclude unfunded Federal intergovernmental mandates, a question of consideration can be raised against a conference report that contains a provision increasing the costs of such mandates above levels specified in section 424 of that Act. If the provision is precisely identified in the point of order, the House can then, by voting on the question of consideration, determine whether or not to allow the entire conference report to be considered.

§ 28. Waiving Points of Order

By Special Rule

Points of order against a conference report—or against the consideration of a conference report—may be waived pursuant to a resolution reported by the Committee on Rules and adopted by the House, and this has become the normal practice. See, *e.g.*, 107–1, H. Res. 312, Dec. 12, 2001, p ____. The resolution normally waives all points of order but may waive one or more specific points of order. Such a resolution may also waive all points of order against a conference report *except* against certain provisions, for example, sections therein that contain matter beyond the House conferees' scope of authority in violation of rule XXII clause 9. Deschler-Brown Ch 33 § 26.8.

Resolutions waiving certain points of order against a conference report are subject to germane amendment if the previous question on the resolution is voted down. See SPECIAL ORDERS OF BUSINESS.

By Unanimous Consent

By unanimous consent the House may waive some or all of the points of order that would otherwise lie against a conference report and may take

such action before the report has been filed or even before the conferees have reached agreement. 98–2, June 18, 1984, p 16841; 99–1, Dec. 16, 1985, p 26559. By unanimous consent, the House has provided for the following:

- The consideration of a report (on a bill on which conferees had just been appointed) on that same day or any day thereafter (if filed). 99–1, Aug. 1, 1985, p 22640.
- The consideration of a report not yet filed and amendments reported in disagreement, subject to one-hour availability to Members. Deschler-Brown Ch 33 § 2.24.
- The consideration of a report containing no joint statement of the managers. 98–2, June 29, 1984, p 20206.
- The midnight filing of a new report on a bill recommitted to conference, and the consideration of the report on the following day. 97–2, Aug. 17, 1982, pp 21397, 21398.

By Motion to Suspend the Rules

A conference report may be adopted pursuant to a motion to suspend the rules. Deschler-Brown Ch 33 § 30.26. Thus, the Speaker may recognize a Member to move to suspend the rules and agree to a conference report that has been ruled out of order because the conferees exceeded their authority in violation of rule XXII clause 9 or because the conference report has not met its availability requirement under rule XXII clause 8. Deschler-Brown Ch 33 § 26.28; Deschler-Brown Ch 33 § 27.9.

C. Consideration and Disposition of Reports

§ 29. In General; Custody of Official Papers

Both Houses of Congress must agree to a conference report, and they do so seriatim. Either House must be in possession of the official papers before it can act. *Manual* § 549. Under a practice suggested by Jefferson, at the close of an effective conference, the official papers change hands from the House asking the conference to the House agreeing to the conference. The managers on the part of the House agreeing to the conference take possession of the papers and submit them and the report to their House, which acts first on the report. However, the managers for the agreeing House may nevertheless surrender the papers to the asking House so that it may act first on the report. *Manual* § 555; 8 Cannon 3330.

Where a conference dissolves without reaching any agreement, the managers for the House that (having the papers) asked the conference, are justified in retaining them and carrying them back to their House. *Manual* § 556;

5 Hinds §§ 6254, 6571–6584; 8 Cannon § 3332. However, in the event that the matter in disagreement is an amendment of the House that requested the conference, the papers may be surrendered to the other House to permit it to act first on, and respond to, that amendment. Deschler-Brown Ch 33 § 24.13.

§ 30. Layover and Availability Requirements

Generally

The floor consideration of conference reports is subject to layover and availability requirements under rule XXII clause 8(a). *Manual* § 1082. They require that conference reports:

- Be printed in the *Congressional Record* on the day filed and be available for three calendar days (excluding Saturdays, Sundays, and legal holidays unless the House is in session).
- Be available to Members on the floor for at least two hours before consideration thereof.

The three-day layover requirement does not apply during the last six days of a session. *Manual* § 1082. This is construed to mean that, during the last six calendar days before the constitutional end of a session on January 3, a conference report may be called up on the same day it is filed. Deschler-Brown Ch 33 § 22.5.

Waivers

The three-day layover rule may be waived by unanimous consent, by suspension of the rules, or, more commonly, by adoption of a special rule. § 28, supra. A resolution only waiving the availability requirement may be considered on the same day the resolution is reported under rule XXII clause 8(e) and rule XIII clause 6(a)(2). Such a resolution may permit a waiver of the three-day layover requirement for the remainder of a session. 93–2, Dec. 18, 1974, pp 40846, 40847.

Even if the three-day layover requirement is waived, the conference report is still to be available at least two hours before the matter is taken up for consideration, although the two-hour requirement may likewise be waived pursuant to a special rule. Deschler-Brown Ch 33 § 27.10. The two-hour requirement also may be waived pursuant to a unanimous-consent agreement providing for consideration ''immediately'' after filing. Deschler-Brown Ch 33 § 27.9.

§ 31. Filing and Calling Up Report; Reading

Generally; Precedence

A conference report may be called up in the House as privileged business after the report has been filed and is in compliance with the three-day layover and two-hour availability requirements of rule XXII. § 30, supra.

Because of its potential value in settling House-Senate differences, the filing of a conference report is considered as a matter of high privilege. Rule XXII clause 7; *Manual* § 1077; 5 Hinds § 6443. Its presentation or filing takes precedence over:

- Unfinished business. *Manual* § 1077.
- The reading of a bill. 5 Hinds § 6448.
- A Member occupying the floor in debate. 5 Hinds § 6451.
- The ordering of (or demand for) the previous question. 5 Hinds §§ 6449, 6450.
- The question of ordering a recorded vote. 5 Hinds § 6447.
- A motion to refer a Senate bill. 5 Hinds § 6457.
- A motion to reconsider. 5 Hinds § 5605.
- A motion to adjourn (although as soon as the report is presented the motion to adjourn may be put). *Manual* § 1077.

Who May Call Up

A conference report may be called up for consideration in the House by the senior manager on the part of the House at the conference, and he may be recognized to do so even though he did not sign the report and was in fact opposed to it. Deschler-Brown Ch 33 § 23.3. If the senior House manager is unable to be present on the floor to call up the report, the Speaker will recognize another majority member of the conference committee. Deschler-Brown Ch 33 § 23.1.

Reading

Under rule XXII clause 8(c), a conference report that meets the availability requirements need not be read when called up for consideration in the House. If it has not been available for the three-day period, it must be read in full when called up for consideration, unless dispensed with by unanimous consent or by special rule. The statement of the managers accompanying a conference report may by unanimous consent be read in lieu of the report. Deschler-Brown Ch 33 § 20.9.

Withdrawal; Postponement

A conference report may be withdrawn from consideration in the House by the Member calling it up at any time before action thereon. Deschler-Brown Ch 33 § 20.9.

A motion to postpone the consideration of a conference report to a day certain is permitted until the previous question is ordered on the report. Thereafter, postponement is permitted only by unanimous consent (except for the Speaker's authority to postpone the vote on adoption of a conference report under rule XX clause 8). Deschler-Brown Ch 33 § 30.9.

§ 32. En Bloc Consideration

Reports

Ordinarily, it is not permissible to consider several conference reports en bloc. Each conference report should be considered and voted upon separately. Deschler-Brown Ch 33 § 30.2. However, pursuant to a resolution from the Committee on Rules, the House may consider and vote on two or more conference reports en bloc. Deschler-Brown Ch 33 § 22.10.

Amendments in Disagreement

Where two or more amendments have emerged from conference in disagreement, they may by unanimous consent be considered en bloc where the same motion is to be applied to each amendment. Deschler-Brown Ch 33 § 29.42. Proposed motions to dispose of the amendments that were not all the same (as where they proposed to recede and concur with different amendments) also may be considered by unanimous consent. Deschler-Brown Ch 32 § 11.10. For disposition of Senate amendments generally, see SENATE BILLS; AMENDMENTS BETWEEN THE HOUSES.

§ 33. Debate

Generally; Extending Time

Debate on a conference report is under the hour rule. Rule XVII clause 2; rule XXII clause 8(d); *Manual* §§ 957, 1086. Such debate may be extended by unanimous consent or by special rule reported by the Committee on Rules but not by motion. Deschler-Brown Ch 33 §§ 28.2, 28.3. The one hour of debate could also be continued if the motion for the previous question were rejected. 93–2, Feb. 27, 1974, p 4397.

Division of Time

Under rule XXII clause 8(d), the time for debate on a conference report or an amendment emerging from conference in disagreement is equally di-

vided between the majority and minority parties. The rule has been interpreted to require an equal allocation of time on a motion to dispose of an amendment in disagreement following rejection of a conference report by the House or following the sustaining of a point of order against a conference report. Indeed, it has become the practice of the House to equally divide the time on all motions to dispose of amendments emerging from conference in disagreement, whether the amendment has been reported in disagreement or has come before the House at some other stage for disposition. *Manual* § 1086.

Three-way Division of Debate

Rule XXII clause 8(d) provides that, if both the floor manager for the majority and the floor manager for the minority support a conference report, the hour of debate thereon may be divided three ways—among the two managers and a Member who is opposed. *Manual* § 1086. This allocation may not be claimed if the minority manager states that he or she is opposed to the report. 99–2, Oct. 15, 1986, p 31515. Recognition of a Member to control the 20 minutes of debate in opposition does not depend upon party affiliation. Priority in such recognition is accorded to a member of the conference committee. *Manual* § 1086.

To open debate, the Chair recognizes first the majority manager calling up the conference report, then the minority manager, then the Member in opposition. The right to close the debate where the time is divided three ways falls to the manager calling up the conference report. A similar three-way division of time applies to the motion offered by the floor manager to dispose of an amendment remaining in disagreement if the floor managers for the majority and minority favor the motion. *Manual* § 1086.

§ 34. — Recognition; Control of Debate Time

Generally

When a conference report is called up or a Senate amendment in disagreement is pending, the hour of debate time is equally controlled by the majority and minority parties. *Manual* § 1086. Where the Member calling up the report does not seek recognition as a majority member to offer a motion to dispose of the matter reported in disagreement, another majority member may be recognized to offer such a motion and to control one-half of the time thereon. Deschler-Brown Ch 32 § 8.11. Where conferees have been appointed from two committees of the House, the Speaker may recognize the chairman of one committee to control 30 minutes and a minority member of another committee to control 30 minutes. Deschler-Brown Ch 33

§ 28.6. By unanimous consent, the time allocated to the majority and minority may be reallocated to other Members, with the right of those Members to yield time to other Members. 99–2, Oct. 8, 1986, p 29714.

Debate in the House on a Senate amendment reported from conference in disagreement having been divided, the minority member in charge controls 30 minutes for debate only and may yield to other Members for debate only. Another minority member, merely by offering a preferential motion, does not thereby control one-half of the time under the original motion. *Manual* § 1086.

However, if the original motion is defeated, recognition may shift and a second motion to dispose of the amendment may be offered; and if the second motion is offered by a minority member, the Chair may allocate the hour of debate between him and a majority member, although neither controlled time on the initial motion. *Manual* § 1086.

Debate Following Division of the Question

Where a preferential motion to recede and concur in an amendment reported from conference in disagreement has been divided, one hour of debate, equally divided between the majority and minority, is permitted on the motion to recede. If the previous question is ordered only on the motion to recede and if the House then recedes and a preferential motion to concur with an amendment is offered, another hour of debate equally divided is permitted. 95–1, Aug. 2, 1977, p 26206; 95–2, Oct. 5, 1978, p 33698. The Chair may put the question on receding without debate if the majority and minority floor managers do not seek recognition to debate that portion of the original motion, because the subsequent question of concurring, or concurring with an amendment, is debatable for one hour, equally divided between the managers. 98–2, Oct. 10, 1984, p 31694.

§ 35. Recommittal of Report

Generally; By Motion

A motion to recommit a conference report to the existing conference committee is in order if the other House has not acted on the report and thereby discharged its managers. Manual § 550. After one House has acted on a report, the other House has only the option of accepting or rejecting it. Deschler-Brown Ch 33 § 32.6. After both Houses have acted on the report, it may be recommitted to conference only by concurrent resolution. *Manual* § 550; 8 Cannon § 3316.

The motion to recommit is initially the prerogative of the minority. See REFER AND RECOMMIT. However, the Speaker has recognized a majority

member to offer a motion to recommit a conference report in the absence of a minority member seeking recognition to offer the motion. Deschler-Brown Ch 33 § 32.20.

A motion to recommit a conference report is not in order until the previous question has been ordered on the report. Deschler-Brown Ch 33 § 32.10. Only one valid motion is permitted, so if the motion is voted down, the question before the House is on the adoption of the report. Deschler-Brown Ch 33 § 32.52. However, if a recommittal motion with instructions is ruled out on a point of order, a valid motion may still be offered. A motion to recommit comes too late after the report has been agreed to. Deschler-Brown Ch 33 § 32.13.

Under section 305(a)(6) of the Congressional Budget Act of 1974, a motion to recommit a conference report on the concurrent resolution on the budget is not in order.

Where a conference report is recommitted to conference, the House managers carry the original papers back to conference. Deschler-Brown Ch 33 § 32.51. The same conferees remain appointed. Deschler-Brown Ch 33 § 32.2. If a second report is then filed by the conferees, it is numbered and otherwise treated as a new and separate report. Deschler-Brown Ch 33 § 32.48.

Instructions in motion to recommit, see § 15, supra.

Recommittal by Unanimous Consent or Special Rule

Conference reports are sometimes recommitted by unanimous consent in the House acting first. Deschler-Brown Ch 33 § 32.40. This procedure may be used:

- To recommit a report in which an error has been discovered. Deschler-Brown Ch 33 § 32.40.
- To permit the conferees to make certain changes and to file a new report. Deschler-Brown Ch 33 § 32.41.
- Where the conferees have exceeded their authority in reporting a matter not in disagreement. 90–1, June 28, 1967, p 17738.

A conference report also may be recommitted by a special rule reported by the Committee on Rules. See *e.g.*, 107–1, H. Res. 134, May 8, 2001, p ____.

§ 36. Final Disposition of Report; Voting

Generally

As a general rule, when a conference report has been debated and its final disposition is pending, only three courses of action are available to the

Members: (1) agree, (2) disagree, or (3) recommit to conference. 5 Hinds §§ 6546, 6558. For recommittal, see § 35, supra. Conference reports may not be:

- Disposed of by the motion to table after the previous question is ordered. 5 Hinds §§ 6538–6544.
- Referred to a standing committee. 5 Hinds § 6558.
- Amended (5 Hinds §§ 6534, 6535), except by concurrent resolution (5 Hinds § 6536).
- Sent to Committee of the Whole. 5 Hinds §§ 6559–6561.

A report having been called up, the motion to agree to the report is regarded as pending. The Speaker may put the question on the report without motion from the floor. 5 Hinds § 6517; 8 Cannon § 3300. Although most reports are agreed to by majority vote, a two-thirds vote is required on a report relating to a constitutional amendment (5 Hinds § 7036) and under rule XXI clause 5(b), a three-fifths vote is required on a conference report carrying a Federal income tax rate increase. For Speaker's discretion to postpone a vote on a conference report, see rule XX clause 8; *Manual* § 1030. Postponement by unanimous consent, see § 31, supra.

Under rule XX clause 10, the yeas and nays are considered ordered on the adoption of a conference report on a general appropriation bill, on a concurrent resolution on the budget, or on a bill increasing Federal income tax rates.

Partial Reports

A conference report must generally be acted on as a whole and either agreed to or disagreed to in its entirety. Rejection of a portion of a conference report under a special rule permitting such a separate vote results in the rejection of the entire report. Deschler-Brown Ch 33 § 30.5. Until the report has been acted on, no motion to deal with individual amendments reported in disagreement is in order. 5 Hinds §§ 6323, 6389, 6390. In some cases, however, the managers return to the House with a partial conference report dealing with the amendments on which they have reached agreement but specifying one or more amendments that remain in disagreement. 5 Hinds §§ 5460–5464. In such cases, the vote first occurs on agreeing to the conference report on those matters on which agreement has been reached. The amendments reported therein in disagreement are reported and acted on seriatim thereafter. Deschler-Brown Ch 33 § 29.3. For a discussion of amendments reported in total disagreement, see § 38, infra.

Motions to Reconsider the Vote

After disposition of the report and any or all amendments reported from conference in disagreement, it is in order to move to reconsider the vote on a motion disposing of one of the amendments. Deschler-Brown Ch 33 §§ 30.35, 30.36. The Speaker may put as one question reconsideration of multiple votes (subject to demand for a separate vote on reconsideration of any question) and a Member may then move to lay all motions to reconsider on the table. 95–2, Oct. 4, 1978, p 33480. Under section 305(a)(6) of the Congressional Budget Act of 1974, a motion to reconsider the vote on a conference report on the concurrent resolution on the budget is not in order.

§ 37. Effect of Rejection of Report; Further Conferences

When either House disagrees to a conference report, the matter is left in the position it was in before the conference was asked but in the stage of disagreement. 5 Hinds § 6525. Motions for the disposition of amendments in disagreement or to send the matter to further conference are again in order. Rule XXII clause 4; *Manual* §§ 1074, 1075; 8 Cannon § 3303. Thus, the House may reject a conference report, insist on disagreement to a Senate amendment, and ask for a further conference. *Manual* § 528d. However, a motion to instruct House managers at a new conference is not in order until the motion to go to further conference has been agreed to. Deschler-Brown Ch 33 § 31.8.

D. Disposition Where Managers Report in Total Disagreement

§ 38. In General

Where the managers at a conference are unable to come to any agreement on the matters committed to them, they prepare and sign a written report to that effect. 5 Hinds §§ 6565–6570. The report is filed and ordered printed. *Manual* § 545. Under the former practice, amendments reported in total disagreement could be taken up for immediate consideration in the House. 8 Cannon §§ 3299, 3332. Today the matter in disagreement is subject to the three-day layover requirement of rule XXII clause 8(b).

House action on amendments reported in total disagreement differs from that of the Senate. In the Senate a conference report in total disagreement is considered before disposition of the reported amendments. Deschler-Brown Ch 33 § 29.13. In the House, after the report is called up, action is taken on the amendment in disagreement but not on the report. Deschler-

Brown Ch 33 § 29.3. Thus, where conferees report in disagreement absent a special rule, and the Senate then recedes and concurs in the House amendments with an amendment, the conference report is not acted on in the House; the Speaker merely directs the Clerk to report the Senate amendments to the House amendments for disposition by motion. Deschler-Brown Ch 33 § 29.28. Debate (including possible three-way debate) and voting proceeds in the same manner as on amendments reported from conference in partial disagreement. See § 33, supra. Motions to dispose of amendments in disagreement, see SENATE BILLS; AMENDMENTS BETWEEN THE HOUSES.