

MR. [CLEVELAND M.] BAILEY [of West Virginia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BAILEY: The so-called Bow amendment was brought into the picture irregularly in that it was a substitute for another amendment.

THE SPEAKER: It was an amendment to the committee amendment.

MR. BAILEY: It was subject to a point of order.

THE SPEAKER: It is not now.

The Clerk will report the so-called Elliott amendment. . . .

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COLMER: Mr. Speaker, does not the first vote occur upon a substitute or the Bow amendment?

THE SPEAKER: It does not. It was an amendment to an amendment.

MR. COLMER: Mr. Speaker, what is the first order?

THE SPEAKER: The first order is the vote on the amendment that the Clerk has just reported.

MR. [GRAHAM A.] BARDEN [of North Carolina]: Mr. Speaker, I believe it would be of great interest to the Members of the House to clarify the first amendment, the second amendment, and the third amendment in the order in which they will be taken up.

THE SPEAKER: Each amendment will be reported when the proper time comes. The first on the list is the Elliott amendment.

MR. BARDEN: Mr. Speaker, what effect will the Bow amendment have on

the other amendments that will be voted on?

THE SPEAKER: If the Bow amendment is agreed to it will strike out the other two amendments.

MR. BARDEN: It strikes out the Elliott amendment and the Powell amendment?

THE SPEAKER: That is correct.

The House rejected the Elliott amendment, adopted the Powell amendment, and rejected the Bow amendment.<sup>(12)</sup>

## § 27. Senate Bills and Amendments; Conference Reports

Order of business resolutions reported from the Committee on Rules and pertaining to Senate bills, amendments between the Houses, and conferences, may take a number of different forms, because of the possible variations in the parliamentary situation. Where it is desired to take up and consider a Senate-passed bill, without first considering and passing a similar bill introduced in the House, the Committee on Rules may report a resolution making in order the consideration of the Senate bill and providing procedures for its consideration. Such a resolution may provide for the consideration of a Senate bill

12. *Id.* at pp. 11302, 11303.

on the Speaker's table, or a Senate bill referred to and reported by a House committee and on the Calendar, or a Senate bill referred to committee and not yet reported.<sup>(13)</sup>

On most occasions, however, the House first considers and passes a bill introduced in the House, and then substitutes the text of the House-passed bill for the text of a similar Senate bill if previously messaged to the House. The language of the special order, providing for such a procedure, will depend on whether the Senate measure is on the Speaker's table or must be discharged from the House committee,<sup>(14)</sup> and whether the Senate bill is identical, or merely similar, to the House reported bill.

Certain measures, such as general appropriation bills, should originate in the House (see Ch. 13, *supra*, for the prerogatives of the House).

Senate amendments to a House bill usually require consideration in Committee of the Whole,<sup>(15)</sup> and are thus not privileged for consideration in the House unless the

**13.** For example, see §§27.1–27.7, *infra*.

**14.** See §§27.8–27.11, *infra*.

**15.** See Rule XX clause 1, *House Rules and Manual* §827 and Rule XXIII clause 3, *House Rules and Manual* §865 (1979).

stage of disagreement has been reached. Likewise, House amendments to Senate bills, after passage of the Senate bill as amended, are not subject to disposition in the House by privileged motion until the stage of disagreement is reached. Such measures may be brought up and disposed of by unanimous consent, by suspension of the rules, by a resolution reported from the Committee on Rules, by a privileged motion sending the bill to conference by direction of the committee with jurisdiction,<sup>(16)</sup> or, with respect to Senate amendments, by the Speaker's action in referring the bill to a standing committee.<sup>(17)</sup>

Resolutions from the Committee on Rules may take from the Speaker's table House bills with Senate amendments or Senate bills with House amendments and direct any disposition which is desired, including agreeing to or requesting a conference with the Senate.<sup>(18)</sup>

**16.** See Rule XX clause 1, *House Rules and Manual* §827 (1979).

**17.** See Cannon's Procedure in the U.S. House of Representatives, p. 117 (1959). The Speaker rarely makes such a reference.

**18.** For taking House bill with Senate amendment from the table, see §§27.12–27.14, *infra*; for concurring in Senate amendments to a House bill, see §§27.15–27.20, *infra*; for

Under Rule XXVIII,<sup>(19)</sup> conference reports themselves are privileged for consideration, after a three-day layover, but a resolution from the Committee on Rules may make in order the consideration of a conference report on the same day on which reported or any day thereafter, or may alter the method of consideration.<sup>(20)</sup> And defects in a conference report which would subject the report to a point of order in the House, or motions to be proposed on amendments reported in disagreement, which motions would be subject to points of order, may be cured by the provisions of a special order waiving points of order.<sup>(1)</sup>

concurring with amendments, see §§ 27.21, 27.22, *infra*; for disagreeing to Senate amendments to House bill and going to conference, see §§ 27.23–27.26, *infra*; for disagreeing in part, concurring in part and going to conference, see § 27.27, *infra*; for insisting upon House amendment to Senate bill, see §§ 27.28–27.30, *infra*; for sending to conference generally, see § 27.31, *infra*.

For a resolution sending a bill to conference and allowing the House conferees to agree to any Senate amendment, notwithstanding Rule XX clause 2, *House Rules and Manual* § 829 (1979), see § 27.24, *infra*.

19. *House Rules and Manual* §§ 909, 912, (1979).
20. See §§ 27.32–27.35, 27.37, 27.38, *infra*.
1. See §§ 27.40–27.45. A conference report which has been called up and

By analogy to the principle that the Committee on Rules may recommend making in order the consideration of a bill which has not even been introduced, the committee may recommend making in order a conference report where the conference committee has not yet met or reported.<sup>(2)</sup>

In certain situations, a conference report may be protected from a point of order because of the provisions of the special order which governed the consideration of the bill in the House. For example, waiving points of order against unauthorized appropriations in a bill being considered in the House carries over to the conference report on the bill, since conferees under Rule XX clause 2 are only prohibited from agreeing to provisions which would have been subject to a point of order in the House under Rule XXI clause 2 during original consideration of the bill. Thus, conference reports may contain the unauthorized provisions (or modifications thereof) originally protected by the waiver of points of order.<sup>(3)</sup>

#### Cross References

As to bill passage procedure generally, see Ch. 24, *infra*.

held out of order may be brought up again under the provisions of a special rule waiving points of order. See § 27.43, *infra*.

2. See § 27.34, *infra*.
3. See § 27.36, *infra*.

As to amendments between the Houses, see Ch. 32, *infra*.

As to conferences and conference reports, see Ch. 33, *infra*.

As to suspension of the rules in relation to amendments between the Houses and conference reports, see §9, *supra*.

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***Making in Order and Providing for Consideration of Senate Bill***

**§ 27.1 Form of resolution providing for consideration in Committee of the Whole of a Senate bill at the Speaker's desk (the Legislative Reorganization Act of 1946) and making in order as an amendment in the nature of a substitute the provisions contained in a committee print previously inserted in the Congressional Record.**

The following resolution, reported from the Committee on Rules, was under consideration on July 25, 1946:<sup>(4)</sup>

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2177) to provide for increased efficiency in the legislative branch of the Government, and all

4. H. Res. 717, 92 CONG. REC. 10037, 79th Cong. 2d Sess.

points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed two hours, to be equally divided and controlled by the gentleman from Oklahoma, Mr. Monroney, and the gentleman from Michigan, Mr. Michener, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order as a substitute for the bill the provisions contained in the committee print of July 20, 1946, and printed in the *Congressional Record* of July 19, 1946, page 9496, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

*Parliamentarian's Note:* The committee print of July 20, 1946, was the product of an informal special committee on the reorganization of Congress, without legislative jurisdiction.

**§ 27.2 Form of special rule providing for the consideration of a Senate bill, waiving points of order against said**

**bill and directing that a committee substitute amendment for said bill shall be considered under the five-minute rule as an original bill without intervention of any point of order.**

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 18, 1937:<sup>(5)</sup>

HOUSE RESOLUTION 320

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of S. 1685, an act to provide financial assistance to the States and political subdivisions thereof for the elimination of unsafe and insanitary housing conditions, for the eradication of slums, for the provision of decent, safe, and sanitary dwellings for families of low income, and for the reduction of unemployment and the stimulation of business activity, to create a United States Housing Authority, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill, and continue not to exceed 3 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without

5. 81 CONG. REC. 9234, 75th Cong. 1st Sess.

the intervention of any point of order the substitute committee amendment recommended by the Committee on Banking and Currency now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

**§ 27.3 Form of resolution providing for the consideration of a Senate joint resolution in the House as in the Committee of the Whole and authorizing general debate prior to reading for amendment under the five-minute rule.**

The following resolution, reported from the Committee on Rules, was under consideration on Jan. 6, 1937:<sup>(6)</sup>

*Resolved*, That upon the adoption of this resolution the House as in the Committee of the Whole House on the

6. H. Res. 44, 81 CONG. REC. 90, 75th Cong. 1st Sess. The Senate joint resolution, prohibiting the exportation of arms and ammunition to Spain during the Spanish Civil War, had been reported from committee and referred to the Union Calendar.

State of the Union shall consider the joint resolution, Senate Joint Resolution 3; that there shall be not to exceed 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, whereupon the joint resolution shall be read for amendment under the 5-minute rule.

**§ 27.4 By unanimous consent, the House considered a Senate bill under the terms of a resolution adopted for consideration of a House bill.**

On Mar. 12, 1959,<sup>(7)</sup> the House agreed to a unanimous-consent request that it be in order to consider a Senate bill (to provide for the admission of the State of Hawaii into the Union) under the provisions of a special order adopted on a previous day, for the consideration of a House bill on the same subject:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I renew my unanimous-consent request, heretofore made, that it may be in order for the House to consider the bill S. 50, in lieu of the bill H.R. 4221, under the terms and provisions of House Resolution 205 adopted yesterday by the House in relation to the Hawaiian statehood bill.

THE SPEAKER:<sup>(8)</sup> Is there objection to the request of the gentleman from Massachusetts?

7. 105 CONG. REC. 4005, 86th Cong. 1st Sess.

8. Sam Rayburn (Tex.).

MR. [JOHN R.] PILLION [of New York]: Mr. Speaker, I do not renew my previous objection.

There was no objection.

**§ 27.5 Instance where, since a private Senate bill resulting in the expenditure of public funds [and thus requiring consideration in the Committee of the Whole House] is not privileged and cannot be taken from the Speaker's table for direct action by the House, the House adopted a resolution taking the bill from the table and providing for its consideration in Committee of the Whole House on the state of the Union.**

On Mar. 14, 1961, the House agreed to a resolution reported from the Committee on Rules providing for the consideration of a private Senate bill on the Speaker's table:<sup>(9)</sup>

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1173) to authorize the appointment of Dwight David Eisenhower to the active list of the Regular Army, and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed one hour to be equally di-

9. H. Res. 224, 107 CONG. REC. 3911, 87th Cong. 1st Sess.

vided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill—shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

*Parliamentarian's Note:* A private Senate bill requiring consideration in the Committee of the Whole House, engrossed and sent to the House after a similar House bill has been reported and referred to the Private Calendar, is not privileged. A similar private House bill (H.R. 5174) had been reported to the House.

**§ 27.6 The House adopted a special order taking two Senate bills from the Speaker's table (where such bills required consideration in Committee of the Whole); amending each bill by identical amendments in the nature of a substitute; providing that each Senate bill be considered as read a third time and passed; amending titles of both Senate bills; providing that the House insist on each amendment, request con-**

**ferences with the Senate on each bill, and that the Speaker appoint conferees on the part of the House to attend each such conference.**

On Nov. 18, 1971, a special order was called up by direction of the Committee on Rules for the consideration of two Senate bills:

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 710 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 710

*Resolved,* That immediately upon the adoption of its resolution and without the intervention of any point of order the bills of the Senate S. 2819 and S. 2820 are hereby taken from the Speaker's table; that said Senate bills are hereby amended by striking out all after the enacting clause of each such Senate bill and inserting in lieu thereof the text of the bill H.R. 9910 as passed by the House on August 3, 1971; that the said Senate bills as so amended shall be considered as read a third time and passed; that the title of each such Senate bill shall be amended by striking out such title and inserting in lieu thereof the title of H.R. 9910; that the House insists upon its amendments to each Senate bill and requests conferences with the Senate, and that the Speaker appoint managers on the part of the House to attend each such conference.<sup>(10)</sup>

10. 117 CONG. REC. 42046, 42047, 92d Cong. 1st Sess.

Mr. Bolling explained the purpose and unprecedented nature of the special order:

Mr. Speaker, some say that this rule is without precedent. I have not searched the precedents. I do not know. But I do know it is a very unusual rule, and I think it deserves explanation so that the Members who are interested will know what the rule does and what its significance is. Those who listened to the rule will know that, if the resolution is adopted by the House, the House action will be as follows: The House will take two Senate bills on foreign aid, one on foreign economic assistance and one on foreign military assistance, from the Speaker's table. It will amend each of those bills by striking out all after the enacting clause and putting in each of them the text of the bill that the House debated, amended, and passed on the 3rd of August 1971, and it will then send the matters, the two bills, to conference.

The resolution provides that the Speaker can appoint conferees.

What this does, in very frank terms, is to get before a conference the two Senate bills and the House-passed bill. Most of you will remember that the bill passed the House, went to the Senate, it was debated at length, amended and defeated. Then the Senate came back with two separate bills, which were passed by very substantial majorities.

The House adopted the resolution.

### ***Discharging Committee From Consideration of Senate Bill***

#### **§ 27.7 Form of resolution providing for the discharge of a**

**House committee from further consideration of a Senate bill [similar to a House bill pending on the Union Calendar] and for its immediate consideration under an "open" rule.**

The following resolution, reported from the Committee on Rules, was under consideration on Mar. 17, 1970:<sup>(11)</sup>

*Resolved*, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

### ***Substituting Text of House-passed Bill for Text of Senate-passed Bill***

#### **§ 27.8 Form of resolution providing for consideration of a**

11. H. Res. 874, 116 CONG. REC. 7691, 91st Cong. 2d Sess.

**House bill, and after passage discharging a House committee from further consideration of a Senate bill, and making in order a motion to strike out all after the enacting clause of the Senate bill and inserting in lieu thereof the provisions of the House bill as passed by the House.**

The following resolution, reported from the Committee on Rules, was under consideration on Sept. 3, 1969:<sup>(12)</sup>

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7621) to amend the Federal Hazardous Substances Act to protect children from toys and other articles intended for use by children which are hazardous due to the presence of electrical, mechanical, or thermal hazards, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original

12. H. Res. 516, 115 CONG. REC. 24004, 24005, 91st Cong. 1st Sess.

bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 7621, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1689, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 7621 as passed by the House.

As a further example, the following resolution, reported from the Committee on Rules, was considered on Sept. 24, 1969:

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 850) to designate the Desolation Wilderness, Eldorado National Forest, in the State of California. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute

rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 850, the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 713, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 850 as passed by the House.<sup>(13)</sup>

**§ 27.9 Form of resolution providing for consideration of a bill; providing that after passage of the House bill, the legislative committee be discharged from consideration of a similar Senate bill and the House-passed language substituted as an amendment for all after the enacting clause therein; and making in order a motion that the House insist on its amendments to the Senate bill and a request for a conference, and authorizing the Speaker to appoint conferees on the part of the House.**

The following resolution, reported from the Committee on

13. H. Res. 543, 115 CONG. REC. 26898, 26899, 91st Cong. 1st Sess.

Rules, was under consideration on Aug. 11, 1959:<sup>(14)</sup>

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 8342, a bill to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed six hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

That after the passage of H.R. 8342, the Committee on Education and Labor shall be discharged from the further consideration of the bill, S. 1555;

14. H. Res. 338, 105 CONG. REC. 15512, 86th Cong. 1st Sess.

that it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 8342 as passed; that it shall then be in order to move that the House insist upon its amendment to said Senate bill S. 1555 and request a conference with the Senate; and that the Speaker shall thereupon appoint the conferees on the part of the House.

**§ 27.10 The House agreed to a resolution providing for the consideration of a bill reported from the Committee on Merchant Marine and Fisheries, making it in order, after passage, to take from the Speaker's table a similar Senate bill which, under the precedents, would have fallen within the jurisdiction of the Committee on Interior and Insular Affairs had it been referred to committee, and to insert the House language as an amendment.**

On Sept. 23, 1969, the House agreed to a special order, called up by Mr. Spark M. Matsunaga, of Hawaii, by direction of the Committee on Rules, which resolution made in order the consideration of a bill reported by the Committee on Merchant Marine and Fisheries; the resolution also provided for the disposition of a

Senate bill after passage of the House bill: <sup>(15)</sup>

H. RES. 544

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12549) to amend the Fish and Wildlife Coordination Act to provide for the establishment of a Council on Environmental Quality, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12549, it shall be in order in the House to take from the Speaker's table the bill S. 1075 and to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof of provisions contained in H.R. 12549 as passed by the House.

*Parliamentarian's Note:* The Senate bill (S. 1075) which the

15. 115 CONG. REC. 26569, 91st Cong. 1st Sess.

resolution provided for taking from the Speaker's table was properly within the jurisdiction of the Committee on Interior and Insular Affairs in the House. Accommodation had been reached in the House, however, in order that certain amendments would be offered to the House bill on behalf of the Committee on Interior and Insular Affairs.

**§ 27.11 A resolution making in order the disposition of a Senate bill on the Speaker's table after passage of a House bill reported by the Committee on Post Office and Civil Service, was amended to delete all reference to the Senate bill, and the Senate bill was then referred to the Committee on Banking and Currency.**

On Sept. 9, 1970,<sup>(16)</sup> Mr. Spark M. Matsunaga, of Hawaii, offered by direction of the Committee on Rules a special order providing for the consideration of a House bill and providing for the disposition of a similar Senate bill on the Speaker's table. He offered an amendment recommended (but not reported) by the Committee on Rules deleting the provision for disposition of the Senate bill:

MR. MATSUNAGA: Mr. Speaker, by direction of the Committee on Rules, I

16. 116 CONG. REC. 30873, 91st Cong. 2d Sess.

call up House Resolution 1046 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1046

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16542) to amend title 39, United States Code, to regulate the mailing of unsolicited credit cards, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 16542, it shall then be in order in the House to take from the Speaker's table the bill S. 721 and to move to strike all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 16542 as passed by the House.

THE SPEAKER:<sup>(17)</sup> The gentleman from Hawaii is recognized for 1 hour.

MR. MATSUNAGA: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Matsunaga: On page 2, strike out all of the

17. John W. McCormack (Mass.).

last sentence, beginning with "After the passage of" in line 6 and ending with the period in line 11.

Mr. Smith's remarks on the bill explained the purpose of the amendment to the special order:<sup>(18)</sup>

MR. [H. ALLEN] SMITH of California: Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, in the interest of saving time I will say that the gentleman from Hawaii (Mr. Matsunaga) has adequately explained this bill and I will extend my remarks on the rule.

Mr. Speaker, I commend the gentleman from Illinois (Mr. Erlenborn) for bringing to our attention a matter which I have been more or less fussing about for the last year; that is, the language which we have agreed to strike from the rule, which says that after the passage of the bill, "it shall then be in order in the House to take from the Speaker's table the bill S. 721 and to move to strike all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 16542 as passed by the House."

If Members will read the second paragraph under clause 3, rule XXVIII, the second paragraph has to do with precedents and they will find that once this happens then the conferees can put most anything in the bill they wish to, whether it is germane to anything passed by the House or by the Senate, and it will come back to us, and it is made in order. . . .

MR. [JOHN N.] ERLBORN [of Illinois]: Mr. Speaker, I thank the gentleman for yielding.

18. 116 CONG. REC. 30874, 91st Cong. 2d Sess.

I want to commend the gentleman from Hawaii for offering the amendment which I intended to offer if the members of the Rules Committee themselves did not.

The gentleman from California (Mr. Smith) I believe has quite thoroughly described the effect of the language which has been stricken from the rule. If this language had been left in the rule and the Senate bill were then amended by substituting the language of the House bill and sent to conference, under the rules and under the precedents, the conference committee would have been free to put in this bill almost anything that would have been germane and that could have been offered in either the House or the Senate. It would not have been at all limited to the bill passed by the House or passed by the Senate.

I believe most of us have felt that the conference committee had these restraints, that the conference committee could not write new legislation in the conference. But in the past several years there have been too many instances in which altogether new legislation was written by the conference committee, and the House and the Senate have had only two alternatives—to accept the new legislation as written by the conference committee or to reject the conference report and send the whole matter back to conference.

I hope this will be a precedent of the House now, so that we will not include this sort of language in the rules sent by the Rules Committee to the House for the consideration of bills in the future. Or, as suggested by the gentleman from California, that the rules of the House themselves may be

amended in the reorganization bill to see that the kinds of restraints we all understand to be imposed upon the conference committee will be imposed in the future to protect us in our legislative function.

The resolution as amended was adopted and the Senate bill was then referred to the Committee on Banking and Currency.

*Parliamentarian's Note:* At the time of these proceedings, the precedents of the House indicated that where one House struck out of a bill of the other all after the enacting clause and inserted a new text, conferees could discard language occurring both in the bill and the substitute, and exercise broad discretion in incorporating new germane matter. Clause 3 of Rule XXVIII was amended Jan. 22, 1971 (incorporating provisions of the Legislative Reorganization Act of 1970, 84 Stat. 1140), to prohibit House conferees from agreeing to language in a conference report presenting topics, questions, issues, or propositions not committed to conference.

***Taking House Bill With Senate Amendments From Table***

**§ 27.12 Form of resolution taking a House bill with the Senate amendments thereto from the Speaker's table and making it in order to con-**

**sider the amendments in the House.**

The following resolution was under consideration on July 2, 1960: <sup>(19)</sup>

*Resolved,* That immediately upon the adoption of this resolution, the bill H.R. 12740 making supplemental appropriations for the fiscal year ending June 30, 1961, and for other purposes, with the Senate amendments thereto, shall be taken from the Speaker's table and the Senate amendments considered in the House.

*Parliamentarian's Note:* Under this procedure, motions to dispose of each Senate amendment are then in order and subject to separate votes (as if the stage of disagreement had been reached).

**§ 27.13 Any Member may request that the Chairman of the Committee on Rules call a meeting of that committee to consider reporting a resolution making in order disposition from the Speaker's table of a House bill, with Senate amendments that require consideration in the Committee of the Whole, notwithstanding Rule XXIV clause 2.**

On Aug. 13, 1957,<sup>(20)</sup> a unanimous-consent request, to take

19. H. Res. 596, 106 CONG. REC. 15775, 86th Cong. 2d Sess.

20. 103 CONG. REC. 14568, 85th Cong. 1st Sess.

from the Speaker's table a House bill with Senate amendments, was objected to. Speaker Sam Rayburn, of Texas, then answered a parliamentary inquiry:

MR. [KENNETH B.] KEATING [of New York]: Would the Speaker recognize me to move to send the bill to the Rules Committee?

THE SPEAKER: The Chair would not. It is not necessary to do that.

MR. KEATING: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. KEATING: Would the Speaker advise what action is necessary now in order to get the bill to the Committee on Rules?

THE SPEAKER: Anyone can make the request of the chairman of the Committee on Rules to call a meeting of the committee to consider the whole matter.

MR. KEATING: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. KEATING: Mr. Speaker, if that were done, would the bill which is now on the Speaker's desk be before the Rules Committee?

THE SPEAKER: It would not be before the Committee on Rules. The Committee on Rules could consider the matter of what procedure to recommend to the House for the disposition of this whole matter.

**§ 27.14 In response to a parliamentary inquiry, the Speaker pro tempore stated**

**that the Committee on Rules could report out a resolution taking a House bill with Senate amendments (requiring consideration in Committee of the Whole) from the Speaker's table and sending it to the legislative committee of the House having jurisdiction thereof.**

On the legislative day of Sept. 25, 1961, Mr. Albert Thomas, of Texas, asked unanimous consent to take from the Speaker's table a House bill making appropriations with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate. The Senate amendments required consideration in Committee of the Whole.

Mr. Frank T. Bow, of Ohio, reserved the right to object to the request and propounded parliamentary inquiries which were answered by Speaker pro tempore John W. McCormack, of Massachusetts:

MR. BOW: Mr. Speaker, inasmuch as these amendments of the Senate are in the nature of charges against the Treasury of the United States, I ask this parliamentary inquiry:

Is it not then necessary under the rules and procedures as found in volume 5 of the Procedure of the House of Representatives that the bill be sent to the committee and then considered in the Committee of the Whole before sending it to conference?

THE SPEAKER PRO TEMPORE: It is the opinion of the Chair that the answer which the Chair gave to the first part of the gentleman's parliamentary inquiry also answers this inquiry: that if objection is made, the Chair would feel constrained, insofar as the Chair is capable of accomplishing it, to have the bill taken from the Speaker's desk and sent to conference under the rules without reference to the committee.

MR. BOW: I thank the Chair, and withdraw my reservation.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, further reserving the right to object, if the [matter] should go to the Rules Committee for a rule, would it be possible for the Rules Committee to vote out a rule sending the bill to a committee?

THE SPEAKER PRO TEMPORE: The answer is in the affirmative to that parliamentary inquiry.<sup>(1)</sup>

### ***Concurring in Senate Amendment***

**§ 27.15 Form of resolution providing that the House shall proceed to consideration of Senate amendments to a House joint resolution and that the motion to concur be pending, fixing debate on the motion to concur and ordering the previous question.**

The following resolution, reported from the Committee on

1. 107 CONG. REC. 21476, 87th Cong. 1st Sess., Sept. 26, 1961 (Calendar Day).

Rules, was under consideration on Nov. 12, 1941:<sup>(2)</sup>

*Resolved*, That immediately upon the adoption of this resolution the House shall proceed to consider the Senate amendments to the joint resolution (H.J. Res. 237) to repeal section 6 of the Neutrality Act of 1939, and for other purposes; that the motion to concur in the said Senate amendments shall be considered as pending and that debate on said motion shall be limited to not to exceed 8 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and that at the conclusion of such debate the previous question shall be considered as ordered on the motion to concur.

*Parliamentarian's Note:* This special rule precluded a preferential motion (to concur with an amendment) from being first offered.

**§ 27.16 Where a resolution provides for taking a House bill with Senate amendments from the Speaker's table to the end that the Senate amendments are agreed to, adoption of the resolution means that the House concurs in the Senate amendments.**

On Mar. 24, 1948, a special order for the disposition of busi-

2. H. Res. 334, 87 CONG. REC. 8763, 77th Cong. 1st Sess.

ness on the Speaker's table was called up:<sup>(3)</sup>

MR. [LEO E.] ALLEN of Illinois: Mr. Speaker, I call up House Resolution 510 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That immediately upon the adoption of this resolution the bill (H.R. 4790) to reduce individual income tax payments, and for other purposes, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that all Senate amendments be, and the same are hereby, agreed to.

Speaker Joseph W. Martin, Jr., of Massachusetts, answered a parliamentary inquiry as to the effect of the resolution should it be adopted:<sup>(4)</sup>

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

THE SPEAKER: The gentleman will state it.

MR. RAYBURN: As I understand the parliamentary situation, Mr. Speaker, there is to be one vote only; and if the resolution is agreed to, it means that the House concurs in the Senate amendments to the so-called Knutson bill.

THE SPEAKER: The gentleman has stated the situation correctly.

### § 27.17 Where the House has before it a resolution providing for concurrence in a

3. 94 CONG. REC. 3399, 80th Cong. 2d Sess.

4. *Id.* at p. 3413.

### Senate amendment, such Senate amendment may be read by unanimous consent.

On Mar. 31, 1950, the House had under consideration House Resolution 531 reported from the Committee on Rules, taking from the Speaker's table a House bill with Senate amendment and concurring in the Senate amendment. Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry as to whether the Senate amendment could be read:<sup>(5)</sup>

MR. [LEO E.] ALLEN of Illinois: I yield to the gentleman from Illinois.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, under the terms of this rule we are asked to approve an amendment which has been added by the other body. Is it in order to request that that amendment, which has not been read to the House, be read at this time?

THE SPEAKER: It may be done by unanimous consent.

MR. YATES: Mr. Speaker, I ask unanimous consent that the amendment added by the other body be read to the House at this time.

THE SPEAKER: That will come out of the time of the gentleman from Illinois [Mr. Allen].

MR. ALLEN of Illinois: I yield for that purpose, Mr. Speaker.

### § 27.18 In response to a parliamentary inquiry, the

5. 96 CONG. REC. 4553, 4554, 81st Cong. 2d Sess.

**Speaker stated that if the previous question were voted down on a resolution providing for agreeing to Senate amendments to a House bill, the resolution would be open to amendment.**

On June 17, 1970,<sup>(6)</sup> the House had under consideration House Resolution 914 reported from the Committee on Rules, taking from the Speaker's table H.R. 4249 (to extend the Voting Rights Act) with Senate amendments, and concurring in the Senate amendments. Speaker John W. McCormack, of Massachusetts, answered an inquiry on the status of the resolution should the previous question be voted down:

MR. [SPARK M.] MATSUNAGA [of Hawaii]: Is my understanding correct that an "aye" vote on House Resolution 914 is a vote to agree to the Senate amendments to H.R. 4249, the Voting Rights Extension Act, so that the bill may then be sent to the President for his signature before the existing act expires on August 6 of this year?

THE SPEAKER: The Chair will state to the gentleman from Hawaii that while that is not a parliamentary inquiry, the statement made by the gentleman from Hawaii is accurate.

MR. MATSUNAGA: I thank the Speaker.

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

6. 116 CONG. REC. 20198, 20199, 91st Cong. 2d Sess.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Michigan will state his parliamentary inquiry.

MR. GERALD R. FORD Mr. Speaker, a "no" vote on the previous question does give an opportunity for one of those who led the fight against the resolution to amend the resolution now pending before the House?

THE SPEAKER: The Chair will state in response to the parliamentary inquiry of the gentleman from Michigan that if the previous question is voted down, the resolution is open to amendment. The Chair's response is the same response as given to the gentleman from Hawaii.

**§ 27.19 Where the House adopts a resolution which by its terms provides for taking a House bill with Senate amendments from the Speaker's table and agreeing to the Senate amendments, no further action by the House is required.**

On Mar. 16, 1933, a special order reported from the Committee on Rules relating to the disposition from the Speaker's table of a House bill with Senate amendments was offered:

*Resolved*, That immediately upon the adoption of this resolution the bill H.R. 2820, with Senate amendments thereto, be, and the same hereby is, taken from the Speaker's table to the end that all Senate amendments be, and the same are hereby, agreed to.<sup>(7)</sup>

7. H. Res. 63, 77 CONG. REC. 546, 73d Cong. 1st Sess.

Speaker Henry T. Rainey, of Illinois, answered a parliamentary inquiry on the effect of the resolution should it be adopted:

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: Mr. Speaker, it would seem to me that if we adopt this resolution that ends the bill and there is no further vote on the bill itself.

THE SPEAKER: That is correct.

MR. SNELL: I understood the gentleman from Alabama to say that we would then vote for or against the bill.

MR. [JOHN] MCDUFFIE [of Alabama]: No; the gentleman from Alabama was mistaken.

MR. SNELL: If we adopt this resolution, we pass the bill.

MR. MCDUFFIE: We have then concurred in the Senate amendment, and, therefore, the bill is passed, so far as the House is concerned.

MR. SNELL: And there is no other vote on the bill.

MR. MCDUFFIE: No other vote on the bill, as I understand it.

THE SPEAKER: That is correct.<sup>(8)</sup>

**§ 27.20 The Chair indicated in response to a parliamentary inquiry that should a resolution providing for concurring in Senate amendments to a House bill be rejected, the bill and amendments would remain on the Speak-**

8. *Id.* at p. 548.

**er's table for further action by the House.**

On June 17, 1970, the House had under consideration a special order reported from the Committee on Rules taking from the Speaker's table a House bill with Senate amendments and concurring in the amendments (H. Res. 914). Speaker John W. McCormack, of Massachusetts, answered an inquiry on the effect of rejecting the resolution:<sup>(9)</sup>

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. [ALBERT W.] WATSON [of South Carolina]: Mr. Speaker, if this resolution is voted down then, further, it will mean we will follow the orderly procedure and let this matter go to conference and reconcile the differences?

THE SPEAKER: The Chair will state that if the resolution is voted down the matter will lie on the Speaker's desk until the House determines what it wants to do with the matter.

***Concurring in Senate Amendment With Amendment***

**§ 27.21 Form of resolution waiving points of order against a conference report on a general appropriation bill and making in order a motion to recede from disagreement to any Senate**

9. 116 CONG. REC. 20199, 91st Cong. 2d Sess.

**amendment reported in disagreement and concur therein with an amendment inserting in the proper place in the bill any or all parts of the provisions of another (legislative) bill and any amendments thereto, as agreed upon by the House conferees on the bill on which the conference was held.**

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 2, 1955:<sup>(10)</sup>

*Resolved*, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill H.R. 7117, making appropriations for the legislative branch for the fiscal year ending June 30, 1956, and for other purposes, and all points of order against the conference report are hereby waived; that during the consideration of the amendments of the Senate to the bill H.R. 7117 reported from the conference committee in disagreement it shall be in order, notwithstanding any rule of the House to the contrary, to move that the House recede from its disagreement to any such amendment and concur therein with an amendment inserting in the proper place in the bill any or all of the parts of the provisions of the bill H.R. 7440 and any amendments thereto as agreed upon by the House conferees on the bill H.R. 7117.

*Parliamentarian's Note:* H.R. 7440 was a bill reported by the

10. H. Res. 337, 101 CONG. REC. 13051, 84th Cong. 1st Sess.

Committee on House Administration, authorizing salary increases for House employees (the Senate had amended the House bill with legislative language authorizing salary increases for Senate employees). The various provisions of H.R. 7440 would not have been germane as amendments to the Senate amendments, and a waiver of points of order was therefore necessary.

**§ 27.22 Form of special order taking from the Speaker's table a House bill with Senate amendments before the stage of disagreement; disagreeing to all Senate amendments except one; providing that the House immediately proceed to the consideration of the remaining amendment and that in the consideration of said amendment a motion to concur with a specified amendment should be in order without any intervening motion.**

The following resolution, reported from the Committee on Rules, was under consideration on June 10, 1933:<sup>(11)</sup>

HOUSE RESOLUTION 185

*Resolved*, That immediately upon the adoption of this resolution the bill H.R.

11. 77 CONG. REC. 5654, 73d Cong. 1st Sess.

5389 with Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that Senate amendments Nos. 1 to 46, inclusive, and Senate amendment No. 48 be, and the same are hereby, disagreed to; that the House shall immediately proceed to the consideration of Senate amendment No. 47, and that in the consideration of said Senate amendment No. 47 the following motion to concur with an amendment shall be in order, and no other intervening motion shall be in order until said motion is fully disposed of:

In lieu of the matter inserted by said Senate amendment No. 47 insert the following:

"The President is hereby authorized under the provisions of Public Law No. 2, Seventy-third Congress, to establish such number of special boards (the majority of the members of which were not in the employ of the Veterans' Administration at the date of enactment of this act), as he may deem necessary to review all claims (where the veteran entered service prior to November 11, 1918, and whose disability is not the result of his own misconduct), in which presumptive service connection has heretofore been granted under the World War Veterans' Act, 1924, as amended, wherein payments were being made on March 20, 1933, and which are held not service connected under the regulations issued pursuant to Public Law No. 2, Seventy-third Congress. Members of such boards may be appointed without regard to the Civil Service laws and regulations, and their compensation fixed without regard to the Classification Act of 1923."

***Disagreeing to Senate Amendments, Going to Conference***

**§ 27.23 Form of resolution taking from the Speaker's table an appropriation bill with Senate amendments, disagreeing to the amendments, agreeing to a conference, providing that the Speaker appoint conferees without intervening motion (thus precluding a motion to instruct conferees) and providing that it be in order to consider the conference report when reported without regard to the rule requiring printing in the Record.**

The following resolution, reported from the Committee on Rules, was under consideration on June 30, 1951:<sup>(12)</sup>

*Resolved*, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes, with the Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House, and that the Speaker shall imme-

**12.** H. Res. 309, 97 CONG. REC. 7538, 82d Cong. 1st Sess.

diately appoint conferees without intervening motion.

Sec. 2. It shall be in order to consider the conference report on the said joint resolution when reported notwithstanding the provisions of clause 2, rule XXVIII.

**§ 27.24 Form of special order taking a House appropriations bill with Senate amendments from the Speaker's table, disagreeing to the amendments, agreeing to the conference requested by the Senate, directing the Speaker to immediately appoint conferees without intervening motion, and giving specific authority to the conferees on the part of the House to agree or disagree to any Senate amendment containing legislation or unauthorized appropriations.**

The following resolution, reported from the Committee on Rules, was under consideration on Mar. 26, 1935:<sup>(13)</sup>

*Resolved*, That immediately upon the adoption of this resolution the joint resolution, House Joint Resolution 117, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table; that the Senate amendments be, and they are hereby,

13. H. Res. 174, 79 CONG. REC. 4465, 74th Cong. 1st Sess. H.J. Res. 117 was a bill making relief appropriations.

disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House; that the Speaker shall immediately appoint managers on the part of the House without intervening motion; and that the managers on the part of the House are hereby given specific authority to agree, with or without amendment, or disagree to any amendment of the Senate to the said joint resolution notwithstanding the provisions of clause 2 of rule XX.

**§ 27.25 Form of special order discharging the Committee of the Whole from the further consideration of an appropriation bill with Senate amendments thereto; disagreeing to all Senate amendments; agreeing to a conference asked by the Senate; authorizing the Speaker without any intervening motion to appoint conferees; and empowering the conferees on the part of the House to agree to any Senate amendment containing legislation or unauthorized appropriations.**

The following resolution was under consideration on Mar. 14, 1934:<sup>(14)</sup>

14. 78 CONG. REC. 4509, 73d Cong. 2d Sess.

## HOUSE RESOLUTION 299

*Resolved*, That immediately upon the adoption of this resolution the Committee of the Whole House on the State of the Union be, and it is hereby, discharged from the further consideration of the bill H.R. 6663 and the Senate amendments thereto; that the said Senate amendments be, and hereby are, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said bill be, and hereby is, agreed to by the House; that the Speaker shall immediately appoint the conferees without intervening motion; and that the conferees on the part of the House are hereby given specific authority to agree, with or without amendment, or disagree to any amendment of the Senate to the bill H.R. 6663 notwithstanding the provisions of clause 2 of rule XX.

**§ 27.26 To a resolution providing that the House disagree to Senate amendments, including an amendment directing the Committee on Ways and Means of the House and Finance Committee of the Senate to conduct a study of excess-profits tax legislation, and sending the bill to conference, an amendment providing that the House concur in such amendment with an amendment enacting excess-profits legislation was held to be not germane.**

On Sept. 14, 1950,<sup>(15)</sup> a special order was called up:

Mr. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, I call up House Resolution 842 and ask for its immediate consideration.

The Clerk read as follows:

*Resolved*, That immediately upon the adoption of this resolution the bill (H.R. 8920) to reduce excise taxes, and for other purposes, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said bill be, and hereby is, agreed to; and that the Speaker shall immediately appoint conferees without intervening motion.

The previous question was rejected on the resolution, and Mr. Herman P. Eberharter, of Pennsylvania, offered an amendment to the resolution:

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

The Clerk read as follows:

Amendment offered by Mr. Eberharter: Strike out all after the word "*Resolved*" and insert in lieu thereof the following:

"That immediately upon the adoption of this resolution, the bill H.R. 8920 with Senate amendments thereto be, and the same is hereby, taken from the Speaker's table to the end—

"(1) That all Senate amendments other than amendment No. 191 be,

15. 96 CONG. REC. 14832, 81st Cong. 2d Sess.

and the same are hereby, disagreed to and the conference requested thereon by the Senate is agreed to; and

“(2) That Senate amendment No. 191 be, and the same is hereby, agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate insert the following:

“TITLE VII—EXCESS-PROFITS TAX

“Sec. 701. Excess-profits tax applied to taxable years ending after June 30, 1950.

“Notwithstanding section 122(a) of the Revenue Act of 1945, the provisions of subchapter E of chapter 2 of the Internal Revenue Code shall apply to taxable years ending after June 30, 1950.

“Sec. 702. Computation of tax in case of taxable year beginning before July 1, 1950, and ending after June 30, 1950.”

Speaker Sam Rayburn, of Texas, sustained a point of order against the amendment, on the grounds that it was not germane to the resolution:

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I make the point of order against the amendment on the ground that the amendment is neither germane to the resolution sought to be amended, nor to the Senate amendment No. 191. The language of the Senate amendment would direct the Committee on Ways and Means of the House and the Finance Committee of the Senate to conduct a study of excess-profits-tax legislation during the Eighty-second Congress, ostensibly to report back to the House and Senate for passage with a retroactive date of July 1, 1950, or October 1, 1950.

The provision of the bill does not in any way attempt to legislate an excess-

profits tax in connection with H.R. 8920. The amendment offered by the gentleman from Pennsylvania proposes an excess-profits tax in connection with H.R. 8920. The amendment is a specific provision for an excess-profits tax. Therefore, Mr. Speaker, it seems to me that the amendment offered by the gentleman from Pennsylvania is not in order, that it is not germane either to the resolution before the House or to the section of the bill on which the instructions are sought to be given. . . .

MR. EBERHARTER: In the first place, Mr. Speaker, this amendment seeks to amend the resolution reported out by the Committee on Rules. This resolution waives points of order with respect to other rules of the House. Under the rules of the House when a bill comes from the other body with amendments containing matter which would have been subject to a point of order in the House then the amendments must be considered in the Committee of the Whole. The resolution reported out by the Committee on Rules seeks to waive that rule.

If a resolution reported out by the Committee on Rules can waive one rule of the House, why cannot the House by the adoption of a substitute resolution, which this is, waive other rules? I contend, Mr. Speaker, that this substitute for the resolution reported out by the Committee on Rules is just as germane and just as much in order as the actual resolution reported out by the Committee on Rules; they are similar. . . .

THE SPEAKER: The Chair is ready to rule.

The Chair agrees with a great deal that the gentleman from Pennsylvania

and the gentleman from Colorado say about history, but that is not the question before the Chair to decide at this time.

It is a rule long established that a resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject or matter.

It is true that in Senate amendment No. 191 to the bill, which came from the Senate, there is a caption "Title VII," which states "Excess Profits Tax." But in the amendment which the Senate adopted to the House bill there is no excess-profits tax.

The Chair is compelled to hold under a long line of rulings that this matter, not being germane if offered to the Senate amendment it is not germane here. The Chair sustains the point of order.<sup>(16)</sup>

***Disagreeing in Part, Concurring in Part. Going to Conference***

**§ 27.27 Form of special order taking a House bill with Senate amendments from the Speaker's table, waiving all points of order against the bill and any Senate amendment, disagreeing to a number of Senate amendments, concurring in others, and agreeing to a conference requested by the Senate on the amendments in disagreement.**

16. *Id.* at pp. 14841-44.

The following resolution was under consideration on May 2, 1933:<sup>(17)</sup>

HOUSE RESOLUTION 124

*Resolved,* That immediately upon the adoption of this resolution the bill H.R. 3835 with Senate amendments thereto be, and the same is hereby, taken from the Speaker's table; that all points of order against said bill or Senate amendments thereto shall be considered as waived; that Senate amendments nos. 1 to 84, inclusive, be, and the same are hereby, disagreed to; that Senate amendment no. 85 be, and the same is hereby, concurred in; that the conference requested by the Senate on the disagreeing votes of the two Houses be, and the same is hereby, agreed to.

***Insisting Upon House Amendment, Going to Conference***

**§ 27.28 Form of resolution providing that the House insist upon its amendment to a Senate bill, ask a conference with the Senate on the disagreeing votes of the two Houses, and that the Speaker immediately appoint conferees.**

The following resolution was called up under a motion to suspend the rules on June 18, 1948:<sup>(18)</sup>

17. 77 CONG. REC. 2693, 73d Cong. 1st Sess.

18. H. Res. 690, 94 CONG. REC. 8829, 80th Cong. 2d Sess.

*Resolved*, That the House insist upon its amendment to S. 2655, ask a conference with the Senate on the disagreeing votes, and that the Speaker immediately appoint conferees.

**§ 27.29 Form of resolution taking Senate bill with House amendments from Speaker's table; insisting on House amendments, and agreeing to further conference.**

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 12, 1964:<sup>(19)</sup>

*Resolved*, That immediately upon the adoption of this resolution the bill (S. 1007) to guarantee electric consumers in the Pacific Northwest first call on electric energy generated at Federal hydroelectric plants in that region and to guarantee electric consumers in other regions reciprocal priority, and for other purposes, with House amendments thereto, be, and the same is hereby, taken from the Speaker's table; that the House insists on its amendments to said bill and agrees to the further conference requested by the Senate on the disagreeing votes thereon.

**§ 27.30 Form of resolution taking two Senate bills from Speaker's table, amending and passing such bills, insisting on such amendments, and requesting a conference with the Senate.**

19. H. Res. 818, 110 CONG. REC. 19194, 88th Cong. 2d Sess.

The following resolution, reported from the Committee on Rules, was under consideration on Nov. 18, 1971:<sup>(20)</sup>

H. RES. 710

*Resolved*, That immediately upon the adoption of its resolution and without the intervention of any point of order the bills of the Senate S. 2819 and S. 2820 are hereby taken from the Speaker's table; that said Senate bills are hereby amended by striking out all after the enacting clause of each such Senate bill and inserting in lieu thereof the text of the bill H.R. 9910 as passed by the House on August 3, 1971; that the said Senate bills as so amended shall be considered as read a third time and passed; that the title of each such Senate bill shall be amended by striking out such title and inserting in lieu thereof the title of H.R. 9910; that the House insists upon its amendments to each Senate bill and requests conferences with the Senate, and that the Speaker appoint managers on the part of the House to attend each such conference.

***Sending Bill to Conference***

**§ 27.31 In answer to a series of parliamentary inquiries, the Speaker explained that: (1) where objection is raised to a unanimous-consent request to send a bill to conference, the bill does not automatically "go to the Rules Com-**

20. 117 CONG. REC. 42046, 92d Cong. 1st Sess.

**mittee” but remains on the Speaker’s table and may be sent to conference by motion authorized by the standing committee under Rule XX clause 1; (2) the Committee on Rules has jurisdiction over resolutions providing for the disposition of Senate amendments; and (3) if conferees have failed to file a report within 20 days of their appointment, a motion to instruct the conferees, or discharge them and appoint new ones, would be in order.**

On May 29, 1968,<sup>(1)</sup> Mr. Emanuel Celler, of New York, asked unanimous consent to take from the Speaker’s table H.R. 5037 (Law Enforcement and Criminal Justice Assistance Act of 1967) with a Senate amendment thereto, disagree to the Senate amendment and request a conference with the Senate. Under a reservation of the right to object, Mr. Richard H. Poff, of Virginia, propounded a series of parliamentary inquiries to Speaker John W. McCormack, of Massachusetts:

MR. POFF: If no objection is registered to the unanimous-consent request, will the effect be to send the bill either to the Committee on Rules or to the Committee on the Judiciary for a

1. 114 CONG. REC. 15499, 90th Cong. 2d Sess.

resolution instructing the chairman of the Committee on the Judiciary to make a motion that the bill go to conference?

THE SPEAKER: In response the Chair will say if objection is made to the unanimous-consent request the bill will remain on the Speaker’s desk. The Committee on the Judiciary could take action to authorize the chairman or any Member to make a motion to take the bill from the Speaker’s desk for the purpose of sending it to conference. . . .

MR. POFF: If the motion to go to conference is not adopted by the House, in such case would it be in order for the Committee on Rules to report a resolution making it in order to move to recede and concur?

THE SPEAKER: Under the rules of the House it is within the authority and jurisdiction of the Committee on Rules to report a resolution providing for the disposition of the Senate amendments. . . .

MR. POFF: If the conference is appointed and has not agreed within a 21-day period, will it then be in order to move to discharge the House conferees?

THE SPEAKER: Under rule XXVIII, it would be in order to move either to discharge or to instruct the managers on the part of the House after 20 days.

### ***Making in Order Consideration of Conference Reports When Reported***

**§ 27.32 Form of resolution agreeing to a conference with the Senate, providing that the Speaker imme-**

**diately appoint conferees, and making in order the consideration of the conference report when reported.**

The following resolution, reported from the Committee on Rules, was under consideration on June 30, 1951:<sup>(2)</sup>

*Resolved*, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes, with the Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House, and that the Speaker shall immediately appoint conferees without intervening motion.

Sec. 2. It shall be in order to consider the conference report on the said joint resolution when reported notwithstanding the provisions of clause 2, rule XXVIII.

**§ 27.33 Form of resolution providing that during the remainder of the week it shall be in order to consider conference reports the same day reported, and authorizing the Speaker to entertain the motions to suspend the rules.**

2. H. Res. 667, 97 CONG. REC. 7538, 82d Cong. 1st Sess.

The following resolution, reported from the Committee on Rules, was under consideration on July 25, 1956:<sup>(3)</sup>

*Resolved*, That during the remainder of this week it shall be in order to consider conference reports the same day reported notwithstanding the provisions of clause 2, rule XXVIII; that it shall also be in order during the remainder of this week for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1 rule XXVII.

**§ 27.34 The Committee on Rules may report to the House a resolution making in order the consideration of a conference report which has not yet been submitted to the House.**

On many occasions, the Committee on Rules has reported resolutions making in order the consideration of conference reports on the same day reported. For example, on July 25, 1956, the House adopted a resolution from the Committee on Rules providing as follows:

*Resolved*, That during the remainder of this week it shall be in order to consider conference reports the same day reported notwithstanding the provisions of clause 2, rule XXVIII; that it shall also be in order during the re-

3. H. Res. 630, 102 CONG. REC. 14456, 84th Cong. 2d Sess.

mainder of this week for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII.<sup>(4)</sup>

On June 30, 1951, the House adopted a resolution from the Committee on Rules which not only provided for a conference on an appropriation bill but also provided for the consideration of the conference report when reported:

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, by direction of the Committee on Rules I submit a privileged report (H. Res. 309, Rept. No. 667) and ask for its immediate consideration.

*Resolved*, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes, with the Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House, and that the Speaker shall immediately appoint conferees without intervening motion.

Sec. 2. It shall be in order to consider the conference report on the said joint resolution when reported notwithstanding the provisions of clause 2, rule XXVIII.<sup>(5)</sup>

### § 27.35 Notwithstanding the adoption by the House of a

4. H. Res. 630, 102 CONG. REC. 14456, 84th Cong. 2d Sess.
5. 97 CONG. REC. 7538, 82d Cong. 1st Sess.

**resolution making in order the consideration of conference reports on the day reported (on that day), the Speaker indicated, in response to a parliamentary inquiry, that legislative history which prompted the Committee on Rules to meet and report that, resolution restricted his authority to recognize Members to call up three designated reports.**

On Oct. 18, 1972,<sup>(6)</sup> Mr. William M. Colmer, of Mississippi, called up by direction of the Committee on Rules House Resolution 1168, providing for the consideration, on a certain day, of any reports from the Committee on Rules and any conference reports reported on that day. Mr. Colmer explained that the resolution was a product of an informal leadership agreement of the preceding day.

Speaker Carl Albert, of Oklahoma, then answered parliamentary inquiries on his exercise of the power of recognition under the resolution:

MR. [PETER W.] RODINO [Jr., of New Jersey]: Mr. Speaker, under the resolution just agreed to, would it be in order for the House to consider the conference report when it is ready on S. 2087, Omnibus Crime Control and Safe

6. 118 CONG. REC. 37063, 37064, 92d Cong. 2d Sess.

Streets Act of 1968, benefits to survivors of police officers killed in line of duty, which was agreed upon and which was filed yesterday?

THE SPEAKER: The Chair must answer the gentleman in accordance with the language which the Chair used when this matter was before the House on yesterday. At that time the Chair stated, and no specific reference was made to any bill because it has been informally mentioned to the Members who were seeking the rule, that this rule would not be used for any other bill except those dealing with three items. Under that interpretation it would be in order to bring those conference reports up on the day on which they were filed. As the Chair understands his own language and his own informal agreement, which was a part of the history, the Chair would very much like to recognize the gentleman, but the Chair feels constrained to hold that the legislative history restricts all action under House Resolution 1168 to three measures, the highway bill, the debt ceiling bill, and the continuing resolution.

MR. RODINO: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RODINO: Mr. Speaker, referring again to the rule adopted, was not the language strictly stated, and this is the language that I heard stated, the language referred to in the course of debate notwithstanding legislative history of yesterday, to consider conference reports the same day reported, notwithstanding the provisions of clause 2, rule XXVIII?

THE SPEAKER: The gentleman is referring to three conference reports

which precipitated the action which brought into existence this resolution.

The Chair would like to recognize the gentleman, but the Chair feels that its own promise is at stake here.

The Chair will try to find some other method of recognizing the gentleman. The Chair does not feel that in good faith or in good conscience it can recognize the gentleman under the circumstances. . . .

The Chair feels constrained to say—and the Chair hates to make a statement from the Chair on issues like this—it was suggested these three bills which the Chair has mentioned be listed in the resolution. The Chair said that was not necessary; that was the understanding, and it would simply complicate the resolution by naming the three bills. That is what happened.

The Chair recognizes that had it not been for that understanding and legislative history, which is in the Record, this would have been eligible under the clear language of the resolution.

The Chair would gladly recognize the gentleman for a unanimous-consent request to bring it up now.

***Unauthorized Appropriations  
in Conference Report Protected  
by Special Order  
Waiving Points of Order  
Against House Bill***

**§ 27.36 Where an appropriation bill is considered in the House under a rule waiving points of order against a provision therein which is unauthorized by law, and the Senate then amends the unau-**

**thorized provision, reducing the sum of money involved and striking out a portion of the language, conferees may (without violating the provisions of Rule XX clause 2) agree to a sum between the two and restore the House language.**

On Dec. 20, 1969, Mr. Otto E. Passman, of Louisiana, called up a conference report on H.R. 15149, making appropriations for foreign assistance for fiscal 1970. The House had originally considered the bill on Dec. 9, 1969, pursuant to a special order from the Committee on Rules (H. Res. 742) which waived all points of order against the bill. The resolution had been reported and adopted since many items in the Foreign Assistance Appropriations Act were unauthorized by law (the authorization not having been enacted into law) and therefore in violation of Rule XXI clause 2.<sup>(7)</sup>

*Parliamentarian's Note:* Where a special rule in the House waives points of order against portions of an appropriation bill which are unauthorized by law, and the bill passes the House with those provisions included therein and goes to conference, the conferees may

7. For the special order and its adoption, see 115 CONG. REC. 37948, 91st Cong. 1st Sess., Dec. 9, 1969.

report back their agreement to those provisions (and Senate modifications thereof) even though they remain unauthorized, since waiver of points of order under Rule XXI clause 2, carries over to the consideration of the same provisions when the conference report is before the House.

When the conference report was called up on Dec. 20, Speaker John W. McCormack, of Massachusetts, overruled two points of order against the conference report, since the waiver of points of order during the original consideration of the bill carried over to provisions in the conference report protected by the resolution:<sup>(8)</sup>

MR. PASSMAN: Mr. Speaker, I can up the conference report on the bill (H.R. 15149) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1970, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.  
. . .

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I make a point of order against that portion of the conference report which provides funds for the purchase of planes for the Republic of China on the ground that it is an appropriation that is not authorized by law.

I read from the conference report on the authorization bill which appears in

8. *Id.* at pp. 40445-48.

the *Congressional Record* of December 18 on page 39841 relating to the military assistance, section 504 of the act.

The House bill authorized a total of \$454,500,000 for military assistance of which \$350,000,000 was for worldwide allocation; \$50,000,000 for Korea; \$54,500,000 for the Republic of China.

The Senate amendment authorized a total of \$325,000,000 without any allocation to specified countries.

The managers on the part of the House agreed to the authorization of \$350,000,000 without specifying any country allocation. They found it impossible to obtain agreement to a larger total for military assistance and believe that any specific additional allocation for Korea or for the Republic of China would result in a drastic curtailment of the worldwide authorization which would be detrimental to our national security.

So in the basic law, in the authorization law there is no allocation specifically of funds for any country and I suggest that the appropriation of funds in a specific amount for military assistance to a particular country is without authorization of law. . . .

MR. PASSMAN: Mr. Speaker, may I be heard further on the point of order?

Mr. Speaker, it is my understanding that the lateness of the so-called authorization bill, which does not exist in fact, as yet, and the very fact that the majority leader of the other body said there would be no authorization bill, and the chairman of the Foreign Relations Committee said there would be no authorization bill, made it necessary for us to move this bill through the Appropriations Committee, the Rules Committee, and the Rules Com-

mittee gave us a rule waiving points of order. We have moved the bill, as I understand it, according to the rules of the House, and this appropriation bill became an authorization bill also, in the absence of any authorization act. Even at this late hour we still do not have an authorization bill because the conference report on the authorization bill was only adopted yesterday by both Houses and has not yet reached the President for his signature. . . .

THE SPEAKER: The Chair can only rule upon the point of order which is made, and the Chair is prepared to rule.

The gentleman from Illinois has raised a point of order against the conference report on the bill H. R. 15149.

The Chair is aware of the fact pointed out by the gentleman from Illinois—that the authorization bill for fiscal 1970, while passed by both Houses, has not yet become law. As pointed out in the debate on this point of order, the conference report now before the House does carry an amount for military assistance that is \$54,500,000 above the figure which would be authorized by H.R. 14580, the Foreign Assistance Act of 1969.

However, the Chair recalls that when this appropriation bill passed the House, it was considered under a rule waiving points of order. The House agreed to a total figure for military assistance of \$454,500,000. The Senate reduced this figure to \$350 million. The conferees have reached an agreement between these two amounts, as they had the authority to do.

The Chair holds that the conferees have not exceeded their authority and overrules the point of order. . . .

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

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

MR. GROSS: Mr. Speaker, I make a point of order against consideration of the conference report on the basis that none of the appropriations contained in the bill H.R. 15149 have been authorized by law.

MR. PASSMAN: May I be heard on that, Mr. Speaker?

THE SPEAKER: Of course, the Chair will hear the gentleman.

MR. PASSMAN: It is my understanding that the Chair just ruled on that specific point a moment ago. I ask for a ruling, Mr. Speaker.

THE SPEAKER: The Chair will state that it overrules the point of order made by the gentleman from Iowa (Mr. Gross), on the ground that the special rule waived points of order against the provisions of the House bill.

### *Consideration of Conference Reports*

#### **§ 27.37 Form of resolution providing for consideration of a conference report, fixing debate thereon at four hours, and providing that the previous question be considered as ordered at expiration of debate.**

The following resolution, reported from the Committee on Rules, was under consideration on Feb. 8, 1938:<sup>(9)</sup>

9. H. Res. 416, 83 CONG. REC. 1645, 75th Cong. 3d Sess.

*Resolved*, That immediately upon the adoption of this resolution the House shall proceed to the consideration of the conference report on the bill H.R. 8505, an act to provide for the conservation of national soil resources and to provide an adequate and balanced flow of agricultural commodities in interstate and foreign commerce, and for other purposes; that all points of order against said conference report are hereby waived; and that after debate on said conference report, which may continue not to exceed 4 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the previous question shall be considered as ordered on agreeing to the conference report.

#### **§ 27.38 Form of special order providing for the consideration of two conference reports on the same bill together, for the purposes of debate and vote.**

The following resolution, reported from the Committee on Rules, was under consideration on June 14, 1930:<sup>(10)</sup>

*Resolved*, That for the purpose of the vote and debate the two conference reports on the bill H.R. 2667 shall be considered as one report. The reading of the two reports shall be waived, and the statements of the managers on the part of the House shall be read in lieu thereof. There shall be three hours of debate, which shall be confined to the

10. H. Res. 253, 72 CONG. REC. 10694, 71st Cong. 2d Sess.

reports, to equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. In the consideration of the reports all points of order shall be waived. At the conclusion of debate the previous question shall be considered as ordered on the adoption of the reports.

**§ 27.39 Adoption of a special order providing for the consideration of two conference reports together for the purposes of debate and vote suspends the rule providing for the division of the question.**

On June 14, 1930, the House adopted House Resolution 253, reported from the Committee on Rules, providing that two conference reports on the same bill be considered together. The rule provided for three hours of debate on the reports and provided that at the conclusion of debate the previous question be considered as ordered on the adoption of the reports. Speaker Nicholas Longworth, of Ohio, answered a parliamentary inquiry as to the effect of the special order on voting on the reports:

MR. [CHARLES R.] CRISP [of Georgia]: The rule as reported provides that for the purpose of vote and debate the two conference reports on the bill shall be considered as one report. Section 774 of the rules of the House provides:

On the demand of any Member, before the question is put, a question

shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain.

This rule provides that the two conference reports, each one distinct and substantive, shall be considered as one report. Now, my inquiry is: Does that take away the right of any Member to ask for a division and a separate vote on the two conference reports?

THE SPEAKER: The Chair thinks that if the resolution is adopted by a majority, that suspends the rule quoted by the gentleman for today in connection with this bill.<sup>(11)</sup>

*Parliamentarian's Note:* Conferees filed two conference reports on this bill on June 13, 1930 (H. Rept. 1892 and H. Rept. 1893). One report dealt with certain of the many numbered Senate amendments, and the second dealt with the others. In current practice, only one conference report is filed per conference, to dispose of, or to report in disagreement on, all the amendments in disagreement.

***Waiving Points of Order Against Conference Reports and Motions on Amendments in Disagreement***

**§ 27.40 Form of resolution reported from the Committee on Rules, waiving points of**

11. 72 CONG. REC. 10694, 71st Cong. 2d Sess.

**order against a conference report where House conferees had: (1) included provisions beyond the scope of the differences between the House bill and Senate amendment in the nature of a substitute; (2) agreed to an appropriation in the Senate amendment; and (3) agreed to certain nongermane provisions therein.**

The following resolution, reported from the Committee on Rules, was under consideration on July 27, 1972:<sup>(12)</sup>

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

**§ 27.41 Form of resolution waiving all points of order against a conference report.**

The following resolution, reported from the Committee on Rules, was under consideration on July 31, 1963:<sup>(13)</sup>

*Resolved*, That upon the adoption of this resolution it shall be in order to

12. H. Res. 1057, 118 CONG. REC. 25822, 92d Cong. 2d Sess.

13. H. Res. 453, 109 CONG. REC. 13816, 88th Cong. 1st Sess.

consider the conference report on the bill, H.R. 5207, to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, and for other purposes, and all points of order against the conference report are hereby waived.

**§ 27.42 Form of resolution waiving all points of order against the consideration of a conference report (where conferees had exceeded the scope of their authority in violation of Rule XXVIII clause 3).**

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 3, 1973:<sup>(14)</sup>

*Resolved*, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, and all points of order against said conference report are hereby waived.

**§ 27.43 Form of special order making in order the consideration of, and waiving points of order against, a conference report previously ruled out on a point of order.**

The following resolution, reported from the Committee on

14. H. Res. 517, 119 CONG. REC. 28089, 93d Cong. 1st Sess.

Rules, was under consideration on May 9, 1933:<sup>(15)</sup>

*Resolved*, That notwithstanding the previous action of the House relative to the conference report on the disagreeing votes of the two Houses on the bill H.R. 3835, immediately upon the adoption of this resolution the House shall consider said conference report without the intervention of points of order against the same.

**§ 27.44 Form of resolution making in order a conference report and making in order and waiving points of order against a motion to recede and concur in a designated Senate amendment, reported in disagreement, with an amendment (constituting legislation on appropriation bill).**

The following resolution, reported from the Committee on Rules, was under consideration on Dec. 23, 1963:<sup>(16)</sup>

*Resolved*, That upon the adoption of this resolution it shall be in order to consider without the intervention of any point of order the conference report on the bill (H.R. 9499) making ap-

15. H. Res. 136, 77 CONG. REC. 3060, 73d Cong. 1st Sess. The conference report had been previously held out of order because the conferees had agreed to certain matter not committed to conference.
16. H. Res. 600, 109 CONG. REC. 25495, 88th Cong. 1st Sess.

propriations for foreign aid and related agencies for the fiscal year ending June 30, 1964, and for other purposes, and that during the consideration of the amendment of the Senate numbered 20 to the bill, it shall be in order to consider, without the intervention of any point of order, a motion by the Chairman of the Managers on the part of the House to recede and concur in said Senate amendment numbered 20 with an amendment.

**§ 27.45 Form of resolution waiving points of order against a conference report and making in order a motion to recede from disagreement to a Senate amendment and concur therein with an amendment inserting in the proper place in the bill any or all parts of the provisions of another bill and any amendments thereto, as agreed upon by the House conferees on the bill on which the conference was had.**

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 2, 1955:<sup>(17)</sup>

*Resolved*, That upon the adoption of this resolution it shall be in order to

17. H. Res. 337, 101 CONG. REC. 13051, 84th Cong. 1st Sess. The bill H.R. 7440 was a bill reported from the Committee on House Administration, providing for increased salaries of certain employees of the House.

consider the conference report on the bill H.R. 7117, making appropriations for the legislative branch for the fiscal year ending June 30, 1956, and for other purposes, and all points of order against the conference report are hereby waived; that during the consideration of the amendments of the Senate to the bill H.R. 7117 reported from the conference committee in disagreement it shall be in order, notwithstanding

any rule of the House to the contrary, to move that the House recede from its disagreement to any such amendment and concur therein with an amendment inserting in the proper place in the bill any or all of the parts of the provisions of the bill H.R. 7440 and any amendments thereto as agreed upon by the House conferees on the bill H.R. 7117.

## E. PRIVILEGED BUSINESS

### § 28. Authority and Scope Under Constitution, Statutes, and Rules

As discussed in the preceding sections of this chapter, the regular order of business in the House of Representatives is governed by those provisions of the rules of the House establishing the order of business and making in order, at certain times, specific methods for bringing measures before the House. It has been noted that the regular order of business may be varied by unanimous consent, by suspension of the rules, and by special orders reported from the Committee on Rules and called up as privileged propositions.<sup>(18)</sup>

**18.** See §8, *supra* (varying order of business generally), §9, *supra* (use of motions to suspend rules), §20, *supra* (varying order of business by resolutions from Committee on Rules).

By rule and by practice, the House has also determined that a variety of matters of immediate importance should have precedence over the regular order of business, to the extent of interrupting or superseding the consideration of other business. Because of the power of privileged questions to interrupt the regular order of business, only such propositions as fall strictly within the scope and definition of preferential matters may be raised as privileged.

The grant of precedence to certain questions arises from three sources: the United States Constitution, the rules of the House, and statutes enacted pursuant to the rulemaking power of the House (and of the Senate).

Under contemporary practice, only two types of propositions are privileged for consideration solely