

Mr. Chairman, we concede the point of order.

THE CHAIRMAN:<sup>(18)</sup> The point of order is conceded and sustained.

## § 21. Increasing Amount Beyond Authorization

### *Generally*

#### § 21.1 An amendment proposing to appropriate a sum in addition to that authorized by law for a specific purpose is not in order on an appropriation bill.

On Mar. 12, 1942,<sup>(19)</sup> The Committee of the Whole was considering H.R. 6709, an Agriculture Department appropriation bill. During consideration, a point of order against an amendment was sustained as indicated below:

MR. [H. JERRY] VOORHIS of California: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Voorhis of California: Page 79, line 11, after the period, add the following paragraph:

"To enable the Secretary of Agriculture to further carry out the provisions of section 32, as amended, of the act entitled 'An act to amend the Agricultural Adjustment Act, and for other purposes,' approved August 24,

1935, and subject to all provisions of law relating to the expenditure of funds appropriated by such section, \$40,000,000. Such sum shall be immediately available and shall be in addition to, and not in substitution for, other appropriations made by such section or for the purpose of such section."

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from California on the ground that there is no authority of law for making an appropriation in addition to the permanent appropriation made by section 32 of the Agricultural Adjustment Act. There is no legislative basis for the amendment which the gentleman offers.

THE CHAIRMAN:<sup>(20)</sup> Does the gentleman from California wish to be heard on the point of order?

MR. VOORHIS of California: No, Mr. Chairman; I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

### *Increase in Lump Sum Beyond Authorization*

#### § 21.2 An amendment proposing an increase in the amount of an appropriation authorized by law was held to be unauthorized: to the appropriation for compensation of Members of the House, an amendment proposing to increase the total amount beyond that authorized was held to be in violation of Rule XXI clause 2.

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

19. 88 CONG. REC. 2346, 77th Cong. 2d Sess.

20. Robert Ramspeck (Ga.).

On Apr. 19, 1950,<sup>(1)</sup> during consideration in the Committee of the Whole of the legislative branch appropriation bill (H.R. 7786), a point of order was raised against the following provision:

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The Clerk read as follows:

For compensation of Members of the House of Representatives, Delegates from Territories, and the Resident Commissioner from Puerto Rico, \$5,492,500. . . .

MR. [ABRAHAM J.] MULTER [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Multer: Page 3, line 6, strike out "\$5,492,500" and insert in lieu thereof "\$7,135,000."

MR. [CHRISTOPHER C.] MCGRATH [of New York]: Mr. Chairman, I make the point of order against the amendment that there is no authority in law for this increase.

THE CHAIRMAN:<sup>(2)</sup> Does the gentleman from New York [Mr. Multer] desire to be heard on the point of order?

MR. MULTER: No; I do not care to be heard on the point of order.

THE CHAIRMAN: Can the gentleman from New York [Mr. Multer] cite any authorization of law for the increase proposed by his amendment?

MR. MULTER: Only the fact that this body has the authority to fix the salary

of its Members. I think it does not matter how or in what bill the House does it. It may do so as part of an appropriation bill. This item being the item appropriating for the pay of Members of Congress I think it is subject to amendment.

THE CHAIRMAN: Does the gentleman from New York [Mr. McGrath] desire to be heard on the point of order?

MR. MCGRATH: Mr. Chairman, while I recognize that the Members of the House are deserving of an increase in compensation, yet my position at this time is of a legislative capacity and I must support the rules of the House.

I respectfully submit that the point of order lies against the amendment.

MR. [JOHN] TABER [of New York]: Mr. Chairman, will the gentleman from New York yield for a question?

MR. MCGRATH: I yield.

MR. TABER: As I understand, this is an amendment to the gross amount for salaries. It is not in order, of course, because the only authority we have is to appropriate an amount equivalent to the product of the fixed salary times the number of Members. The effect of the amendment would not even be to increase the salary.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from New York [Mr. Multer] has offered an amendment which has been reported; the gentleman from New York [Mr. McGrath] has made a point of order against the amendment on the ground that the amount sought to be included by the amendment is not authorized by law.

The Chair has examined the question to some extent, and it appears that the amount carried in the bill re-

1. 96 CONG. REC. 5392, 5393, 81st Cong. 2d Sess.

2. Jere Cooper (Tenn.).

flects the amount authorized by existing law. Therefore, the amendment offered by the gentleman from New York would be in excess of existing authority of law.

The point of order is sustained.

### ***Where Part of Lump Sum is Unauthorized***

**§ 21.3 Instance where a point of order was conceded against a paragraph of an appropriation bill on the ground that a lump-sum figure therein included funds for one organization in excess of the authorization therefor even though all funds in the lump sum were to be available only as authorized by law.**

On Apr. 12, 1960,<sup>(3)</sup> the Committee of the Whole was considering H.R. 11666, an appropriation for the Departments of State, Justice, and the Judiciary. At one point the Clerk read as follows, and proceedings ensued as indicated below:

#### MISSIONS TO INTERNATIONAL ORGANIZATIONS

For expenses necessary for permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific acts of

Congress, including expenses authorized by the pertinent acts and conventions providing for such representation; salaries, expenses, and allowances of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-1158); hire of passenger motor vehicles; printing and binding, without regard to section 11 of the act of March 1, 1919 (44 U.S.C. 111); and purchase of uniforms for guards and chauffeurs; \$1,850,000.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language on page 7 beginning with line 1 and running through line 12 on the ground that it contains an appropriation not authorized by law. . . .

THE CHAIRMAN:<sup>(4)</sup> Does the gentleman from New York desire to be heard on the point of order?

MR. [JOHN J.] ROONEY [of New York]: Yes, Mr. Chairman. This is going to be a great deal of tweedledee and tweedledum. It is the fact, and we concede, that the Interparliamentary Union, which has been in existence for some 70-odd years, does not have an authorization for expenditure beyond \$15,000 per annum, whereas the newly created NATO Interparliamentary Union and the Canadian Interparliamentary Union have authorizations for \$30,000. The committee felt that the oldest one, the 70-year-old one, should be put on the same basis as the two lately formed ones, and for that reason inserted in the bill \$30,000.

Mr. Chairman, I am now constrained to concede that the point of order is

3. 106 CONG. REC. 7941, 86th Cong. 2d Sess.

4. W. Homer Thornberry (Tex.).

well taken and I shall immediately offer an amendment.

THE CHAIRMAN: The point of order is conceded and sustained.<sup>(5)</sup>

***Committee Funds Above Authorized Level***

**§ 21.4 A provision in an appropriation bill providing funds for the Joint Committee on Reduction of Nonessential Federal Expenditures in excess of the amount authorized by law was ruled out as in violation of Rule XXI clause 2.**

On Apr. 10, 1964,<sup>(6)</sup> during consideration in the Committee of the Whole of the legislative branch appropriation bill (H.R. 10723), a point of order was raised against the following provision:

The Clerk read as follows:

5. *Parliamentarian's Note:* The language of the bill specified that appropriations in the paragraph were available only for "expenses authorized by the pertinent acts" providing for United States participation in the organizations. Under a ruling of the Chair on June 18, 1960 (106 CONG. REC. 11646, 86th Cong. 2d Sess.) and similar precedents, the quoted language arguably would have limited the amount which could be used to the amount actually authorized, in which case the point of order would not have lain.
6. 110 CONG. REC. 7636, 7637, 88th Cong. 2d Sess.

**JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES**

For an amount to enable the Joint Committee on Reduction of Non-essential Federal Expenditures to carry out the duties imposed upon it by section 601 of the Revenue Act of 1941 (55 Stat. 726), to remain available during the existence of the Committee, \$29,750, to be disbursed by the Secretary of State.

MR. [JOHN J.] ROONEY of New York: Mr. Chairman, I make a point of order against the language relating to the Joint Committee on Reduction of Non-essential Federal Expenditures which appears on page 9, line 15 through line 2 on page 10, inclusive. There is no authority in the basic law to appropriate such an amount. The joint committee was established by the provisions of section 601 of the Revenue Act of 1941 and appears in volume 55 of the Statutes at Large, on page 726. Subsection (e) of section 601 limits the total appropriations that can be made to this joint committee to the sum of \$10,000, or less, and I will quote the subsection as follows:

There is hereby authorized to be appropriated, the sum of \$10,000, or so much thereof as may be necessary, to carry out the provisions of this section.

This joint committee was clearly intended to be a temporary thing of short duration. As a matter of fact, it has not been carried into the United States Code although that is not a matter of great importance to this question, even though it indicates that in the eyes of the people who prepare the code it was to be a temporary thing. I trust that the Chair will sustain the point of order which I have made. . . .

THE CHAIRMAN:<sup>(7)</sup> Does the gentleman from Oklahoma concede the point of order?

MR. [THOMAS J.] STEED [of Oklahoma]: Reluctantly, Mr. Chairman. We have no other point to stand on except the fact that this has been done for many years without protest. If that does not give it life and legality, I know of no way that would give it life and legality as of this moment. I certainly cannot with any logic offer a substitute of only \$10,000. That is so far from the realities of the moment that I will just have to let it pass for the moment.

THE CHAIRMAN: The Chair is prepared to rule.

Inasmuch as the authorization is for \$10,000 and the appropriation is for considerably more than that, the Chair believes the point of order is well taken.

The point of order is sustained.

**§ 21.5 Language in a general appropriation bill providing funds for the Joint Committee on Defense Production in excess of the amount authorized by law was conceded to be subject to a point of order.**

On Apr. 10, 1964,<sup>(8)</sup> during consideration in the Committee of the Whole of the legislative branch appropriation bill (H.R. 10723), a point of order was sustained against the following provision:

The Clerk read as follows—page 10, line 21:

7. Clark W. Thompson (Tex.).

8. 110 CONG. REC. 7640, 88th Cong. 2d Sess.

JOINT COMMITTEE ON DEFENSE  
PRODUCTION

For salaries and expenses of the Joint Committee on Defense Production as authorized by the Defense Production Act of 1950, as amended, \$90,520.

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, I make a point of order against the paragraph relating to the Joint Committee on Defense Production which appears on page 10, lines 21 to 24, inclusive, on the grounds that the amount proposed to be appropriated, \$90,520, exceeds the amount that is authorized to be appropriated in the basic law. In title 50 of the United States Code, section 2162(e), authorization for this committee is limited to not to exceed \$65,000 in any fiscal year, and I quote subsection (e) as follows:

The expenses of the committee under this section, which shall not exceed \$65,000 in any fiscal year, shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the chairman or vice chairman.

In view of this limitation, the proposed appropriation in the pending bill is, in my opinion, clearly subject to a point of order and I trust the Chair will so rule.

THE CHAIRMAN:<sup>(9)</sup> Does the gentleman from Oklahoma desire to be heard on the point of order?

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, I would have to concede the point of order. The only way I know to meet this situation is to offer an amendment at this point.

THE CHAIRMAN: Did I understand correctly that the gentleman from Oklahoma concedes the point of order?.

9. Wilbur D. Mills (Ark.).



MR. STEED: That is correct, Mr. Chairman.

THE CHAIRMAN: The gentleman concedes the point of order.

The point of order is sustained.

## § 22. In General; Burden of Proof

The sections that follow discuss application of the rule prohibiting provisions “changing existing law” in general appropriation bills. The rule itself, and the broad qualifications on its use, are discussed in detail at the beginning of this chapter.<sup>(10)</sup>

By way of contrast, some rulings which belong under part F of this chapter, “Permissible Limitations on Use of Funds,” are carried in parts C, D, and E, which discuss provisions “changing existing law,” to permit the reader to better understand the subtle distinctions between these two lines of precedent.

As noted in prior sections of this chapter, clause 2 of Rule XXI pro-

scribes both (1) appropriations not authorized by law, and (2) provisions changing existing law. Some rulings interrelate these two separate proscriptions more than is technically necessary, and this chapter is intended, in part, to place the proper emphasis on the most appropriate portion of Rule XXI clause 2 relied upon by the Chair in its ruling.

### *Availability of Appropriation Contingent on Further Legislative Action*

#### **§ 22.1 Language in an appropriation bill changing existing law by imposing a new committee approval requirement for the availability of funds is legislation and not in order.**

On June 29, 1959,<sup>(11)</sup> during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 7978), a point of order was raised against the following provision:

The Clerk read as follows:

For contractual research, development, operations, technical services, repairs, alterations, and minor construction, and for supplies, materials, and equipment necessary for the conduct and support of aero-

10. See § 1, supra.

See supplements to this edition as they appear for discussion of recently adopted rules, including the requirement that the Committee on Appropriations include, in its reports on general appropriation bills, a statement describing the effect of any provision changing the application of existing law.

11. 105 CONG. REC. 12125, 86th Cong. 1st Sess.