

## CHAPTER 25

# *Appropriation Bills*

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# ***Appropriation Bills***

## **A. INTRODUCTORY MATTERS; AUTHORIZATION OF APPROPRIATIONS**

### **§ 1. Scope of Chapter**

This chapter discusses consideration of appropriation bills on the floor, beginning with procedures for reporting and calling up such bills.<sup>(1)</sup> The requirement that appropriations contained in general appropriation bills must have been previously authorized by law is discussed in a general way; but detailed treatment of the prohibition against unauthorized appropriations and legislation on general appropriation bills is to be found in a separate chapter.<sup>(2)</sup>

Matters relating to the duties, prerogatives, and jurisdiction of the Committee on Appropriations are discussed in the chapter on committees of the House.<sup>(3)</sup>

1. For earlier treatment of the subject matter of this chapter, see 4 Hinds' Precedents §§3553–3700; 7 Cannon's Precedents §§1116–1331, 1571–1578.
2. Ch. 26, *infra*.
3. Ch. 17, *supra*. Similarly, this chapter does not treat in any detail the various powers and prerogatives of the House, including any constitutional restrictions affecting appropriations for particular purposes, such as the

Discussion of referral of bills to committees is accordingly to be found in that chapter, although additional related precedents may be found in the chapter on introduction and reference of bills.<sup>(4)</sup> It may be noted for present purposes that the Committee on Appropriations has jurisdiction over all general appropriation bills.

Similarly, issues related to committee hearings and various oversight functions of the Committee on Appropriations are to some extent covered in the chapter on committees; procedures and issues that have developed too recently for inclusion in this edition will be taken up in supplements to this edition as they appear. Accordingly, the general oversight re-

constitutional stricture (see art. I §8 clause 12) that no appropriation of money "to raise and support armies" shall be for a longer term than two years. Matters relating to the powers and prerogatives of the House, generally, including House authority with respect to revenue and appropriation measures, are treated in Ch. 13, *supra*.

4. Ch. 16, *supra*.

sponsibilities of the committee with respect to conducting studies and examinations of the organization and operation of executive departments and agencies are not discussed at length here. Moreover, the hearings on the budget as a whole which are conducted by the committee in open session within 30 days of submission of the budget are not covered in any detail in this chapter.

In particular, procedures under the Congressional Budget Act of 1974, and the impact of such act on the congressional budget process and on the role of the Committee on Appropriations, are necessarily given only limited treatment in this edition. A summary of the act's major provisions can be found in the chapter on the powers and prerogatives of the House.<sup>(5)</sup>

At this point, it is clear that the impact of the Congressional Budget Act on the appropriations process and on the responsibilities of the Committee on Appropriations will be considerable. For example, the committee is given certain responsibilities with respect to rescissions of appropriations, transfers of unexpended balances, and

the amount of new spending authority to be effective for a fiscal year. Its responsibilities extend to measures reported by other committees which exceed the appropriate allocation of new budget authority contained in the latest concurrent resolution on the budget for the fiscal year (the resolution setting forth, among other things, appropriate levels of budget outlays and of total new budget authority).

New provisions also require the Committee on Appropriations (to the extent practicable), before reporting the first regular appropriation bill for the fiscal year, to complete subcommittee markup and full committee action on all regular appropriation bills for that year, and to submit to the House a summary report comparing the committee's recommendations with provisions of the latest concurrent resolution on the budget.<sup>(6)</sup>

5. Ch. 13, *supra*. See *House Rules and Manual* §§1007–11 (1981) for provisions from the Congressional Budget Act.

6. For further discussion of the above provisions, see materials contained in the latest edition of the *House Rules and Manual*, and supplements to this edition of *Deschler's Precedents*. See also the summary of Budget Act provisions in Ch. 13, *supra*.

## § 2. Requirement That Appropriations Be Authorized

The Constitution<sup>(7)</sup> states: “No money shall be drawn from the Treasury, but in consequence of appropriations made by law.” Appropriation bills are the device through which money is permitted to be “drawn from the Treasury” for expenditure.

But before a general appropriation bill may appropriate funds for particular purposes, such purposes must be authorized by law. Thus, an appropriation for a project or activity not authorized by law is not in order on a general appropriation bill, and a point of order may be made against an appropriation that violates this requirement.<sup>(8)</sup>

It can be seen that every “authorization” for an appropriation is only one step in the process by which funds ultimately may become available, since it contemplates subsequent action through appropriation meas-

ures.<sup>(9)</sup> Of course, the House may decline to appropriate funds for particular purposes, even though authorization has been given for such purposes.<sup>(10)</sup>

The enactment of authorizing legislation must occur prior to, and not following, the consideration of an appropriation for the proposed purpose. Thus, delaying the availability of an appropriation pending enactment of an authorization will not protect that appropriation against a point of order.<sup>(11)</sup> A bill violates the intent of the requirement if it permits a portion of a lump sum—unauthorized at the time the bill is being considered—to subsequently become available without a further

7. Art. I §9 clause 7.

8. The prohibition against unauthorized appropriations and legislation on general appropriation bills is found in Rule XXI clause 2, *House Rules and Manual* §834 (1981). The application of this rule is discussed in detail in Ch. 26, *infra*.

9. *Parliamentarian's Note*: It follows, for example, that “authorizing” language does not itself constitute “new spending authority” which would prohibit the consideration of a bill under §401 of the Congressional Budget Act. Where the provision in question either impliedly contemplates further recourse to the appropriations process, or makes express reference to the appropriations process when required by §401, such consideration is not precluded. (Note: The Budget Act is necessarily given only limited treatment herein; see the remarks in §1, *supra*, as to the scope of this article.)

10. See §2.1, *infra*.

11. 118 CONG. REC. 14455, 92d Cong. 2d Sess., Apr. 26, 1972.

appropriation upon the enactment of authorizing legislation.

The “authorization” for an appropriation must ordinarily derive from statute. An executive order, for example, does not constitute sufficient authorization in the absence of proof of its derivation from a statute enacted by Congress.<sup>(12)</sup> On the other hand, sufficient “authorization” for an appropriation may be found to exist in a treaty that has been ratified by both parties;<sup>(13)</sup> in a resolution of the House of the same Congress;<sup>(14)</sup> or in legislation contained in a previous appropriation act which has been allowed to become permanent law.<sup>(15)</sup>

An appropriation in excess of the specific amount authorized by law is in violation of the rule prohibiting unauthorized appropriations.<sup>(16)</sup>

The rule prohibiting unauthorized appropriations and legislation on general appropriation bills was originally intended primarily to prevent any delay of appropriation bills that might arise from conten-

tion over propositions of legislation. However, as the authorization process itself became more complicated over the years, and as the number of programs requiring annual authorization increased, there were frequent instances where the congressional appropriations process remained uncompleted at the beginning of a new fiscal year. The rule as currently implemented serves the purpose of giving legislative committees the first opportunity to determine and report to both Houses on priorities within specific legislative programs and the conditions under which available funds may be expended, before the Appropriations Committee recommends allocations of available revenues among various legislative priorities during a given fiscal year. Procedures under the Congressional Budget Act generally contemplate authorization of expenditures by legislative committees as a prior step in the budget process. (See, for example, Congressional Budget Act §§ 301(c) and 402(a).)

It should be emphasized that the rule applies to “general appropriation bills.” Neither a resolution providing an appropriation for a single government agency,<sup>(17)</sup>

12. See 119 CONG. REC. 19855, 93d Cong. 1st Sess., June 15, 1973 (proceedings related to H.R. 8619). See also §§ 2.3, 2.4, *infra*.

13. See 4 Hinds' Precedents § 3587.

14. See 4 Hinds' Precedents §§ 3656–3658, 3660.

15. See § 2.5, *infra*.

16. See Ch. 26, *infra*.

17. 108 CONG. REC. 1352, 87th Cong 2d Sess., Jan. 31, 1962.

nor a joint resolution containing continuing appropriations for diverse agencies (to provide funds until regular appropriation bills are enacted),<sup>(18)</sup> is considered a general appropriation bill within the purview of the rule. In fact, the restrictions against unauthorized items or legislation in a general appropriation bill or amendment thereto are not applicable to a joint resolution continuing appropriations, despite inclusion of diverse appropriations which are not "continuing" in nature.<sup>(1)</sup>

### ***Refusal to appropriate for Authorized Purposes***

#### **§ 2.1 The House in the Committee of the Whole has the right to refuse to appropriate for any object either in whole or in part, even though that object may be authorized by law.**

On Feb. 18, 1938,<sup>(2)</sup> during consideration of the State, Justice,

18. See *Procedure in the U.S. House of Representatives* Ch. 25 §2.2 (4th ed.).

1. See *Procedure in the U.S. House of Representatives* Ch. 25 §2.3 (4th ed.).

2. 83 CONG. REC. 2174, 2175, 75th Cong. 3d Sess. The principle is well established. See also, for example, 88 CONG. REC. 2114, 2115, 77th Cong. 2d Sess., Mar. 9, 1942 (a refusal to appropriate above a certain amount per designated recipient).

Commerce, and Labor appropriations for 1939 (H.R. 9544), an amendment was offered as follows:

Amendment offered by Mr. Tarver: On page 104, after line 25, insert a new paragraph, as follows:

No part of any appropriation contained in this act for the Immigration and Naturalization Service shall be expended for any expense incident to any procedure by suggestion or otherwise, for the admission to any foreign country of any alien unlawfully in the United States for the purpose of endeavoring to secure a visa for readmission to the United States, or for the salary of any employee charged with any duty in connection with the readmission to the United States of any such alien without visa.

The following proceedings then took place:

MR. [SAMUEL] DICKSTEIN [of New York]: Mr. Chairman, I make the same point of order. This comes right back to the point I made originally, that this provision deals with the present immigration laws and is legislation on an appropriation bill. It changes our present act, which contains the provision that it is mandatory upon the officials of the Department of Labor to advise an alien of his status, whether he is legally or illegally in this country. This provision seems to suggest that even a suggestion or an inference, even a suggestion over the phone, would be a violation of the law, and the men who are on the pay roll of the Government would be penalized. I respectfully submit that the language offered as

the amendment to the new section is absolutely in the same category, and that it is not germane to the present bill or to the section now under consideration.

THE CHAIRMAN:<sup>(3)</sup> The Chair is ready to rule.

The gentleman from New York (Mr. Dickstein) makes the point of order that the amendment now suggested and offered by the gentleman from Georgia is legislation. The Chair feels he is bound by precedents which have been established for a long time in this House and have been ruled upon by many occupants of the chair more distinguished than he.

The fact that the failure to appropriate money to carry out the purposes of an act may work an actual hardship in the enforcement of that act or may even effect the practical repeal or certain provisions of the act is entirely within the discretion of Congress itself. Congress does not have to appropriate any money for laws which have been authorized by bills reported from legislative committees. As long ago as 1896 Nelson Dingley, Chairman of the Committee of the Whole House, ruled as follows, and I read from page 47 of Cannon's Procedure in the House of Representatives:

The House in Committee of the Whole House has the right to refuse to appropriate for any object either in whole or in part even though that object may be authorized by law. That principle of limitation has been sustained so repeatedly that it may be regarded as a part of the parliamentary law of the Committee of the Whole.

Therefore, the Chair is unable to agree with the contention of the gen-

3. Frank H. Buck (Calif.).

tleman from New York and overrules the point of order.

### ***Court Judgment as Authorization***

#### **§ 2.2 An appropriation to pay a judgment awarded by a court is not in order unless such judgment has been properly certified to Congress.**

On June 20, 1935,<sup>(4)</sup> the Committee of the Whole was considering H.R. 8554, a deficiency appropriation bill. The following proceedings took place:

MR. [FRANK] CARLSON [of Kansas]: Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Mr. Carlson moves to amend H.R. 8554, page 6, by inserting a new paragraph following line 6, entitled "Federal Trade Commission":

"For payment to Mrs. William E. Humphrey, or executor of the estate of William E. Humphrey, \$3,017 amount due as salary at time of his death as member of Federal Trade Commission."

MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Chairman, I make the point of order that the amendment is new legislation in that the judgment has not been certified according to law.

. . .

THE CHAIRMAN:<sup>(5)</sup> The Chair is ready to rule. Under the law,<sup>(6)</sup> judg-

4. 79 CONG. REC. 9811, 74th Cong. 1st Sess.

5. Franklin W. Hancock, Jr. (N.C.).

6. The Chair apparently relied on provisions governing procedures where-

ments have to be certified to the Congress before an appropriation is made; therefore the Chair sustains the point of order.

***Executive Order as Authorization***

**§ 2.3 The words “authorized by law” in Rule XXI clause 2, were construed to refer to a “law enacted by the Congress,” and not to encompass executive orders.**

On Mar. 2, 1945,<sup>(7)</sup> the Committee of the Whole was consid-

by claimants obtaining judgments against the United States are compensated from appropriations made for that purpose. See, for example, the present 28 USC §2518 (based on 26 Stat. 537, Sept. 30, 1890 and 43 Stat. 939, Feb. 13, 1925), regarding certification to Congress of judgments of the Court of Claims; see also 28 USC §2517 (payment of judgments of the Court of Claims out of general appropriations therefor); 28 USC §2414 (payment of judgments and compromise settlements on claims against the United States); 31 USC §724a (permanent appropriation to pay final judgments, awards, and compromise settlements); 28 USC §§2671 et seq. (tort claims procedure); and House Rule XXII clause 2, *House Rules and Manual* §852 (1981) (prohibiting private bills and resolutions, and amendments to bills and resolutions, authorizing payment of claims for which suit may be instituted under tort claims procedure).

7. 91 CONG. REC. 1682, 1683, 79th Cong. 1st Sess.

ering H.R. 2374, a deficiency appropriation bill. At one point the Clerk read as follows:

WAR RELOCATION AUTHORITY

Salaries and expenses: The limitation in the appropriation for salaries and expenses, War Relocation Authority, in the National War Agency Appropriation Act, 1945, on the amount which may be expended for travel is hereby increased from \$375,000 to \$475,000; *and of said appropriation not to exceed \$280,477 is made available for expenses incurred during the fiscal year 1945 incident to the establishment, maintenance, and operation of the emergency refugee shelter at Fort Ontario, N.Y., provided for in the President's message of June 12, 1944, to the Congress (H. Doc. 656).*

MR. [HENRY C.] DWORSHAK [of Idaho]: Mr. Chairman, I make the point of order against that part of the section following the semicolon in line 20 and ending on page 14, line 2, that it is legislation on an appropriation bill; furthermore, that there is no specific authority in existing statutes for the operation of this particular program. The Executive order of the President which created the War Relocation Authority does not encompass the activities for which these funds would be used. . . .

THE CHAIRMAN:<sup>(8)</sup> The Chair is prepared to rule.

The gentleman from Idaho [Mr. Dworshak] makes the point of order against the language beginning in the concluding part of line 20 on page 13 and extending through the balance of

8. John J. Sparkman (Ala.).

the paragraph, that this appropriation is not authorized by law.

Under the rules of the House, no appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law.

It is the opinion of the Chair that an Executive order does not meet the requirement stated in that rule. Therefore, not being authorized by law enacted by Congress, the appropriation would not be in order. The mere fact that it may be a reappropriation would not make it in order if the original appropriation was not authorized by law.

Therefore, the Chair sustains the point of order made by the gentleman from Idaho.

**§ 2.4 An executive order does not meet the requirement that appropriations must be authorized by law.**

On July 5, 1945,<sup>(9)</sup> the following proceedings took place:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I 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. 3649), making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate in the Committee of the Whole. . . .

9. 91 CONG. REC. 7226, 7227, 79th Cong. 1st Sess.

THE SPEAKER:<sup>(10)</sup> The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649) with Mr. Sparkman in the chair. . . .

MR. CANNON of Missouri: Mr. Chairman, I ask unanimous consent that the bill be considered as read and that all Members desiring to submit amendments or points of order have leave to submit them at this time.

THE CHAIRMAN:<sup>(11)</sup> Is there objection to the request of the gentleman from Missouri?

There was no objection.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, in view of the unanimous consent request that has just been granted, I make the point of order against the first item, National War Labor Board, on the ground that it is an appropriation not authorized by law.

MR. CANNON of Missouri: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

MR. MARCANTONIO: Mr. Chairman, I make a point of order on the same ground against the item for the Office of Defense Transportation on page 5.

MR. CANNON of Missouri: The point of order is conceded, Mr. Chairman.

THE CHAIRMAN: The gentleman from New York (Mr. Marcantonio) makes a point of order which the gentleman

10. Sam Rayburn (Tex.).

11. John J. Sparkman (Ala.).



from Missouri (Mr. Cannon) concedes. The Chair sustains the point of order.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, we do not all have to concede the point of order. I want to ask the gentleman from Missouri a question. . . .

MR. RANKIN: . . . If these were times of peace and this agency had been created by the Executive order, as it was, I submit that a point of order would lie against it. But the President of the United States is the commander in chief of the armed forces. One of the necessary incidents to that position is the ability and the power to see that our troops and the materials to support them are transported. For that reason, in order to break a bottleneck in our transportation system, the President of the United States set up the Office of Defense Transportation. . . .

THE CHAIRMAN: The Chairman again states his opinion, regardless of his own beliefs as to the merits of this particular office, that the point of order must be sustained.

The rule is very explicit to the effect that no appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto, for any expenditure not previously authorized by law.

In this present Congress, the present occupant of the chair ruled that an Executive order was not a law such as could comply with this rule.<sup>(12)</sup>

The Chair sees no reason for departing from that holding. The Chair feels constrained to sustain the point of order.

12. See §2.3, *supra*.

The point of order is sustained.<sup>(13)</sup>

### ***Language in Prior Appropriation Measure as Authorization***

**§ 2.5 Legislation in an appropriation bill may be subject to a point of order under Rule XXI clause 2, but it may become permanent law if it is not challenged and is permanent in its language and nature; thus, language in a previous appropriation act providing that “hereafter such sums . . . as may be approved by Congress shall be available (to increase domestic consumption of farm commodities),” was held to be permanent authorizing legislation capable of supporting subsequent appropriations therefor.**

On May 20, 1964,<sup>(14)</sup> during consideration in the Committee of the Whole of the agriculture appropriations bill (H.R. 11202) for fiscal 1965, Mr. Paul Findley, of Illinois, raised a point of order as follows:

MR. FINDLEY: My point of order is to lines 3 through 9, the portion of the

13. See also 119 CONG. REC. 19855, 93d Cong. 1st Sess., June 15, 1973 (H.R. 8619).

14. 110 CONG. REC. 11422, 11423, 88th Cong. 2d Sess.

section beginning with the figure in parentheses 5. I will read it. It reads as follows:

(5) not in excess of \$25,000,000 to be used to increase domestic consumption of farm commodities pursuant to authority contained in Public Law 88-250, the Department of Agriculture and Related Agencies Appropriation Act, 1964, of which amount \$2,000,000 shall remain available until expended for construction, alteration and modification of research facilities.

There is legislation in an appropriation bill. . . .

THE CHAIRMAN:<sup>(15)</sup> The Chair is ready to rule. The gentleman from Illinois (Mr. Findley) makes a point of order addressed to the language appearing on page 16, line 2, beginning with "and" and continuing through and including line 9, on the ground that it is legislation on an appropriation bill.

The Chair has had called to its attention the section which was contained in Public Law 88-250, in which it appears that the appropriation here, which incidentally is also in the nature of a limitation, was authorized by the Congress by the inclusion of the words pointed out by the gentleman from Mississippi that "hereafter such sums (not in excess of \$25,000,000 in any one year) as may be approved by the Congress shall be available for such purpose," and so forth.

The Chair therefore holds that the language in that public law cited is authority for the inclusion in the pending bill of the language to which the point of order was addressed, and therefore overrules the point of order.

## § 2.6 A point of order having been raised that a portion of

15. Eugene J. Keogh (N.Y.).

**a lump sum supplemental appropriation for the White House was not authorized by law, the Chairman determined that the permanent law authorizing the President to appoint certain staff, as well as legislative provisions authorizing additional employment contained in an earlier regular appropriation bill enacted for that fiscal year, constituted sufficient authorization.**

On Nov. 30, 1973,<sup>(16)</sup> during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 11576) a point of order was raised against a provision, as follows:

The Clerk read as follows:

### THE WHITE HOUSE OFFICE

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$1,500,000.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, a point of order. . . .

I raise a point of order to the language of lines 5, 6, 7, and 8 of page 14 under the provisions of rule XXI, clause 2, which prohibits legislation on appropriation bills and which prohibits the appropriation of funds without prior legislative authorization.

Mr. Chairman, I would now like to read from the language of the commit-

16. 119 CONG. REC. 38854, 38855, 93d Cong. 1st Sess.

tee's report on White House office, salaries and expenses:

The Committee recommends an appropriation of \$1,500,000, a reduction of \$110,000 below the amount of the budget estimate.

These supplemental funds were requested to provide the additional funds needed for the activities of the Counselors to the President and their staffs, the President's Foreign Intelligence Advisory Board, the President's Special Assistant for Consumer Affairs, the Council on Economic Policy, and other professional staff and consultants.

Mr. Chairman, before I pursue this matter further, I would point out first of all that when an item in an appropriation bill is defective as violative of the rules of the House—in this instance, Rule XXI, clause 2—the whole of the particular item under the point of order falls.

I would point out further, Mr. Chairman, that my point of order is directed specifically to the President's special assistant for consumer affairs and to that office, which was challenged earlier on this floor this year by the gentleman from Iowa (Mr. Gross). Upon his point of order the Chair acted affirmatively and ruled in support of the point of order and ruled out the item.

I challenge further on the same grounds, Mr. Chairman, the appropriations for counsellor to the President in that there is no statutory authority for counsellors to the President. I challenge further the President's foreign intelligence advisory board in that there is also, to my knowledge, no statutory authority for this particular office.

Also, Mr. Chairman, I challenge on the same grounds again the counsel on

economic policy of the President and his staff and offices, appurtenances and expenditures pertinent thereto. I would point out further, Mr. Chairman, that under the rules of the House of Representatives, that the burden is upon the proponent of the appropriation bill to establish the legislative basis and to cite the statutes upon which the Appropriations Committee bases its action in appropriating funds. . . .

THE CHAIRMAN:<sup>(17)</sup> . . . Sections 103, 105, and 106 of title 3 authorize appropriations for the purpose of paying the salaries of certain persons in the Executive Office of the President. The appropriation bill itself, in the paragraph beginning on page 14, line 5, gives no indication that the appropriation would be used for any unauthorized purpose. The paragraph merely provides a lump sum for the Executive Office.

The gentleman from Michigan, in making his point of order, goes beyond the provisions of the bill and looks at the provisions of the committee report.

The Chair does not believe that in this case, any more than in the case made by the gentleman from Iowa earlier in the consideration of the bill, it is within his province to go beyond the plain provisions of the bill, and the authorizing statute.

The Chair, therefore, overrules the point of order.

*Parliamentarian's Note:* The earlier ruling cited by Mr. Dingell had taken place on June 15, 1973. Chairman James C. Wright, Jr., of Texas, had sustained a point of

17. James G. O'Hara (Mich.).

order against an appropriation for the Office of Consumer Affairs, established by executive order, where the Committee on Appropriations had not cited statutory authority for the appropriation (contained in H.R. 8619, agriculture-environment and consumer protection appropriations bill). Congress subsequently enacted Public Law No. 93-143, the Treasury, Executive Office Appropriations Act for fiscal 1974, containing funds for the White House Office and legislation, effective for the same fiscal year covered by the supplemental appropriation bill, permitting the President to employ consultants notwithstanding other provisions of law. For that reason, and because it was not readily apparent from the language of either the supplemental bill, the authorizing statute, or the committee report that a portion of the lump sum was to fund an unauthorized office, the Chair overruled the point of order.

***Appropriation Bill as Containing Specific Approval***

**§ 2.7 The restriction in law prohibiting the use of any funds for the preparation of final plans or for construction of the west front extension “until specifically approved and appropriated**

**therefor by the Congress” was held not to require legislative “approval” prior to the appropriation, where the legislative history of the law indicated that other law was to be considered sufficient authorization for the project and that only further approval through the appropriation process was required.**

On Apr. 17, 1973,<sup>(18)</sup> during consideration in the Committee of the Whole of the legislative branch appropriations bill (H.R. 6691) for fiscal 1974, Mr. J. Edward Roush, of Indiana, raised a point of order against the following language in the bill, and proceedings ensued as indicated:

EXTENSION OF THE CAPITOL

For an amount, additional to amounts heretofore appropriated, for “Extension of the Capitol”, in substantial accordance with plans for extension of the West Central front heretofore approved by the Commission for Extension of the United States Capitol, to be expended, as authorized by law, by the Architect of the Capitol under the direction of such Commission, \$58,000,000, to remain available until expended. . . .

MR. ROUSH: Mr. Chairman, my point of order is based upon these following facts: The appropriation as proposed

18. 119 CONG. REC. 12781, 12782, 93d Cong. 1st Sess.

lacks legislative authority and, secondly, the language "\$58,000,000 to remain available until expended" constitutes legislation on a general appropriation bill. . . .

I would refer to the appropriation bill last year, which would be Public Law 92-342, under the section "Extension of the Capitol:"

Funds available under this appropriation may be used for the preparation of preliminary plans for the extension of the west central front: *Provided, however*, That no funds may be used for the preparation of the final plans or initiation of construction of said project until specifically approved and appropriated therefor by the Congress.

I point out to the Chairman that the plans have not been specifically approved. . . .

Mr. Chairman, I have searched this matter diligently and the only authority that I can find for the extension of the west front of the Capitol necessarily has to be inferred from the language of a bill which was passed in 1855. . . .

MR. [ROBERT R.] CASEY of Texas: . . . Mr. Chairman, this project is authorized, and I would point out that the gentleman from Indiana (Mr. Roush) who is making the point of order, failed to read all of Public Law 242 of the 84th Congress.

The law reads:

Extension of the Capitol: The Architect of the Capitol is hereby authorized, under the direction of a Commission for Extension of the United States Capitol, to be composed of the President of the Senate, the Speaker of the House of Representatives—

Et cetera.

In substantial accordance with Scheme B of the architectural plan submitted by a joint commission of Congress and reported to Congress on March 3, 1905 (House Document Numbered 385, Fifty-Eighth Congress), but with such modifications and additions, including provisions for restaurant facilities and such other facilities in the Capitol Grounds, together with utilities . . .

It does not just refer to one item. I think this gives great latitude.

Together with utilities, equipment, approaches, and other appurtenant or necessary items . . . there is hereby appropriated \$5,000,000, to remain available until expended: *Provided*, that the Architect of the Capitol under the direction of said commission and without regard to the provisions of section 3709 of the Revised Statutes, as amended, is authorized to enter into contracts.

Et cetera.

This law was amended February 14, 1956, and there was added this amendment under "Extension of the Capitol." This was Public Law 406, 84th Congress:

The paragraph entitled "Extension of the Capitol" in the Legislative Appropriation Act, 1956, is hereby amended by inserting after the words "to remain available until expended" and before the colon, a comma and the following: "and there are hereby authorized to be appropriated such additional sums as may be determined by said Commission to be required for the purposes hereof. . . ."

THE CHAIRMAN:<sup>(19)</sup> . . . The gentleman from Indiana . . . contends that Public Law 92-342 requires "specific" approval by Congress of prepara-

19. John M. Murphy (N.Y.).

tion of final plans or initiation of construction prior to an appropriation therefor. The Chair has examined the legislative history of the provision relied upon by the gentleman from Indiana in support of his argument that the appropriation must be specifically approved by Congress prior to the appropriation, and it is clear from the debate in the Senate on March 28, 1972, that approval in an appropriation bill was all that was required by the provision in Public Law 92-342. The Chair feels that there is sufficient authorization contained in [Public Law 84-242] as amended by Public Law 84-406 for the appropriation contained in the pending bill, and that no further specific authorization is required prior to an appropriation for final plans and construction for the West Front.

For these reasons the Chair overrules the point of order.

**§ Sec. 2.8 An amendment to a general appropriation bill providing that appropriations in the bill available for travel expenses were to be available for expenses of attendance of officers and employees at meetings or conventions was held to be in order since such provision was authorized to be included in appropriation bills by statutory provisions.**

On May 2, 1951,<sup>(20)</sup> the Committee of the Whole was consid-

20. 97 CONG. REC. 4738, 82d Cong. 1st Sess.

ering H.R. 3790, an Interior Department appropriation. The following proceeding took place:

Amendment offered by Mr. Jackson of Washington: On page 36, line 17, insert the following:

Sec. 104. Appropriations in this act available for travel expenses shall be available for expenses of attendance of officers and employees at meetings or conventions of members of societies or associations concerned with the work of the bureau or office for which the appropriation concerned is made.

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I make the point of order against the amendment that it involves legislation on an appropriation bill and is not authorized by law. . . .

THE CHAIRMAN:<sup>(21)</sup> The gentleman from Washington has called the attention of the Chair to section 83, title 5 of the United States Code. Permit the Chair to read the language contained in that provision:

No money appropriated by any act shall be expended for membership fees or dues of any officer or employee of the United States or of the District of Columbia, in any society or association or for expenses of attendance of any person at any meeting or convention of members of any society or association unless such fees, dues, or expenses are authorized to be paid by specific appropriations for such purposes or are provided for in express terms in some general appropriation.

The Chair feels that the language which has just been read governs the matter and overrules the point of order

21. Wilbur D. Mills (Ark.).

made by the gentleman from New York.

***Senate Confirmation of Appointees Required Prior to Appropriation for Positions***

**§ Sec. 2.9 Although the President has the power to appoint foreign ambassadors and ministers, an appropriation to pay such salaries is not in order unless the Senate has confirmed the appointment.**

On Aug. 17, 1937,<sup>(22)</sup> the Committee of the Whole was considering H.R. 8245, a deficiency appropriation bill. The proceedings were as follows:

Salaries of ambassadors and ministers: For an additional amount for salaries of ambassadors and ministers, fiscal year 1938, for the salary of an envoy extraordinary and minister plenipotentiary to Lithuania at \$10,000 per annum, \$8,333.34: *Provided*, That the appropriation for salaries of ambassadors and ministers, fiscal year 1938, shall be available for payment of the salary of an envoy extraordinary and minister plenipotentiary to Estonia and Latvia at \$10,000 per annum. . . .

MR. [HAMILTON] FISH [JR., of New York]: Mr. Chairman, I make a point on order against the language on page 28, lines 4 to 12, inclusive, as constituting legislation on an appropriation

bill, not authorized by law. It creates a new position, that of Minister of Lithuania. The President has no constitutional right and is empowered by no act of Congress to create additional positions. Therefore, I make the point of order, Mr. Chairman, and if the Chair is in doubt I would like to speak a little further on the matter and cite some precedents. . . .

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Chairman, I think the item is subject to a point of order for the reason that the Minister has been appointed but not confirmed. The President has the right to appoint, but if the minister has not been confirmed the Congress would have no right to appropriate. There has been no confirmation. I think the gentleman's point of order is well taken, if he chooses to make it. . . .

The Chairman:<sup>(1)</sup> The Chair is ready to rule. As stated by the gentleman from Virginia, the President has the right to appoint. At the present time, however, the Senate has not confirmed the appointment. The appropriation, therefore, is subject to a point of order.

The Chair sustains the point of order.

***Implied Authorization***

**§ Sec. 2.10 Appropriations for travel expenses, including examination of estimates for appropriations in the field, under the heading "Office of the Secretary, Department of Agriculture," were held authorized by law as necessary**

22. 81 CONG. REC. 9175, 9176, 75th Cong. 1st Sess.

1. Claude V. Parsons (Ill.).

**to carry out the basic law setting up the Department of Agriculture.**

On Apr. 27, 1950,<sup>(2)</sup> the Committee of the Whole was considering H.R. 7786, the Department of Agriculture chapter of the general appropriation bill of 1951. The following proceedings took place:

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I make a point of order against the language appearing in lines 6 to 7, page 204, "travel expenses, including examination of estimates for appropriations in the field." . . .

THE CHAIRMAN:<sup>(3)</sup> The Chair is prepared to rule.

The gentleman from New York [Mr. Keating] has made a point of order against the language appearing on page 204 of the chapter beginning in line 6, which has been quoted by him, on the ground that it is legislation on an appropriation bill in violation of the rules of the House. The Chair has examined the language and has listened attentively to the arguments presented and has also made an examination of the precedents and decisions of the House. It appears that in 1938 a point of order was made against language similar to this, and the Chairman, Mr. Jones, of Texas, overruled the point of order. The decision is found on page 2656 of the Record of March 1, 1938. On the basis of that precedent and de-

cision the Chair overrules the point of order.

The 1938 decision relied on by the Chair took place during consideration of H.R. 9621, appropriations for the Department of the Interior. An amendment had been offered, reading in part as follows:<sup>(4)</sup>

Amendment offered by Mr. Scrugham: Page 72, beginning with line 12, insert the following:

Administration provisions and limitations: For all expenditures authorized by the act of June 17, 1902, and acts amendatory thereof or supplementary thereto, known as the reclamation law, and all other acts under which expenditures from said fund are authorized, including not to exceed \$100,000 for personal services and \$15,000 for other expenses in the office of the chief engineer . . . ; examination of estimates for appropriations in the field; refunds of overcollections and deposits for other purposes; not to exceed \$15,000 for lithographing, engraving, printing, and binding.

The following exchange took place:

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment upon the ground that it is legislation upon an appropriation bill, that it includes items not authorized by law, as, for instance, \$5,000 for making photographic prints, not authorized by law in line 20 and in line 22, provision for examination of estimates for appropriations in

2. 96 CONG. REC. 5911, 81st Cong. 2d Sess.

3. Jere Cooper (Tenn.).

4. 83 CONG. REC. 2655, 2656, 75th Cong. 3d Sess., Mar. 1, 1938.



the field, which is not authorized by law; \$15,000 for lithographing and engraving, not authorized by law; the purchase of ice, the purchase of rubber boots for official use by employees, not authorized by law.

THE CHAIRMAN: The Chair is ready to rule. This amendment provides for all expenditures authorized by the act of June 17, 1902, and acts amendatory thereof or supplemenatary thereto, known as the reclamation law, and all other acts under which expenditures from said fund are authorized, and so forth. The Chair thinks that the items to which the gentleman from New York objects specifically are incidental to the main purpose of carrying out the reclamation law. These incidental items it seems to the Chair are necessary to carry out the major purposes of the reclamation law, and the Chair, therefore, overrules the point of order.

Mr. Taber offered an amendment to strike the words "examination of estimates for appropriations in the field," which amendment was rejected.

***Specific Project Authorized by General Grant of Authority***

**§ 2.11 Legislation authorizing the Administrator of the Federal Aviation Administration to develop and test improved aircraft, and legislation transferring and vesting those functions "including the development and construction of a civil supersonic aircraft" in the Sec-**

**retary of Transportation was held to authorize an appropriation for the construction of prototypes of the civil supersonic aircraft.**

On May 27, 1970,<sup>(5)</sup> during consideration in the Committee of the Whole of the Department of Transportation appropriation bill for fiscal 1971 (H.R. 17755), Mr. Sidney R. Yates, of Illinois, raised a point of order against certain language in the bill:

For an additional amount for expenses, not otherwise provided for, necessary for the development of a civil supersonic aircraft, including the construction of two prototype aircraft of the same design, and advances of funds without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), \$289,965,000, to remain available until expended. . . .

MR. YATES: Mr. Chairman, this is an appropriation for the development of a supersonic aircraft under the terms of a contract between the Government and the Boeing Co. The authorization for the appropriation is admittedly section 312(b) of the Federal Aviation Act, which provides as follows:

The Administrator is empowered to undertake or supervise such development work and service testing as tends to the creation of improved aircraft, aircraft engines, propellers, and appliances.

For such purpose, the Administrator is empowered to make pur-

5. 116 CONG. REC. 17310, 17311, 91st Cong. 2d Sess.

chases—including exchange—by negotiation, or otherwise, of experimental aircraft, aircraft engines, propellers, and appliances, which seem to offer special advantages to aeronautics.

There is nothing in either provision which authorizes the spending of public funds for private purposes or private gains. There is nothing in either provision which gives the benefits of whatever development or testing is undertaken to the person or the company doing the work. My point here is if the Government pays for the work, as it is in this case, then the Government is entitled to the product. The Government owns the product because it has paid for it. There is no provision in the law which permits gifts or for making grants. That is not the case in this contract because the plane when built will belong to Boeing. Under the contract, whatever results from the development belongs to Boeing, which has the burden of producing the SST. Under the contract the Government is to be repaid for its money through royalties from the sale of planes, but the planes when completed will belong to the Boeing Co. Yet, as I said, there is no authority on the statute books for loans or grants to the contractor. . . .

THE CHAIRMAN:<sup>(6)</sup> The Chair is prepared to rule.

The gentleman from Illinois (Mr. Yates) raised the point of order against the appropriation appearing on page 2 of the bill, entitled "Civil Supersonic Aircraft Development," on the ground that there is no authorization in law for the development of such an aircraft, and for the expenditure provided herein.

The gentleman from Massachusetts (Mr. Boland) in responding to the point of order has cited certain provisions of law which have been recognized by the gentleman from Illinois as pertaining directly to the authorization of the civil supersonic aircraft development program.

The Chair has examined the laws to which attention has been directed. Chapter 20 of title 49, United States Code, relates to the Federal aviation program of the Federal Government, and sets forth the powers and duties of the Federal Aviation Agency and, as has been pointed out, empowers the Administrator to "undertake or supervise such developmental work and service testing as tends to the creation of improved aircraft. For such purpose, the Administrator is empowered to make purchases—of experimental aircraft."

Even broader, I think, is the delegation of authority that appears in Public Law 89-670, establishing the Department of Transportation. Section 6(c)(1) of that act states as follows:

There are hereby transferred to and vested in the Secretary (of Transportation) all functions, powers, and duties of the Federal Aviation Agency, and of the Administrator and other officers and offices thereof, including the development and construction of a civil supersonic aircraft.

The Chair has heard the argument of the gentleman from Illinois with reference to his contention that this must be construed narrowly, but does not find in the law or in the precedents any requirement for as narrow a construction as the gentleman has contended for. It is a broad delegation of

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6. Edmond Edmondson (Okla.).

authority, and must not be construed as narrowly as the gentleman has sought.

In view of these citations, which give the Secretary a broad experimental and development authority and bestow upon him in explicit terms the authority to develop and construct a Civil Supersonic Aircraft, the Chair is constrained to overrule the point of order.

Therefore the point of order is overruled.

***“Miscellaneous” Items as Authorized***

**§ 2.12 Language in an appropriation bill making appropriations for certain items “and other miscellaneous expenses, not otherwise provided for” was held to apply to regular expenses that are authorized by law, and in order.**

On Mar. 16, 1945,<sup>(7)</sup> the Committee of the Whole was considering H.R. 2603, a State, Justice, Commerce, Judiciary, and Federal Loan Agency appropriation. A provision was read as follows, and a point of order was raised as indicated below:

Miscellaneous expenses: For stationery, supplies, materials and equipment, freight, express, and drayage charges, washing towels, advertising, purchase of lawbooks and books of ref-

erence, periodicals and newspapers, communication service and postage; for the maintenance, repair, and operation of one motor-propelled delivery truck; for rent in the District of Columbia, and elsewhere; for official traveling expenses, including examination of estimates for appropriations in the field, and other miscellaneous expenses, not otherwise provided for, necessary to effectively carry out the provisions of the act providing for the administration of the United States courts, and for other purposes, \$26,000. . . .

MR. [ROBERT F.] JONES [of Ohio]: . . . I make a point of order against the language beginning in line 15 with the word “and” and ending in line 16 with the word “for.”

THE CHAIRMAN:<sup>(8)</sup> The gentleman makes a point of order against the language reading:

And other miscellaneous expenses not otherwise provided for?

MR. JONES: That is right.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard on the point of order?

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, this provides merely for regular expenses that are authorized by law. I do not see anything in this subject to a point of order.

THE CHAIRMAN: The Chair fails to see any reason why the language referred to should be subject to a point of order, and unless the gentleman from Ohio can be more specific in his objection the Chair is constrained to overrule the point of order.

The Chair overrules the point of order.

7. 91 CONG. REC. 2378, 79th Cong. 1st Sess.

8. Wilbur D. Mills (Ark.).

***Increasing Appropriation  
Within Authorized Limits***

**§ 2.13 It is in order to increase the appropriation in an appropriation bill for purposes authorized by law if such increase does not exceed the amount authorized for such objects.**

On Mar. 10, 1942,<sup>(9)</sup> the Committee of the Whole was considering H.R. 6736, a War Department civil functions appropriation bill. An amendment was allowed which restored part of a sum which had previously been stricken from the bill, where such amendment did not cause the appropriation for the objects under consideration to exceed the total amount for such objects authorized by law. The portion of the bill in question, and proceedings relating to it, were as follows:

Flood control, general: For the construction and maintenance of certain public works on rivers and harbors for flood control, and for other purposes, in accordance with the provisions of the Flood Control Act, approved June 22, 1936, as amended and supplemented, including printing and binding, newspapers, lawbooks, books of reference, periodicals, and office supplies and equipment required in the Office of the Chief of Engineers to carry out the

purposes of this appropriation, and for preliminary examinations and surveys of and contingencies in connection with flood-control projects authorized by law, \$144,973,700: . . .

MR. [DAVID D.] TERRY [of Arkansas]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Terry: "On page 7, line 5, strike out \$144,973,700 and insert \$147,078,700."

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, I reserve a point of order against the amendment. . . .

MR. TERRY: Mr. Chairman, the purpose of this amendment is to raise the amount carried in the bill, \$144,973,000 for flood control to an amount that will be sufficient to include the beginning of the work on the Table Rock Reservoir.

Congress has authorized for the White River Basin \$49,000,000 to be appropriated for the prosecution of a comprehensive dual purpose flood control and power program in the White River Basin. According to the testimony in the hearings, \$15,870,000 was allocated from funds previously appropriated against this authorization. The Budget has presented four projects in the White River Basin which total \$37,525,000.

The appropriation of this amount, in conjunction with the \$15,870,000, would result in a total of \$53,395,000, or \$4,395,000 in excess of the \$49,000,000 that has been authorized to be appropriated.

The Committee of the Whole eliminated the \$6,500,000 which was included in the Budget sent down on

9. 88 CONG. REC. 2224, 2225, 77th Cong. 2d Sess.

February 20 for the construction of Table Rock Reservoir. When this matter was up in the subcommittee at the time of the marking up of the bill, a motion was made by a committee member to eliminate Table Rock, but the subcommittee voted against cutting out the Table Rock item. When the bill came up in the full committee on appropriations, on a very close vote, the committee eliminated Table Rock on the theory that—and it was a fact—the appropriation was over the authorization. So the Table Rock item was eliminated, as I say, by a very close vote.

My amendment merely seeks to raise the amount to the limit of the congressional authorization. If we adopt my amendment we add \$2,105,000 to the amount in the bill for flood control, but it will permit considerable work to be done on the Table Rock project this year and the coming fiscal year, and we shall still be within the authorized appropriation limit carried in the Budget estimate for the whole bill, and we shall not be above the \$49,000,000 which has been authorized by the Congress for the White River Basin. . . .

THE CHAIRMAN: <sup>(10)</sup> Does the gentleman from Pennsylvania [Mr. Rich] insist on his point of order?

MR. RICH: Mr. Chairman, I insist on my point of order.

The authorization for these two projects was only \$49,000,000. . . .

Mr. Chairman, this exceeds the total amount authorized. . . .

MR. TERRY: Mr. Chairman, the committee in charge of the bill has checked those figures with the Army engineers

in charge of flood control, and the figure that I have included in the amendment is the figure given by the engineers. It shows a total of \$53,395,000 will be appropriated, including \$15,870,000 past amounts, and those in the Budget estimates for 1943, in the sum of \$37,525,000, with a \$49,000,000 authorization. That would exceed the authorization \$4,395,000. If \$6,500,000 for Table Rock is stricken out, the authorizations will exceed the appropriations in an amount of \$2,105,000, which is the amount of my amendment, and is an amount that will not exceed the Budget estimate and will not exceed the \$49,000,000 authorized by the Legislative Committee of this House for the comprehensive plan for the White River Basin.

MR. RICH: Mr. Chairman, I may say the gentleman's own figures show that these are the items to begin the project and they will exceed the amount of the Budget estimate.

THE CHAIRMAN: The Chair is ready to rule.

This section of the bill, lines 4 and 5, is for preliminary examination, surveys, or for contingencies in connection with flood-control projects authorized by law.

The gentleman from Arkansas in his amendment raises the appropriation, but in that raise it only applies to those projects which are authorized by law; therefore, the point of order is overruled.

**§ 2.14 An amendment proposing simply to increase an appropriation for a specific object over the amount car-**

10. Alfred L. Bulwinkle (N.C.).

**ried in the appropriation bill does not constitute a change in law unless such increase is in excess of that authorized.**

On Feb. 28, 1939,<sup>(11)</sup> the Committee of the Whole was considering H.R. 4492, a Treasury and Post Office appropriation bill. The following proceedings took place:

Construction of public buildings outside of the District of Columbia: For continuation of construction of, and acquisition of sites for, public buildings outside of the District of Columbia, including the purposes and objects, and subject to the limitations, specified under this head in the Third Deficiency Appropriation Act, fiscal year 1937, and also including those increases in the limits of cost of certain authorized projects, 25 in number, as specified in House Document No. 177, Seventy-sixth Congress, \$30,000,000: *Provided*, That the provisions of section 322 of the act of June 30, 1932 (47 Stat. 412), shall not apply with respect to the rental of temporary quarters for housing Federal activities during the replacement or remodeling of buildings authorized under this or previous acts.

MR. [JAMES F.] O'CONNOR [of Montana]: Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. O'Connor: Page 51, line 8, ~~strikeout~~ "\$30,000,000" and insert "\$60,000,000."

11. 84 CONG. REC. 2029, 2030, 76th Cong. 1st Sess.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that it is not authorized by law. . . .

THE CHAIRMAN:<sup>(12)</sup> The Chair is ready to rule.

The gentleman from Montana [Mr. O'Connor] offers an amendment on page 51, line 8, seeking to increase the appropriation there stated, \$30,000,000, to the figure of \$60,000,000, to which amendment the gentleman from New York [Mr. Taber] makes a point of order on the ground that the increase in the item sought to be made is not authorized by law.

The Chair invites attention to Public Resolution 122, Seventy-fifth Congress, title III, Federal Public Buildings, and quotes in part as follows:

. . . is hereby increased from \$70,000,000 to \$130,000,000.

There is a balance remaining of that authorization of \$71,000,000. The pending bill carries an appropriation of \$30,000,000, which would leave \$41,000,000 unappropriated. The amendment of the gentleman from Montana seeks to increase the \$30,000,000 appropriation to \$60,000,000, or seeks to appropriate \$30,000,000 of the remaining \$41,000,000 authorized by law. Therefore, the Chair overrules the point of order.

## **§ 2.15 Language in an appropriation bill providing an additional amount within the total authorized was held to be in order.**

12. Jere Cooper (Tenn.).

On Feb. 25, 1958,<sup>(13)</sup> the Committee of the Whole was considering H.R. 10881, a bill making supplemental appropriations. The following provision was read and a point of order was raised as indicated below:

For an additional amount for "Acreage reserve program," fiscal year 1958, \$250,000, which shall be available to formulate and administer an acreage reserve program in accord with the provisions of subtitles A and C of the Soil Bank Act (7 U.S.C. 1821-1824 and 1802-1814), with respect to the 1958 crops, in an amount not to exceed \$175 million in addition to the amount specified for such purposes in Public Law 85-118.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the paragraph on page 4, lines 1 to 9 of the bill on the ground that it changes existing law. I refer the chairman to the language of the appropriation bill which became law on the 2d day of August. . . .

THE CHAIRMAN:<sup>(14)</sup> The Chair is ready to rule.

The language objected to by the gentleman from New York [Mr. Taber] provides for an additional amount. This of course means an additional amount to that provided for in the authorization contained in Public Law 540 of the 84th Congress.

The Chair therefore feels that in view of the fact that there are ample funds authorized to carry out this pro-

gram, and that the appropriation herein proposed is within the authorized amount, the point of order cannot be sustained.

The Chair overrules the point of order.

*Parliamentarian's Note:* The law referred to in the point of order was contained in Pub. L. No. 85-118 which provided, "That no part of *this* appropriation shall be used to formulate and administer an acreage reserve program which would result in total compensation being paid to producers in excess of" a designated amount. That limitation, since it applied only to the appropriation in that act, had no applicability to the supplemental appropriation which was in dispute here.

### ***Appropriation of Total Authorization***

**§ 2.16 Where the law authorizes an appropriation of a specific amount and a paragraph of an appropriation bill appropriates a portion thereof, an amendment changing the figure in the bill to the full amount authorized is in order.**

On Mar. 28, 1939,<sup>(15)</sup> the Committee of the Whole was considering H.R. 5269, an agricultural

13. 104 CONG. REC. 2766, 85th Cong. 2d Sess.

14. Francis E. Walter (Pa.).

15. 84 CONG. REC. 3454, 3455, 76th Cong. 1st Sess.

appropriation bill. The following portion of the bill was before the committee:

FARM TENANCY

To enable the Secretary of Agriculture to carry out the provisions of title I of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (7 U.S.C. 1000-1006), including the employment of persons and means in the District of Columbia and elsewhere, exclusive of printing and binding, as authorized by said act, \$24,984,500, together with the unexpended balance of the appropriation made under said act for the fiscal year 1939.

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. Johnson of Oklahoma: Page 93, line 22, after the word "Act", strike "\$24,984,500" and insert in lieu thereof "\$50,000,000."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that the \$50,000,000 is not authorized by law. . . .

THE CHAIRMAN:<sup>(16)</sup> The amendment offered by the gentleman from Oklahoma provides that the figures, \$24,984,500, be stricken out and \$50,000,000 inserted in lieu thereof.

This bill is making appropriations for the Department of Agriculture, and for the Farm Credit Administration, for the fiscal year ending June 30, 1940. The Chair has examined the law, and the law provides, on the question of farm tenancy, that not to exceed

\$10,000,000 shall be appropriated for the year ending June 30, 1938; not to exceed \$25,000,000 for the year ending June 30, 1939; and not to exceed \$50,000,000 for each fiscal year thereafter.

Therefore the point of order is overruled.

***Effect of Language Limiting Appropriations to Purposes Authorized by Law***

**§ 2.17 A point of order will not lie against a lump-sum appropriation for river and harbor projects on the ground that some of the projects enumerated in the committee report for allocation of funds have not been authorized, since language in the bill limits use of the appropriation to "projects authorized by law."**

On June 18, 1958,<sup>(17)</sup> a point of order was made against provisions of H.R. 12858 (appropriations for civil functions administered by the Department of the Army and certain agencies of the Department of the Interior), as indicated below:

The Clerk read as follows:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized

16. Wright Patman (Tex.).

17. 104 CONG. REC. 11646, 85th Cong. 2d Sess.



by law; detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction); and not to exceed \$1,600,000 for transfer to the Secretary of the Interior for conservation of fish and wildlife as authorized by law; to remain available until expended \$577,085,500: . . . *Provided further*, That no part of this appropriation shall be used for projects not authorized by law or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated. . . .

MR. [JOHN] TABER [of New York]: [I make a point of order against the] paragraph beginning page 3, line 22 and ending on page 5, line 9, on the ground it contains funds the appropriation which has not been authorized by law. The figure there is \$577,085,500. I am advised by the Corps of Engineers, by letter dated June 11, 1958, that there is contained here \$57,702,253 in projects which are not authorized by law.

I am able by referring to the different items on page 5 of the Report that there are the Beaver Reservoir in Arkansas, the Bull Shoals Reservoir, Arkansas and Missouri. . . . There are probably 15 or 20 of those items. . . .

MR. [CLARENCE] CANNON [of Missouri]: [The] gentleman makes a point of order against the figure \$577,085,500 in line 8 on page 4. But the point of order does not lie for the

reason that in the proviso at the bottom of page 4 it is specifically provided:

*Provided further*, That no part of this appropriation shall be used for projects not authorized by law or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated.

So the point of order is not well taken, Mr. Chairman.

MR. TABER: Mr. Chairman, these projects are without and beyond the limits of the authorization. That is the point of order.

MR. CANNON: Mr. Chairman, may I also call attention to the language beginning on page 3 as follows:

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law.

The figure the gentleman refers to is for this specific purpose.

THE CHAIRMAN [Hale Boggs, of Louisiana]: The Chair is prepared to rule.

The language is very specific. As the chairman of the Committee on Appropriations pointed out a moment ago, beginning on line 23, page 3, the language is as follows:

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law.

Then further, as again pointed out by the chairman, there is this language on the bottom of page 4:

That no part of this appropriation shall be used for projects not authorized by law.

Now, that language, in the opinion of the Chair, is quite specific in that none

of these funds regardless of the amount involved, can be used for any project which is not authorized by law.

The Chair overrules the point of order.

**§ 2.18 Language in an appropriation bill providing funds for the construction of public works and specifying that none of the funds appropriated should be used for projects not authorized by law “or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated” was held to limit expenditures to authorized projects and a point of order against the language as legislation was overruled.**

On May 24, 1960,<sup>(18)</sup> during consideration in the Committee of the Whole of an appropriation bill (H.R. 12326), the following paragraph of the bill was read:

For the prosecution of river and harbor . . . and related projects authorized by law; detailed studies, and plans and specifications, of projects . . . authorized or made eligible for selection by law . . .; and not to exceed \$1,400,000 for transfer to the Secretary of the Interior for conservation

of fish and wildlife as authorized by law; \$662,622,300, to remain available until expended: *Provided*, That no part of this appropriation shall be used for projects not authorized by law or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated: . . .

THE CHAIRMAN:<sup>(19)</sup> The Chair recognizes the gentleman to make (a) point of order.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make the point of order against the language to be found on page 4, beginning on line 18 and into line 21, “or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated.”

Mr. Chairman, I make the point of order against that language on the ground that it is legislation on an appropriation bill. I make the further point of order that this is authorizing appropriations for projects not authorized by law.

Mr. Chairman, I would like to quote briefly from “Cannon’s Precedents,” page 63:

As a general proposition whenever a limitation is accompanied by the words “unless,” “except,” “until,” “if,” “however,” there is ground to view the so-called limitation with suspicion, and in case of doubt as to its ultimate effect the doubt should be resolved on the conservative side. By doing so appropriation bills will be relieved of much of the legislation which is being constantly grafted

18. 106 CONG. REC. 10979, 10980, 86th Cong. 2d Sess.

19. Hale Boggs (La.).

upon them and a check given a practice which seems to the Chair, both unwise and in violation of the spirit, as well as the substance, of our rules.

THE CHAIRMAN: Does the gentleman from Michigan [Mr. Rabaut] care to be heard on the point of order?

MR. [LOUIS C.] RABAUT: Mr. Chairman, I wish to explain the language. The legislative committee has placed outside limits on the amount of money which can be spent in a given river basin. Such basin may have a number of dams or projects in it. Without the language these monetary limits could be exceeded by action on an appropriation bill, thus setting aside the action of the legislative committee.

This is strictly a limitation.

MR. GROSS: Mr. Chairman, may I be heard further?

THE CHAIRMAN: The Chair will hear the gentleman.

MR. GROSS: Mr. Chairman, I should like to point out to the Chair that more than one member of the committee has admitted that there are appropriations not authorized by law, that this is a subterfuge, and I say, Mr. Chairman, designed to controvert the rule of the House.

THE CHAIRMAN: Does the gentleman from Iowa care to be heard on the point of order?

MR. [BEN F.] JENSEN [of Iowa]: I do, Mr. Chairman.

Mr. Chairman, I have been on the Committee on Appropriations for the past 18 years. I cannot recall when a point of order has ever been raised against similar language in an appropriation bill. The language is simply limiting an appropriation expenditure,

providing that the expenditure shall not be made until such project is authorized by law. I fail to see, Mr. Chairman, where a point of order could lie against this language because it is purely a simple limitation of expenditure on an appropriation bill; nothing more, nothing less.

THE CHAIRMAN: The Chair is prepared to rule.

It so happens that almost an identical point of order to an identical paragraph was raised on June 18, 1958, by the gentleman from New York (Mr. Taber). It also happens that the present occupant of the chair was in the chair at that time. The Chair ruled then that the language was specific, that there was no question about its referring to the controlling phrase "authorized by law," and none of the appropriation can be expended unless authorized by law.

The Chair overrules the point of order and sustains the ruling made on June 18, 1958.

*Parliamentarian's Note:* This precedent and the preceding one demonstrate that when a lumpsum appropriation is restricted by specific language in the bill to projects authorized by law, indications in the committee report to the effect that certain unauthorized projects may be contemplated must be conceded to be without legislative effect. Where there is such a conflict in language, the language in the bill itself would prevail. Further discussion of this concept appears in Chapter 26, *infra*.

**§ 2.19 A point of order will not lie against an amendment proposing to increase a lump-sum appropriation for construction and rehabilitation of public works projects when language in the bill limits use of the lump-sum appropriation to “projects . . . as authorized by law.”**

On June 5, 1959,<sup>(20)</sup> during consideration in the Committee of the Whole of a bill (H.R. 7509) making appropriations for civil functions administered by the Department of Defense, the following proceedings took place:

MR. [HAMER H.] BUDGE [of Idaho]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Budge: On page 8, line 5, strike out “\$128,473,239” and insert “\$128,973,-239.” . . .

MR. [CLARENCE] CANNON [of Missouri]: The amendment has just been read and I am reserving a point of order to the amendment.

THE CHAIRMAN:<sup>(21)</sup> Will the gentleman from Missouri state his point of order?

MR. CANNON: The point of order is that the project is unauthorized.

MR. BUDGE: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN: The Chair is constrained to overrule the point of order

without further discussion, because the amendment simply changes the amount of the bill without specific reference to any project.

The point of order is overruled.

*Parliamentarian's Note:* The paragraph to which this amendment was offered began as follows: “Construction and Rehabilitation. For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law to remain available until expended, \$128,473,239 . . .”

**§ 2.20 A point of order was held not to lie against a lump-sum appropriation for increased pay costs, where the objection was based on the ground that a portion of the increase was not yet authorized by law; it was noted that language in the bill limited use of the appropriation to pay costs “authorized by or pursuant to law.”**

On May 21, 1969,<sup>(1)</sup> the Committee of the Whole was considering H.R. 11400, a supplemental appropriation bill. The following

20. 105 CONG. REC. 10061, 86th Cong. 1st Sess.

21. Hale Boggs (La.).

1. 115 CONG. REC. 13267, 13268, 91st Cong. 1st Sess.

paragraphs of the bill were read for amendment:

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

COMPENSATION OF MEMBERS

Compensation of Members,  
\$1,975,000

SALARIES, OFFICERS, AND EMPLOYEES

“Office of the Speaker”, \$4,015

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language on page 23, lines 12, 13, and 14, on the ground that, as admitted by the committee, this contains moneys to be appropriated that have not been authorized by Congress.

THE CHAIRMAN: <sup>(2)</sup> The Chair will inquire: Does the gentleman's point of order refer to lines 12, 13, and 14?

MR. GROSS: Lines 11, 12, 13, and 14.

THE CHAIRMAN: Does the gentleman from Texas desire to be heard on the point of order?

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, the gentleman, I believe, does not seek to reduce funds for the Office of the Speaker, as shown on line 14. The gentleman is, I believe, only referring to the pay increase for the Speaker and other Members— the item on line 12.

MR. GROSS: Very frankly, I do not know which one of these line items contains all the funds, so I am just trying to take as much as I can to be sure I get the funds covered. If the gentleman will tell me what line they are in I will amend my point of order, with the permission of the Chair.

2. Chet Holifield (Calif.).

MR. MAHON: The funds which have not been authorized are included in line 12, in the \$1,975,000 figure.

MR. GROSS: Those are the only funds that have not been authorized?

MR. MAHON: Yes; that is the figure involved. A small portion of that has not been authorized. . . .

The \$19,835 included in line 12 has not been authorized. That is correct.

MR. GROSS: You mean the \$1,975,000?

MR. MAHON: No; \$19,835 has not been authorized. But it cannot be paid unless it is authorized. Otherwise, it would revert unused to the Treasury.

THE CHAIRMAN: The Chair again is confused. The Chair sees no reference to a figure of \$19,835 in the bill or in the language referred to here.

MR. MAHON: It is part of the figure of \$1,975,000. . . .

THE CHAIRMAN: The Chair is still in a quandary because the language in line 7 says, “for increased pay costs authorized by or pursuant to law.”

MR. MAHON: Mr. Chairman, all compensation due by law to Members of Congress is authorized. If it is not authorized, it cannot be paid.

THE CHAIRMAN: Yes. . . .

The Chair is constrained to hold that the gentleman's point of order is not well taken, because the money amount in line 12 cannot be used for any other purpose than increased pay costs authorized by or pursuant to law. Therefore, the gentleman's point of order is overruled.<sup>(3)</sup>

3. See also 106 CONG. REC. 7941, 86th Cong. 2d Sess., Apr. 12, 1960 [H.R. 11666], where a point of order was made against a paragraph of an ap-

***Authorizations Enacted After Reporting Appropriation Bill***

**§ 2.21 A point of order against an item in a general appropriation bill was overruled when it became apparent that the authorizing legislation had been enacted into law between the time the appropriation bill was reported and the time it was considered in the Committee of the Whole.**

On May 19, 1970,<sup>(4)</sup> during consideration in the Committee of the Whole of the Department of the Interior appropriation bill for fiscal 1971 (H.R. 17619) a point of order was raised against certain language in the bill as follows:

appropriation bill on the ground that the lump-sum figure therein contained, according to the report, funds for one organization in excess of the authorization. Although the point of order was conceded, the language of the bill specified that appropriations in the paragraph were available only for "expenses authorized by the pertinent acts" providing for U.S. participation in certain organizations, and, under the precedents, the quoted language would limit the amount which could be used to the amount actually authorized, so that the point of order would not lie.

4. 116 CONG. REC. 16164, 16165, 91st Cong. 2d Sess.

ANADROMOUS AND GREAT LAKES  
FISHERIES CONSERVATION

For expenses necessary to carry out the provisions of the Act of October 30, 1965 (16 U.S.C. 757), \$2,168,000.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, I make a point of order against the language on lines 1 through 3 of page 19 as unauthorized for an appropriation.

THE CHAIRMAN:<sup>(5)</sup> Does the gentleman from Washington desire to be heard on the point of order?

MRS. [JULIA BUTLER] HANSEN of Washington: Yes, I do, Mr. Chairman.

May I say, relative to the Anadromous and Great Lakes Fisheries Conservation, the bill was signed by the President of the United States on May 14.

THE CHAIRMAN: The Chair is ready to rule.

The language in the bill indicates that this is under the provisions of the act of October 30, 1965. As the gentleman from Washington points out, the program has recently been reauthorized—Public Law 91-249.

The Chair overrules the point of order.

***Repeal of Prior Authorization***

**§ 2.22 An act providing that notwithstanding any other law, "no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation hereafter enacted by the Con-**

5. Charles M. Price (Ill.).

**gress,” was construed to have voided all previous authorizations for appropriations to that agency; hence an appropriation was held not to be in order since not authorized by law enacted after the repeal.**

On June 29, 1959,<sup>(6)</sup> during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 7978), a point of order was raised against certain provisions of the bill:

The Clerk read as follows:

RESEARCH AND DEVELOPMENT

For an additional amount for “Research and development,” fiscal year 1959, \$18,675,000, to remain available until expended.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(7)</sup> The gentleman will state his point of order.

MR. GROSS: Mr. Chairman, I make the point [of] order against the language on page 4, lines 2, 3, and 4, on the ground that there is no authorization in basic law for this appropriation to be made.

In connection with that, I send a copy of Public Law 86-45 of the 86th Congress to the Chair. I make the point of order on the ground that there is no authorization in basic law for this appropriation to be made. The author-

ization for this appropriation did exist at one time, but it was repealed by the act of June 15, 1959, Public Law 86-45, section 4, which reads as follows:

Sec. 4. Notwithstanding the provisions of any other law, no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation hereafter enacted by the Congress.

This law, Mr. Chairman, was approved on June 15, 1959. This language clearly indicates, Mr. Chairman, that appropriations can be made for items authorized by legislation which is hereafter enacted, meaning after June 15, 1959. Section 4 clearly states that appropriations can be made only for items authorized after June 15, 1959, hence all previous authorizations are voided. . . .

THE CHAIRMAN: The gentleman from Iowa has made a point of order against that portion of the bill appearing in lines 2, 3, and 4, page 4, and has called the attention of the Chair to section 4 of Public Law 86-45. In view of the language cited, the Chair sustains the point of order.

### § 3. Reappropriations

A House rule states:

No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced.<sup>(8)</sup>

6. 105 CONG. REC. 12125, 86th Cong. 1st Sess.

7. Paul J. Kilday (Tex.).

8. Rule XXI clause 5 (renumbered as clause 6 beginning with the 94th

The rule is not applicable when the reappropriation language is identical to legislative authorization language enacted subsequent to the adoption of the rule, since the law is a more recent expression of the will of the House.<sup>(9)</sup>

The precedents in this section must be compared with those carried in Chapter 26, *infra*, discussing transfer of funds affecting other appropriations, wherein provisions which sought to authorize the transfer of previously appropriated funds into new accounts for a different purpose have been ruled out as legislation changing existing law in violation of clause 2 Rule XXI. Section 139(c) of the Legislative Reorganization Act of 1946, later incorporated into the standing rules as clause 5 (now clause 6) of Rule XXI in 1953, sought to preclude reappropriations of unexpended balances, which were understood to be legislative methods (1) for making an appropriation available after the period in which it may be obligated has expired, or (2) for transferring to a given appropriation an amount not needed in another appropriation.<sup>(10)</sup> Prior to 1946,

provisions which reappropriated in a direct manner unexpended balances and continued their availability for the same purpose for an extended period of time were not prohibited by Rule XXI because those provisions did not contain direct language changing existing law by conferring new authority (see, e.g., 4 Hinds' Precedents §3592; 7 Cannon's Precedents §1152), and this doctrine was extended even to include reappropriations for different purposes than those for which originally appropriated, if the new purposes were authorized by law (see, e.g., 7 Cannon's Precedents §1158; §3.14, *infra*). Other precedents, however, indicate that prior to 1946, propositions to make an appropriation payable from funds already appropriated for a different purpose have been ruled out as legislation (see e.g., 7 Cannon's Precedents §1466). Indeed, on Dec. 14, 1921, Speaker Frederick H. Gillett, of Massachusetts, stated that "there are several decisions in print which are contradictory. There are decisions both ways." (7 Cannon's Precedents §1158). In light of more recent precedents contained in

Congress), *House Rules and Manual* §847 (1981).

9. See §3.7, *infra*.

10. See, e.g., summary of hearings, Joint Committee on the Organization of

Congress, 79th Cong. 1st Sess., p. 824, June 19, 1945 (hearing on the Legislative Reorganization Act of 1946).



Chapter 26, *infra*, however, it would appear that the Chair may properly rule out as legislation in violation of clause 2 Rule XXI provisions on a general appropriation bill which confer new authority to expend previously appropriated funds for a new purpose or for unauthorized projects by inclusion of language permitting or mandating transfers between accounts. Both that chapter and this section indicate that the Chair has on occasion relied upon both clause 2 and clause 5 of Rule XXI to rule out provisions which sought to authorize the transfer of previously appropriated funds into new accounts. Despite the conferral of Rule X clause 1(b)(3) in the 93d Congress of jurisdiction over "transfers of unexpended balances" upon the Committee on Appropriations, that committee remains restricted by clause 5 (now clause 6) of Rule XXI from including reappropriations of unexpended balances of appropriations in general appropriation bills, and only transfers between accounts in the same general appropriation bill are permitted (see Ch. 26, *infra*, discussion of transfer of funds within the same bill).

The return of an unexpended balance to the Treasury is in order.<sup>(11)</sup>

11. See 4 Hinds' precedents § 3594.

### *Generally*

#### **§ 3.1 An amendment to an appropriation bill proposing reappropriation of unexpended balances of appropriations is in violation of Rule XXI clause 5 (now clause 6), and therefore not in order.**

On July 11, 1955,<sup>(12)</sup> the Committee of the Whole was considering H.R. 7224, a mutual security appropriation bill. The following provision of the bill was read:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1956. . . .

An amendment was offered as indicated below:

Amendment offered by Mr. Whitten:

On page 1, line 3, strike out the word "appropriated" and substitute the word "reappropriated."

Page 1, line 4, strike out the words "not otherwise" and substitute the word "heretofore."

The effect of which was to change the text of the bill to read:

That the following sums are reappropriated, out of any money in the Treas-

12. 101 CONG. REC. 10232, 84th Cong. 1st Sess. See also, for example, 106 Cong. Rec. 6862, 86th Cong. 2d Sess., Mar. 29, 1960; 101 Cong. Rec. 8534, 84th Cong. 1st Sess., June 16, 1955.

ury heretofore appropriated, for the fiscal year ending June 30, 1956.

A point of order was made as follows:

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I make a point of order against the amendment that it is legislation on an appropriation bill. He attempts to appropriate money heretofore appropriated . . . and it goes beyond the scope of the present legislation.

MR. [JAMES L.] WHITTEN [of Mississippi]: Mr. Chairman, it is my understanding that a rule was had on this bill on legislation included in it. It is my understanding that money now in the Treasury to the credit of the foreign-aid program is not all expended.

THE CHAIRMAN:<sup>(13)</sup> The legislation under consideration is not here under a special rule. If the gentleman does not care to be heard, the Chair is ready to rule on the point of order.

MR. WHITTEN: I have nothing further to add, Mr. Chairman.

THE CHAIRMAN: Rule XXI, clause 5, is very plain. It provides that—

No general appropriation or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations.

It seems to the Chair that this language very plainly deals with the amendment that has just been offered, and the Chair sustains the point of order.

### § Sec. 3.2 An amendment to an appropriation bill reappro-

13. Francis E. Walter (Pa.).

**priating unexpended balances of funds previously appropriated was held in violation of the Legislative Reorganization Act of 1946, and not in order for certain monitoring activities.**

On Aug. 20, 1951,<sup>(14)</sup> the Committee of the Whole was considering H.R. 5215, a supplemental appropriation bill. An amendment was offered and a point of order was raised as indicated below:

Amendment offered by Mr. Phillips: On page 9, strike out lines 22 and 23 and insert in lieu thereof the following: "For an additional amount, for monitoring activities, to be derived from funds previously appropriated, \$1,000,000."

MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, a point of order.

. . . .  
The appropriation is from "funds previously appropriated" and therefore is tantamount to a reappropriation. Under amendments to the rules of the House enacted in the Legislative Reorganization Act of 1946, reappropriations are not in order on general appropriation bills. . . .

THE CHAIRMAN:<sup>(15)</sup> The Chair is ready to rule.

The provision in the gentleman's amendment providing that the funds for monitoring activities are to be derived from funds previously appropriated is a violation of the Reorga-

14. 97 CONG. REC. 10393, 10394, 82d Cong. 1st Sess.

15. Edward J. Hart (N.J.).

nization Act, and therefore the Chair sustains the point of order.

**§ 3.3 In an appropriation bill a provision that “the unexpended balance of appropriations heretofore reserved for moving the International Broadcasting Service to the District of Columbia or its environs shall remain available for such purpose until December 31, 1954,” was ruled out, being a reappropriation in violation of Rule XXI clause 5 (now clause 6), the Chair also construing the language to be legislation in violation of clause 2 of Rule XXI.**

On Mar. 3, 1954,<sup>(16)</sup> the Committee of the Whole was considering H.R. 8067, a State, Justice, and Commerce Department appropriation. Proceedings were as follows:

MR. [JOHN J.] ROONEY [of New York]: Yes, Mr. Chairman. On page 49, lines 11 to 14, I make a point of order against that language.

THE CHAIRMAN:<sup>(17)</sup> Will the gentleman explain his point of order?

MR. ROONEY: This would make available into another fiscal year funds appropriated in the current year. There is no authority in law for this.

16. 100 CONG. REC. 2600, 83d Cong. 2d Sess.

17. Leroy Johnson (Calif.).

THE CHAIRMAN: Does the gentleman from Ohio wish to be heard on the point of order?

MR. [CLIFF] CLEVENGER [of Ohio]: I concede the point of order, Mr. Chairman.

THE CHAIRMAN: The Chair thinks this is legislation on an appropriation bill. Therefore, the point of order is sustained.

**§ 3.4 A provision in an appropriation bill permitting an appropriation previously made in another act to be used for a new purpose was conceded to be legislation.**

On Dec. 11, 1969,<sup>(18)</sup> during consideration in the Committee of the Whole of a bill (H.R. 15209) making supplemental appropriations for fiscal year 1970, Mr. H. R. Gross, of Iowa, raised a point of order against certain language in the bill:

#### MEMBERS' CLERK HIRE

After June 1, 1970, but without increasing the aggregate basic clerk hire monetary allowance to which each Member and the Resident Commissioner from Puerto Rico is otherwise entitled by law, the appropriation for “Members’ clerk hire” may be used for employment of a “student congressional intern” in accord with the provisions of House Resolution 416, Eighty-ninth Congress.

#### POINT OF ORDER

MR. GROSS: Mr. Chairman, I make a point of order against the language on

18. 115 CONG. REC. 38541, 38542, 91st Cong. 1st Sess.

page 6, beginning with line 11 and through line 18, as being legislation on an appropriation bill.

THE CHAIRMAN:<sup>(19)</sup> Does the gentleman desire to be heard in support of the point of order?

MR. GROSS: I thought I made the point of order, Mr. Chairman.

The Chairman: Does the gentleman from Texas desire to be heard on the point of order?

MR. [George H.] MAHON [of Texas]: Mr. Chairman, the Committee on Appropriations put this legislation in the bill for the purpose of accommodating Members. It is subject to a point of order, and the point of order is conceded.

THE CHAIRMAN: The gentleman from Texas has conceded the point of order, and the Chair sustains the point of order.

**§ 3.5 Where the bill providing an annual authorization for the Coast Guard Reserve had not yet been enacted into law, an amendment to a general appropriation bill containing funds for Coast Guard Reserve training and providing that amounts equal to prior year appropriations for that purpose should be transferred to that appropriation was held to contain an unauthorized appropriation in violation of Rule XXI clause 2, and a re-appropriation of unexpended**

19. James G. O'Hara (Mich.).

**balances in violation of Rule XXI clause 5 (now clause 6).**

On June 20, 1973,<sup>(20)</sup> during consideration in the Committee of the Whole of the Department of Transportation appropriation bill for fiscal 1974 (H.R. 8760), Mr. George H. Mahon, of Texas, raised a point of order against an amendment offered by Mr. Silvio O. Conte, of Massachusetts. Proceedings were as follows:

Amendment offered by Mr. Conte: Page 4, after line 23, insert:

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; \$25,000,000: *Provided*, That amounts equal to the obligated balances against appropriations for "Reserve training" for the two preceding years shall be transferred to and merged with this appropriation, and such merged appropriation shall be available as one fund, except for accounting purposes of the Coast Guard, for payment of obligations properly incurred against such prior year appropriations and against this appropriation. . . .

MR. MAHON: Mr. Chairman, I insist on my point of order against the amendment. The amendment, in my opinion, is legislation on an appropriation bill and the funds are not authorized by law, so I make the point of order against the amendment. . . .

THE CHAIRMAN:<sup>(1)</sup> The Chair is prepared to rule.

20. 119 CONG. REC. 20538, 20539, 93d Cong. 1st Sess.

1. John M. Murphy (N.Y.).

Clause 2, rule XXI, prohibits unauthorized items from being included in amendments to a general appropriation bill, and also clause 5, rule XXI, has a prohibition against the reappropriation of unexpended balances of sums appropriated in prior years. The amendment is subject to a point of order for these reasons and the Chair sustains the point of order.

***Later Rule as Superseding Statute***

**§ 3.6 A provision in the mutual security appropriation bill reappropriating unexpended balances was conceded to be a reappropriation proscribed by Rule XXI clause 5 (now clause 6), notwithstanding a provision in the Mutual Security Act of 1955 (§548, adopted July 8, 1955, 22 USC Sec. 1767a) providing that “unexpended balances are authorized to be continued available,” since the rules of the House readopted in 1959 contained a later expression of Congress to the contrary.**

On June 17, 1960,<sup>(2)</sup> during consideration in the Committee of the Whole of the bill (H.R. 12619) making appropriations for the mutual security program and related agencies for fiscal 1961, Mr. H. R. Gross, of Iowa, made a point of

order against certain language in the bill:

MR. GROSS: Mr. Chairman, I make a point of order against the language on page 5, lines 1 through 8, inclusive, on the grounds it is not in order on a general appropriation bill under clause 5 of rule XXI. This language provides for the reappropriation of funds previously made available and is not permitted under the rules of the House—paragraph 5 of rule XXI which reads, in pertinent part, as follows:

No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations.

It is true that the mutual security authorization law authorizes reappropriation of unexpended balances, but that authority was last contained in section 548 enacted in calendar year 1956. Subsequent to that time, and at the beginning of the 86th Congress, the House adopted rules from which I have just read. Inasmuch as this rule-making action occurred subsequent to the latest action by law, and there has been no enactment by statute on the particular matter during the present Congress, the rules of the House govern in this situation. Furthermore, it is well settled in the precedents that the power of the House to make its own rules may not be impaired by a law passed by a prior Congress. Therefore, I ask that my point of order be sustained.

MR. [Otto E.] PASSMAN [of Louisiana]: Mr. Chairman, the gentleman from Iowa [Mr. Gross] was considerate enough to advise us in advance of his intention to make this point of order.

2. 106 CONG. REC. 13138, 86th Cong. 2d Sess.

He has stated the facts of the matter accurately. I have discussed this point of order with other Members and we have carefully reviewed the situation. Most regretfully I must concede that the point of order is well taken.

THE CHAIRMAN:<sup>(3)</sup> The Chair sustains the point of order.

***Later Statute as Superseding Rule***

**§ 3.7 Rule XXI clause 5 (now clause 6), relating to the reappropriation of unexpended balances of appropriations, is not applicable when the reappropriation language is identical to the authorization language enacted subsequent to adoption of the rule; thus, where the Foreign Assistance Act of 1961 (Pub. L. No. 87-195) specifically provided that "unexpended balances of funds made available under the Mutual Security Act of 1954 . . . are hereby authorized to be continued available for general purposes for which appropriated," the Speaker pro tempore held that a provision in an appropriation bill reappropriating the unexpended balances of such funds was in order, notwithstanding Rule XXI clause 5**

3. Wilbur D. Mills (Ark.).

**(now clause 6), since the legislative authorization bill was a more recent expression of the will of the House.**

On Sept. 5, 1961,<sup>(4)</sup> Mr. H. R. Gross, of Iowa, raised a point of order against consideration of a bill (H.R. 9033) making appropriations for foreign assistance and related agencies for fiscal year 1962. The proceedings were as follows:

MR. GROSS: Mr. Speaker, I make a point of order against consideration of the bill.

Mr. Speaker, I call the attention of the Chair to the Rules of the House of Representatives, 87th Congress, rule XXI, paragraph 5, which reads as follows:

No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced.

Mr. Speaker, the language is explicit and there is only one exception; that is for public works bills. I submit that this is not a public works bill.

Mr. Speaker, I call attention of the Chair to the language contained in H.R. 9033 for which consideration is asked, on page 3 of that bill, lines 8 through 24.

Unobligated balances (not to exceed \$50,000,000) as of June 30,

4. 107 CONG. REC. 18133, 87th Cong. 1st Sess.

1961, of funds heretofore made available for military assistance under the authority of the Mutual Security Act of 1954, as amended, are, except as otherwise provided by law, hereby continued available for the fiscal year 1962 for the same general purposes for which appropriated.

Further, Mr. Speaker, section 101 on the same page reads:

Amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Mutual Security Act of 1954, as amended, for the same general purpose as any of the subparagraphs under "Economic assistance" except the subparagraph of this title for "Administrative expenses," are hereby continued available for the same period as the respective appropriations in such subparagraphs for the same general purpose.

Mr. Speaker, the language which I have read relates to funds not in the bill and clearly reappropriates unexpended balances of appropriations in violation of the rules of the House. . . .

THE SPEAKER PRO TEMPORE:<sup>(5)</sup> The Chair is prepared to rule.

Section 645 of the Foreign Assistance Act of 1961, which was passed by both Houses of Congress and signed by the President yesterday, and is now Public Law 87-195, specifically authorizes:

Unexpended balances of funds made available pursuant to the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the general purposes for which appropriated, and

may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this act.

That is the will of both branches of the Congress as expressed very recently. The language in the pending appropriation bill is identical and consistent with the authority contained in section 645.

The Chair overrules the point of order, for the reason that the recent act of the Congress makes the actions of the Committee on Appropriations pursuant to law.<sup>(6)</sup>

**§ 3.8 Language in an appropriation bill continuing the availability of unobligated balances of prior appropriations was held in order where provisions of the original authorizing legislation still in effect had provided for such a reappropriation, and a dollar limitation in the current authorization bill was interpreted to be a limitation on new appropriations only and not to restrict**

6. *Parliamentarian's Note:* The rules of the House, 87th Congress (including Rule XXI clause 5) were adopted on Jan. 3, 1961 (H. Res. 8). The foreign-aid authorization bill (S. 1983) was signed by the President on Sept. 4, 1961 (becoming Pub. L. No. 87-195). Section 645 of this law contained a specific authorization for the reappropriation of certain unexpended balances of mutual security funds.

5. John W. McCormack (Mass.).

**the reappropriation of unexpended balances of prior year funds.**

On Sept. 8, 1965,<sup>(7)</sup> the Committee of the Whole was considering H.R. 10871, a foreign-aid appropriation bill for fiscal 1966. The Clerk read the following portion of the bill:

Page 3, line 19:

Unobligated balances as of June 30, 1965, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, except as otherwise provided by law, are hereby continued available for the fiscal year 1966, for the same general purposes for which appropriated and amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Mutual Security Act of 1954, as amended, and the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Economic Assistance" are hereby continued available for the same period as the respective appropriations in such subparagraphs for the same general purpose: *Provided*, That such purpose relates to a project or program previously justified to Congress and the Committees on Appropriations of the House of Representatives and the Senate are notified prior to the reobligation of funds for such projects or programs.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language appearing on page 3, beginning with line 19 and

running through the remainder of that page to and through line 13 on page 4.

I made the point of order on the basis that the authorization bill contains section 649, which reads as follows:

Sec. 649. Limitation on aggregate authorization for use in fiscal year 1966.—Notwithstanding any other provision of this Act, the aggregate of the total amounts authorized to be appropriated for use during the fiscal year 1966, for furnishing assistance and for administrative expenses under this Act shall not exceed \$3,360,000,000.

Mr. Chairman, I point out that listed at the top of page 3 of the committee report is the "carryover from prior year appropriations," in the amount of \$158,352,000, which is a part of the unobligated carryover that is controlled under the language which I seek to strike under the point of order. There is further "deobligations of prior-year obligations" listed in the report at the top of page 3. This is also controlled under the language that I seek to have stricken under the point of order.

Mr. Chairman, it is difficult to find the total amounts of all appropriations contained in the language to be found on pages 3 and 4, to which I have referred, but in order that this bill to be made to conform to the new section that was written into the authorization bill, which has been signed by the President of the United States and is now law, I submit that the language in the bill to which I have referred must be stricken.

THE CHAIRMAN:<sup>(8)</sup> Does the gentleman from Louisiana desire to be heard on the point of order?

7. 111 CONG. REC. 23181, 23182, 89th Cong. 1st Sess.

8. Charles M. Price (Ill.).



MR. [OTTO E.] PASSMAN [of Louisiana]: Yes, Mr. Chairman.

It appears to me that we are dealing with two different acts.

Under the authorizing legislation there was a ceiling of \$3,360 million of new appropriations. The bill before the House calls for only \$3,285 million in new appropriations. Some part of the previous money appropriated is 1-year funds and does not necessarily carry over, and we are following the language in the authorizing legislation itself.

I refer to section 645 of the Foreign Assistance Act of 1961 as amended:

Unexpended balances of funds made available pursuant to this Act, the Mutual Security Act of 1954, as amended or Public Law 86-735 are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this Act.

Mr. Passman further made the argument, apparently accepted by the Chair, that since section 645 of the Foreign Assistance Act of 1961 had not been deleted from the current bill in conference, it appeared the conference intended that the right to continue unobligated funds should remain in the authorization.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Iowa made his point of order against the language on line 19, page 3, and through line 13 on page 4.

The Chair, after careful examination of the sections in the conference report referred to by the various Members who have commented on this point of order, is constrained to agree that the language found in the conference report on page 25 referred to authorizations contained in that particular bill and pertains only to new money.

There is a definite feeling on the part of the Chair that it did not pertain to carryover funds or to the making available of funds which under section 645 would remain and continue to be available.

The Chair feels that section 645 is sufficient to make these carryover funds in order and the Chair, therefore, overrules the point of order.

### *Transfer of Funds*

**§ 3.9 A section in a general appropriation bill requiring the availability of funds available in other acts for employment of guards for government buildings and conferring certain powers on those guards and on the Postmaster General was conceded to be subject to a point of order and was ruled out as in violation of Rule XXI clauses 2 and 5 (clause 5 is now clause 6).**

On Aug. 1, 1973,<sup>(9)</sup> during consideration in the Committee of the Whole of the Treasury, postal

9. 119 CONG. REC. 27291, 93d Cong. 1st Sess.

service, and executive office appropriations bill (H.R. 9590) for fiscal 1974, Mr. John D. Dingell, of Michigan, raised a point of order against certain language in the bill:

Sec. 610. Funds made available by this or any other Act to the "Building management fund" (40 U.S.C. 490(f)), and the "Postal service fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section, and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b) attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c).

MR. DINGELL: Mr. Chairman, I make, again, the same point of order against the entirety of section 610, beginning with line 4 on page 36.

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN:<sup>(10)</sup> The point of order is conceded and sustained.

### ***Holman Rule Not Applicable***

**§ 3.10 A reappropriation of unexpended balances, prohibited by Rule XXI clause 5 (now clause 6), is not in order on a general appropriation bill under the guise of a Holman rule exception to Rule XXI clause 2.**

On Oct. 18, 1966,<sup>(11)</sup> the Committee of the Whole was considering H.R. 18381, a supplemental appropriation bill. Proceedings were as follows:

Amendment offered by Mr. Bow: On page 16 after line 3 add a new section as follows:

Sec. 803. Notwithstanding any other provision, appropriations herein, as the President shall determine, shall, not later than 120 days after the date of enactment of this Act, be reduced in the aggregate by not less than \$1,500,000,000 through substitution by reduction and transfer of funds previously appropriated for governmental activities that the President, within the aforementioned 120 days, shall have determined to be excess to the necessities of the services and objects for which appropriated.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against this amendment.

**10.** Richard Bolling (Mo.).

**11.** 112 CONG. REC. 27425, 89th Cong. 2d Sess.

THE CHAIRMAN:<sup>(12)</sup> The gentleman will state his point of order.

MR. MAHON: The point of order is that the amendment goes far beyond the scope of this bill and applies to funds made available by other laws for which appropriations are not provided in the pending measure.

I make the further point of order that the amendment would obviously impose additional duties on the President.

THE CHAIRMAN: Does the gentleman from Ohio wish to be heard on the point of order?

MR. [FRANK T.] BOW [of Ohio]: Yes, I do wish to be heard, Mr. Chairman.

With respect to this amendment I shall not repeat the provisions of the Holman rule.

I believe we have changed the Holman rule today by making it relate to this bill. The previous precedents of the House have been it must not necessarily apply to this particular bill when there is a retrenchment so, we are making new precedents today.

This is a general appropriation bill affecting various agencies. Since the amendment also deals with and affects various appropriations of various agencies, it is germane.

Again, there can be no speculation as to its retrenching Federal expenditures because it reduces appropriations in this bill—in this bill by \$1.5 billion and requires the President to fund activities in this bill from previously appropriated funds that are excess to the necessities of the services and objects for which appropriated.

I point out again that the Holman rule does not go along with the deci-

sion suggested by the distinguished chairman of the committee that additional duties are involved.

Under the Holman rule it is a question of retrenchment of expenditures.

The legislation in this amendment is not unrelated to the retrenchment of expenditures. Instead, it is directly instrumental in accomplishing the reduction of expenditures. Thus, the proposed retrenchment and the legislation are inseparable and must be considered together.

“Cannon’s Precedents”, in volume VII, 1550 and 1551, holds that an amendment may include such legislation as is directly instrumental in accomplishing the reduction of expenditures proposed. That is the precise situation with respect to this pending amendment.

Again I cite “Cannon’s Precedents,” volume VII, 1511, which holds that language admitted under the Holman rule is not restricted in its application to the pending bill, and to the June 1, 1892, decision, to which I referred before, of the Committee of the Whole and its Chairman, that an amendment was in order under the Holman rule even though it changed existing law.

I say, Mr. Chairman, I believe if this is held to be out of order we will be changing the precedents and the rules of the House, and we will be destroying the Holman rule.

I urge the Chair to overrule the point of order.

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Ohio specifies that appropriations herein, as the President shall determine, shall be reduced in the ag-

12. James G. O’Hara (Mich.).

gregate by not less than \$1.5 billion. This reduction would be achieved by authorizing and directing the President to utilize previously appropriated funds for the activities carried in this bill.

The Chair feels that the amendment is clearly legislation. It places additional determinations and duties on the President and involves funds other than those carried in this bill.

Therefore, if the amendment were to be permitted it would have to qualify, as the gentleman has attempted to qualify it, under the Holman exception, under the Holman rule, rule XXI, clause 2.

In the opinion of the Chair, the Holman exception is inapplicable in this instance for three reasons.

First, the payment from a fund already appropriated of a sum which otherwise would be charged against the Treasury has been held not to be a retrenchment of expenditures under the Holman rule.

Chairman Hicks, of New York, ruled to the same effect when a proposition involving the Holman rule was before the House on January 26, 1921.

Second, it seems to the Chair that the language proposed by the gentleman from Ohio (Mr. Bow) authorizes the reappropriation of unexpended balances, a practice prohibited by clause 5 of rule XXI.

Third, the amendment goes to funds other than those carried in this bill and is not germane.

With respect to the latter point and the citation that has been given by the gentleman from Ohio, which is found in the precedents of the House, volume VII, 1511, the Chair will note that the

proposition reduced the number of Army officers and provided the method by which the reduction should be accomplished. It was an amendment, as it appears in the citation, to a War Department appropriation bill and was therefore germane in spite of whatever the general proposition in the heading may have stated.

For the reasons given, the Chair will sustain the point of order made by the gentleman from Texas.

***Limitation of Funds in Bill so Long as Previously Appropriated Funds Remain Unexpended***

**§ 3.11 To an appropriation bill, an amendment providing that no part of the funds therein should be available for expenditure so long as the funds theretofore appropriated for such purpose and unexpended exceeded three billion dollars, was held to be a proper limitation and not an affirmative reappropriation of unexpended balances.**

On July 11, 1955,<sup>(13)</sup> the Committee of the Whole was considering H.R. 7224, a mutual security appropriation bill. The following proceedings took place:

*Provided further,* That no part of any appropriation contained in this act

13. 101 CONG. REC. 10235, 84th Cong. 1st Sess.

shall be available for expense of transportation . . . and unpacking of household goods and personal effects in excess of an average of 5,000 pounds net but not exceeding 9,000 pounds net in any one shipment, but the limitations imposed herein shall not be applicable in the case of employees transferred to or serving in stations outside the continental United States under orders relieving them from a duty station within the United States prior to August 1, 1953.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Whitten: On page 9, after line 9, add the following: "Provided, That no part of the funds herein appropriated shall be available for expenditure so long as the funds heretofore appropriated for such purposes and unexpended by the Mutual Security Administration exceed \$3 billion."

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill and that it attempts to reappropriate money previously appropriated. . . .

THE CHAIRMAN:<sup>(14)</sup> As the Chair understands it, the amendment provides a very definite limitation to this appropriation. In the opinion of the Chair it is merely a limitation and therefore overrules the point of order.

### ***Reappropriations Permitted Prior to Legislative Reorganization Act of 1946***

#### **§ 3.12 Prior to the Legislative Reorganization Act of 1946**

14. Francis E. Walter (Pa.).

**which prohibited it,<sup>(15)</sup> the reappropriation of funds carried in a prior appropriation bill for purposes authorized by law was held in order on an appropriation bill.**

On Dec. 6, 1944,<sup>(16)</sup> the Committee of the Whole was considering H.R. 5587, a supplemental appropriation bill. An amendment was offered and a point of order raised as indicated below:

Amendment offered by Mr. Tarver:  
On page 19, line 3, insert:

#### **"CONSERVATION AND USE OF AGRICULTURAL LAND RESOURCES**

"The funds appropriated in the Department of Agriculture Appropriation Act, 1945, under the head 'Conservation and Use of Agricultural Land Resources,' notwithstanding any allocation thereof heretofore made by departmental order, may be used to discharge in full payments and grants earned by farmers in carrying out authorized soil and water conservation practices."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill and that it changes existing law.

15. Act of Aug. 2, 1946, Ch. 753, § 139(c), 60 Stat. 833; Rule XXI clause 6, *House Rules and Manual* § 847 (1981).

16. 90 CONG. REC. 8941, 8942, 78th Cong. 2d Sess. See also 89 CONG. REC. 1068-70, 78th Cong. 1st Sess., Feb. 17, 1943; 81 CONG. REC. 3799, 3800, 75th Cong. 1st Sess., Apr. 23, 1937.

It is apparent from the reading of it that if it were not legislation, there would be no occasion for offering it, that if it did not require legislation to permit the reallocation of these funds there is no reason why the Department would not have done it before. There would be nothing to stop it. So it is perfectly apparent that this is legislation. . . .

THE CHAIRMAN:<sup>(17)</sup> The Chair holds that this is a reappropriation of formerly appropriated money, so as to carry out existing law and, therefore, overrules the point of order.

**§ 3.13 Prior to the Legislative Reorganization Act of 1946 which prohibited reappropriations,<sup>(18)</sup> the reappropriation of unobligated or unexpended balances for purposes authorized by law was in order, even though for different purposes than those for which originally appropriated.**

On Feb. 28, 1936,<sup>(1)</sup> the Committee of the Whole was considering H.R. 11418, an Agriculture Department appropriation bill. The following portion of the bill was under consideration:

FEDERAL-AID HIGHWAY SYSTEM

For carrying out the provisions of the act entitled "An act to provide that

17. Herbert C. Bonner (N.C.).

18. Act of Aug. 2, 1946, Ch. 753, § 139(c), 60 Stat. 833; Rule XXI clause 6, *House Rules and Manual* § 847 (1981).

1. 80 CONG. REC. 2987, 74th Cong. 2d Sess.

the United States shall aid the States in the construction of rural post roads, and for other purposes", approved July 11, 1916 (39 Stat., pp. 355-359), and all acts amendatory thereof and supplementary thereto, to be expended in accordance with the provisions of said act, as amended, including not to exceed \$556,000 for departmental personal services in the District of Columbia, \$60,000,000 to be immediately available and to remain available until expended, which sum is part of the sum of \$125,000,000 authorized to be appropriated for the fiscal year 1936, by section 4 of the act approved June 18, 1934 (48 Stat. 994). . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. Taber: On page 70, line 24, after "\$60,000,000", insert the following: "of the unobligated balances of funds allocated for other purposes than road and grade-crossing eliminations appropriated by Public Resolution No. 11, Seventy-fourth Congress, approved April 8, 1935."

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Chairman, I make a point of order that it is legislation upon an appropriation. . . .

MR. TABER: Mr. Chairman, the gentleman is clearly in error, because this is a pure reappropriation of funds that were appropriated under the act of April 8, 1935, out of unobligated balances other than those providing for the elimination of grade crossings and roads. It involves a reappropriation only. . . .

THE CHAIRMAN:<sup>(2)</sup> The Chair is ready to rule.

2. Jere Cooper (Tenn.).

The amendment offered by the gentleman from New York [Mr. Taber] seeks to reappropriate certain unobligated funds heretofore appropriated. The Chair has before him a syllabus which is directly applicable to the point raised. It may be found in Cannon's Precedents, section 1158, and is as follows:

The reappropriation of unexpended balances for purposes authorized by law is in order, even though for different purposes than those for which originally appropriated.

The Chair thinks, therefore, that the amendment is in order, and overrules the point of order.

**§ 3.14 Prior to the Legislative Reorganization Act of 1946 which prohibited it,<sup>(3)</sup> the reappropriation of an unexpended balance could be made in a general appropriation bill; but a reappropriation of an unexpended balance, to be applied to projects unauthorized by law, was not in order.**

On May 17, 1937,<sup>(4)</sup> the Committee of the Whole was considering for amendment a paragraph

of the bill H.R. 6958, an Interior Department appropriation.

For administrative expenses on account of the above projects, including personal services and other expenses in the District of Columbia and in the field, \$750,000, in addition to and for the same objects of expenditure as are hereinbefore enumerated in paragraphs 2 and 3 under the caption "Bureau of Reclamation"; in all, \$9,500,000, to be immediately available: *Provided*, That of this amount not to exceed \$75,000 may be expended for personal services in the District of Columbia: *Provided further*, That the unexpended balances of the amounts appropriated from the Reclamation Fund, Special Fund, under the caption "Bureau of Reclamation, Construction," in the Interior Department Appropriation Act, fiscal year 1937, shall remain available for the same purposes for the fiscal year 1938.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the language on page 79, line 4, beginning with the word "Provided" down to the end of the paragraph.

Mr. Chairman, this includes a lot of allotments to irrigation projects, which would expire on the 30th of June, amounting to \$33,000,000. As I understand, a great many of them have not been authorized by law. There is included, amongst others, the Gila project that was ruled out on a point of order previously. . . .

THE CHAIRMAN:<sup>(5)</sup> The Chair is ready to rule. . . .

The Chair invites attention to the fact it is obvious that quite a number

3. Act of Aug. 2, 1946, Ch. 753, § 139(c), 60 Stat. 833; Rule XXI clause 6, *House Rules and Manual* § 847 (1981).

4. 81 CONG. REC. 4684, 4685, 75th Cong. 1st Sess. See also 91 CONG. REC. 2370, 79th Cong. 1st Sess., Mar. 16, 1945.

5. Jere Cooper (Tenn.).

of projects are sought to be covered by the provision here contained. The Chair feels that under the rule cited by the gentleman from Nevada there can be no question but what unappropriated balances may be reappropriated, but the Chair is unable to see how this rule meets the situation here presented, because the question here is whether or not these various projects have been authorized by law. The Chair feels the burden of proof is on those supporting the projects and the provision contained in the bill to make some satisfactory showing, to the effect that the projects have been authorized. The Chair invites attention to the fact that such a showing has not been made. It follows, therefore, that the language to which the point of order has been made, in the opinion of the Chair, would be legislation on an appropriation bill, a proper showing not having been made that these items have been authorized by law.

The Chair is of the opinion this provision is not in order and, therefore, sustains the point of order.

### ***Works in Progress***

**§ 3.15 Language in an appropriation bill providing that the Public Works Administration allotments (made available to the Bureau of Reclamation, pursuant to the National Industrial Recovery Act, either by direct allotments or by transfer of allotments originally made from the Emergency Relief Appropriation Act of 1937) should**

**remain available for the purpose for which allotted during the fiscal year 1939 was held in order under the principle relating to “works in progress.”**

On Mar. 2, 1938,<sup>(6)</sup> the Committee of the Whole was considering the following paragraph of H.R. 9621, an Interior Department appropriation:

The Public Works Administration allotments made available to the Department of the Interior, Bureau of Reclamation, pursuant to the National Industrial Recovery Act of June 16, 1933, either by direct allotments or by transfer of allotments originally made to another Department or agency, and the allocations made to the Department of the Interior, Bureau of Reclamation, from the appropriation contained in the Emergency Relief Appropriation Act of 1935 and the Emergency Relief Appropriation Act of 1937, shall remain available for the purposes for which allotted during the fiscal year 1939.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the paragraph upon the ground that it is not authorized by law.

THE CHAIRMAN:<sup>(7)</sup> Does the gentleman from Nevada desire to be heard on the point of order?

MR. [JAMES G.] SCRUGHAM [of Nevada]: Mr. Chairman, the unexpended

6. 83 CONG. REC. 2706, 2707, 75th Cong. 3d Sess.

7. Marvin Jones (Tex.).



balances proposed to be appropriated by this paragraph are lawful projects which have qualified as being in order under the rules of the House for one or more of the following reasons:

First. That they are for improvements of existing projects.

Second. That the work on them is in progress.

Third. That there has been a finding of feasibility by the President, which automatically authorizes appropriations, as provided by the reclamation law, title 43, sections 412, 413, and 414.

THE CHAIRMAN: The gentleman from Nevada states that all of these projects are already under way and that this paragraph simply reappropriates money already available.

MR. TABER: These allotments have been made for all sorts of projects not authorized by law, and yet the adoption of this provision would authorize every project that has not yet been authorized for which an allotment has been made.

THE CHAIRMAN: The gentleman states that these projects are already under way.

MR. TABER: That would not authorize them.

THE CHAIRMAN: It authorizes reappropriation of appropriations heretofore made if the work is in progress. The Chair, therefore, overrules the point of order.

*Parliamentarian's Note:* While this decision predates the enactment of clause 5 (now clause 6) of Rule XXI as part of the Legislative Reorganization Act of 1946 (which rule prohibits the reappropriation of unexpended balances

except with respect to appropriations in connection with appropriations for public works on which work has commenced), clause 2 of Rule XXI, in effect on the date of this decision, likewise precluded appropriations for purposes not authorized by law unless in continuation of appropriations for public works and objects already in progress. Thus this decision stands for the proposition that reappropriations of unexpended balances may be included on general appropriation bills at least if made for the same unauthorized public works in progress for which originally made. For a discussion of precedents involving public works in progress, see Chapter 26, *infra* (including a similar ruling made on May 13, 1941, discussed in that chapter).

## § 4. Appropriations in Legislative Bills

A House rule provides:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an

appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.<sup>(8)</sup>

Rulings on points of order under the above provision have frequently depended on whether language allegedly making an appropriation was in fact merely language authorizing an appropriation.<sup>(9)</sup> For example, language in a bill authorizing an appropriation of not less than a certain amount for a specified purpose has been held not to be an appropriation.<sup>(10)</sup>

Points of order under this rule, while in order “at any time,” are received at any time while the amendment or provision of the bill is pending under the five-minute rule. See discussion in notes at *House Rules and Manual* §846 (1981), citing decision of Mar. 18, 1946.

Points of order based on the above rule have sometimes been waived by resolution.<sup>(11)</sup>

### ***Generally***

#### **§ 4.1 Language in a bill reported by a legislative committee reappropriating, making available or diverting an appropriation or a portion of**

8. Rule XXI clause 5, *House Rules and Manual* §846 (1981).

9. See §§ 4.34 et seq., *infra*.

10. See § 4.34, *infra*.

11. See § 4.3, *infra*.

#### **an appropriation already made for one purpose to another is not in order.**

On Apr. 7, 1936,<sup>(12)</sup> the House was considering H.R. 12037, the tobacco compact bill. A point of order was raised and, after debate, Speaker Joseph W. Byrns, of Tennessee, ruled as follows:

THE SPEAKER: The Chair is ready to rule.

The gentleman from Michigan [Mr. Mapes] makes a point of order against section 7(a), which reads as follows:

For the purpose of administering this act the Secretary of Agriculture is hereby authorized to expend \$300,000, or so much thereof as may be necessary for that purpose, out of funds appropriated by section 12(a) of the Agricultural Adjustment Act, as amended.

The gentleman from Michigan calls attention to clause 4 of rule XXI, which provides:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

The question, of course, arises as to whether or not an appropriation made by a preceding Congress or by this

12. 80 CONG. REC. 5108, 5109, 74th Cong. 2d Sess.

Congress for a particular purpose may be diverted for another purpose not contemplated at the time the appropriation was made, under the rule which the Chair has just read.

The gentleman from Michigan has read rulings which were made in the Seventy-third Congress, first session, in which it is said—

Language reappropriating, making available or diverting an appropriation or a portion of an appropriation already made for one purpose to another is not in order.

Of course, we all know that the Committee on Agriculture is not authorized under the rules to report appropriations. In the opinion of the Chair it is very clear, in a reading of the section referred to, that the language constitutes a diversion of funds heretofore made by the Congress for an entirely different purpose and, therefore, sustains the point of order of the gentleman from Michigan [Mr. Mapes] against section 7(a).

### ***Portion of Bill Subject to Point of Order***

#### **§ 4.2 Rule XXI clause 4 (subsequently clause 5) is limited in application to the objectionable language in a bill and not to the bill in its entirety.**

The rule cited above has been held to disallow the following language in a bill reported by a legislative committee, without at the same time disallowing the remainder of the bill:

*Provided further,* That out of revenues from and appropriations for the Alaska Railroad, there is authorized to be used such amount thereon as may be necessary for the purchase of property of the Mount McKinley Tourist & Transportation Company, and the purchase, construction, operation and maintenance of the facilities for the public as herein authorized.

Thus, on Mar. 6, 1940,<sup>(13)</sup> a Member raised a point of order against the language quoted above during consideration of H.R. 4868, a bill concerning Mount McKinley National Park. The following exchange took place:

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, I rise to a point of order.

THE CHAIRMAN:<sup>(14)</sup> The gentleman will state it.

MR. DIRKSEN: I make the point of order against the entire bill on the ground that the provisions beginning in line 23, on page 2, are in contravention of the rule prohibiting appropriations in a bill for legislative purposes.

MR. [ROBERT A.] GREEN [of Florida]: Mr. Chairman, I concede the point of order and desire to offer an amendment.

MR. [JOHN] TABER [of New York]: But, Mr. Chairman, under the point of order the bill goes out.

MR. [SAM] RAYBURN [of Texas]: Oh, no; it does not go out. The enacting clause is still there, and anyone has

13. 86 CONG. REC. 2457, 76th Cong. 3d Sess.

14. A. Willis Robertson (Va.).

authority to offer any amendment that he desires under the rules of the House.

THE CHAIRMAN: The Chair is prepared to rule.

This provision comes under clause 4 of rule XXI, which, in effect, prohibits appropriations being made by committees not having jurisdiction over appropriations. Beginning with line 23 on page 2 of the bill provision is made for an appropriation. Therefore, the point of order is sustained.

### *Waiver of Points of Order*

#### **§ 4.3 Consideration of a legislative bill has sometimes taken place pursuant to a resolution waiving points of order against the bill, when a provision in the bill could constitute an appropriation in violation of Rule XXI clause 4 (now clause 5).**

On Apr. 12, 1967,<sup>(15)</sup> a Member addressed Speaker John W. McCormack, of Massachusetts, as follows:

MR. [CLAUDE D.] PEPPER [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 411 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 411

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

15. 113 CONG. REC. 9121-23, 9134, 90th Cong. 1st Sess.

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. 5404) to amend the National Science Foundation Act of 1950 to make changes and improvements in the organization and operation of the Foundation, 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 one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Astronautics, 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. . . .

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker. . . .

I wonder if the gentleman can explain to the House why in line 7, page 1, House Resolution 411, all points of order against the bill are waived in the wisdom of the committee?

MR. PEPPER: I will ask the distinguished author of the bill, the gentleman from Connecticut [Mr. Daddario], if he will make the response to the able gentleman from Missouri, and I yield to him for that purpose.

MR. [EMILIO Q.] DADDARIO: Mr. Speaker, I thank the gentleman for yielding. I would advise the gentleman from Missouri that on page 17, line 12, section (g), there is reference to the transfer of funds from one department to another.

[Note: the language referred to sought to permit funds available to any department of the government for scientific research to be transferred to the National Science Foundation under certain conditions.]

***Transfer or Diversion of Funds to New Purposes***

**§ 4.4 The diversion or reappropriation of funds to a new purpose is an appropriation and is therefore not in order on a rivers and harbors bill.**

On Apr. 8, 1935,<sup>(16)</sup> the Committee of the Whole was considering H.R. 6732, a bill dealing with the construction, repair, and preservation of public works on rivers and harbors. An amendment was offered and a point of order raised as indicated below:

MR. [JAMES W.] MOTT [of Oregon]: Mr. Chairman, I offer an amendment, which is on the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Mott: On page 1, line 9, after the word "documents", change the colon to a period and add the following: "The Administrator of Public Works is hereby directed to allot and make available for the prosecution of said authorized works of improvement of rivers and harbors and other waterways, such sum or sums out of the funds provided in House Joint Reso-

lution 117 as may be necessary to prosecute and complete such works or improvements."

MR. [JOSEPH J.] MANSFIELD [of Texas]: Mr. Chairman, I desire to make a point of order to the amendment. As I understand the amendment, it is the equivalent of an appropriation. It applies to a matter not within the jurisdiction of this committee. We have no jurisdiction over legislation of the Public Works Administration. Furthermore, I consider that amendment as an appropriation. . . .

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Chairman, as I heard the amendment read, it makes an appropriation, because it directs the Administrator of Public Works to allocate part of the funds already appropriated for these specific purposes. This is at least a reappropriation and comes within the rule forbidding appropriations coming from legislative committees. . . .

THE CHAIRMAN:<sup>(17)</sup> . . . This bill, of course, cannot carry an appropriation. The gentleman offers an amendment to the effect that the Administrator of Public Works is hereby directed to allot and make available for the prosecution of such authorized works of improvement on rivers and harbors and other waterways such sum or sums from the funds provided in House Joint Resolution 117.

This, clearly, is a diversion of funds already appropriated, which is tantamount, in the opinion of the Chair, to an appropriation.

The Chair, therefore, sustains the point of order.

16. 79 CONG. REC. 5277, 5278, 74th Cong. 1st Sess.

17. William W. Arnold (Ill.).

**§ 4.5 Language in a legislative bill to reorganize the government, providing for the transfer of unexpended balances of appropriations and making such funds available for expenditure, was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5).**

On Apr. 8, 1938,<sup>(18)</sup> the Committee of the Whole was considering S. 3331, a government reorganization bill. At different points the Clerk read two sections as follows, and proceedings ensued as indicated below:

Sec. 410. Such of the personnel of the General Accounting Office employed in connection with the functions exercised by the General Accounting Office through the Audit Division of that Office, and such of the unexpended balances of appropriations available to the General Accounting Office for the exercise of such functions, as the President shall deem to be necessary to enable the Auditor General to exercise the functions vested in and imposed upon him by this title, are transferred to the office of the Auditor General, and any unexpended balances of appropriations so transferred shall hereafter be available to the Auditor General for the purpose of exercising the functions of his office and for otherwise carrying out the provisions of this title: *Provided*, That the

transfer of personnel under this section shall be without change in classification or compensation . . . *Provided further*, That such of the personnel so transferred who do not already possess a classified civil-service status shall not acquire such status by reason of such transfer. . . .

Sec. 307. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated such sums as may be necessary to carry out the provisions of this title.

Sec. 308. The provisions of this title shall become effective 60 days after its enactment.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the words beginning in line 4, of page 57, "and such of the unexpended balances of appropriations available to the General Accounting Office for the exercise of such functions"; and then, beginning in line 10, "and any unexpended balances of appropriations so transferred shall hereafter be available to the auditor general for the purpose of exercising the functions of his office and for otherwise carrying out the provisions of this title."

MR. FRED M. VINSON [of Kentucky]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:<sup>(19)</sup> The Chair sustains the point of order on the ground that it is in conflict with clause 4 of Rule XXI and the language to which the point of order is addressed is stricken from the title.

Subsequently in the proceedings, a point of order based on

18. 83 CONG. REC. 5083-98, 75th Cong. 3d Sess.

19. John W. McCormack (Mass.).

the same grounds was sustained against the following language:

Sec. 420. Such portions of the unexpended balances of appropriations or other funds available for the United States Civil Service Commission, the offices of the Civil Service Commissioners, and all other offices of such Commission, as the President shall deem necessary, are transferred to the Administration. Unexpended balances of appropriations or other funds available for such Commission or offices, not so transferred pursuant to the President's determination under this section, shall be impounded and returned to the Treasury.

**§ 4.6 A provision in a bill reported by a legislative committee providing that such part as the President might determine of the unexpended balances of appropriations, allocations, or other funds available for expenditure in connection with the Manhattan Engineer District were transferred to the commission and were to be available for expenditure for carrying out the provisions of the act was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5), and not in order.**

On July 20, 1946,<sup>(20)</sup> the Committee of the Whole was consid-

20. 92 CONG. REC. 9554, 9555, 79th Cong. 2d Sess.

ering S. 1717, the Atomic Energy Act of 1946. At one point the Clerk read as follows, and proceedings ensued as indicated below:

#### APPROPRIATIONS

Sec. 18. (a) There are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this act. The acts appropriating such sums may appropriate specified portions thereof to be accounted for upon the certification of the Commission only. Funds appropriated to the Commission shall, if obligated by contract during the fiscal year for which appropriated, remain available for expenditure for 4 years following the expiration of the fiscal year for which appropriated. After such 4-year period, the unexpended balances of appropriations shall be carried to the surplus fund and covered into the Treasury.

(b) Such part as the President may determine of the unexpended balances of appropriations, allocations, or other funds available for expenditure in connection with the Manhattan Engineer District are hereby transferred to the Commission and shall be available for expenditure for the purpose of carrying out the provisions of this act.

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, I make a point of order against subparagraph (b) on page 52, lines 18 to 23, inclusive, on the ground that it constitutes an appropriation and may not be reported by the Committee on Military Affairs, which is without jurisdiction to report appropriations. I am constrained to make this point of order, Mr. Chair-

man, for two or three reasons. The appropriations now carried in the War Department appropriation bill for \$375,000,000 were made in a larger amount than would have been made for 1 year only because the Budget request was for only \$200,000,000. The additional \$175,000,000 was added in place of contractual authorizations for obligations to mature in fiscal 1948. The total appropriation was made for the military features of the atomic service. It is now proposed that these appropriations be transferred for the purpose of carrying out the provisions of this act, which is much broader, providing for loans, providing for the development of civilian production and licensing, and many other features not contemplated in the appropriations for the Military Establishment. Consequently, this paragraph constitutes an appropriation, and I make the point of order that it may not be reported in this bill.

THE CHAIRMAN:<sup>(1)</sup> Does the gentleman from Kentucky desire to be heard on the point of order?

MR. [ANDREW J.] MAY [of Kentucky]: I do not, Mr. Chairman.

THE CHAIRMAN: The Chair is ready to rule. In the opinion of the Chair, the language referred to by the gentleman from South Dakota, beginning on line 18, page 52, and extending through line 23, is in violation of clause 4 of rule 21. Therefore, the Chair sustains the point of order.

#### **§ 4.7 To a bill establishing an Airways Modernization Board and providing for**

1. Wilbur D. Mills (Ark.).

**transfer of personnel, records, and the like, authority to transfer “unexpended balances of appropriations, allocations, and other funds available,” was ruled out as an appropriation reported from a legislative committee in violation of Rule XXI clause 4 (now clause 5).**

On July 30, 1957,<sup>(2)</sup> the Committee of the Whole was considering S. 1865, a bill providing for the development and modernization of the national system of navigation and traffic control facilities to serve present and future needs of civil and military aviation. At one point the Clerk read as follows:

#### **TRANSFER OF RELATED FUNCTIONS**

Sec. 4. The Board, upon unanimous decision and with approval of the President, may transfer to itself any functions (including powers, duties, activities, facilities, and parts of functions) of the Departments of Defense or Commerce or of any officer or organizational entity thereof which relate primarily to selecting, developing, testing, or evaluating systems, procedures, facilities, or devices for safe and efficient air navigation and air traffic control. In connection with any such transfer, the President may provide for appropriate transfers of records, property, necessary civilian personnel, and unex-

2. 103 CONG. REC. 13056, 85th Cong. 1st Sess.



pending balances of appropriations, allocations, and other funds available or to be made available of the officers, department, or other agency from which the transfer is made.

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(3)</sup> The gentleman will state it.

MR. BOW: Mr. Chairman, I make the point of order against the language in section 4, page 7, beginning on line 12, reading "and unexpended balances of appropriations, allocations, and other funds available or" as being an appropriation on a legislative bill.

THE CHAIRMAN: Does the gentleman from Arkansas desire to be heard on the point of order?

MR. [OREN] HARRIS [of Arkansas]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The Chair is prepared to rule. The Chair has examined the language to which the point of order has been made, and after consideration finds that the language is obnoxious to clause 4 of rule 21 of the House and therefore sustains the point of order.

**§ 4.8 In a bill reported from the Committee on Banking and Currency, providing inter alia, a revolving fund in the Treasury for higher education facility loans, a provision authorizing the Commissioner of Education to "transfer to the fund available appropriations under**

**§ 303(c) [of the Higher Education Act] to provide capital for the fund," was held to constitute an appropriation and was ruled out as a violation of Rule XXI clause 4 (now clause 5).**

On May 18, 1966,<sup>(4)</sup> during consideration in the Committee of the Whole of the Participation Sales Act of 1966 (H.R. 14544) a point of order was raised against a provision thereof, as follows:

REVOLVING LOAN FUND

"Sec. 305. (a) There is hereby created within the Treasury a separate fund for higher education academic facilities loans (hereafter in this section called "the fund") which shall be available to the Commissioner without fiscal year limitation as a revolving fund for the purposes of this title. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriation Acts.

"(b)(1) The Commissioner is authorized to transfer to the fund available appropriations provided under section 303(c) to provide capital for the fund. All amounts received by the Commissioner as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived by him from his operations in connection with this title, including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in as-

3. George H. Mahon (Tex.).

4. 112 CONG. REC. 10913, 10918, 89th Cong. 2d Sess.

sets of the fund, shall be deposited in the fund. . . ."

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, I make a point of order against the language on page 8 of the bill, lines 5, 6, and 7 through the word "fund." The point is based upon my feeling that the language violates rule XXI, clause 4, of the Rules of the House of Representatives.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I desire to be heard on the point of order.

The appropriations referred to are future appropriations authorized and to be made for the specific purpose of making the transfers here authorized. This is not a case of changing the object of past appropriations, and the point of order should be overruled.

That refers to section 303(c), which I have before me now. It provides:

For the purpose of making payments into the fund established under section 305, there is hereby authorized to be appropriated . . . .

It is not making the appropriation; it is authorizing the appropriation.

I respectfully submit, Mr. Chairman, that this is not subject to the point of order.

THE CHAIRMAN:<sup>(5)</sup> . . . The gentleman from North Carolina [Mr. Jonas] makes a point of order to the language appearing on page 8, lines 5 through 7, to the end of the sentence on that line, on the ground that it is in violation of rule XXI of the Rules of the House of Representatives.

The Chair has examined the language and has listened attentively to

the gentleman from Texas, but is of the opinion that since this language directs a transfer of available appropriations it is in fact in violation of rule XXI; and therefore sustains the point of order.

**§ 4.9 Where a legislative bill (reported from the Committee on Banking and Currency) authorized certain government agencies that extend credit to individuals to use any appropriated funds or other amounts available to them for certain new purposes specified in the bill, the provision was conceded to be in violation of Rule XXI clause 4 (now clause 5).**

On May 18, 1966,<sup>(6)</sup> the Committee of the Whole was considering H.R. 14544, the Participation Sales Act of 1966. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Sec. 2. (a) Section 302(c) of the Federal National Mortgage Association Charter Act is amended [by inserting at a designated point]:

. . . Any trustor creating a trust or trusts hereunder is authorized to purchase, through the facilities of the trustee, outstanding beneficial interests or participations to the extent of the amount of his responsibility to the trustee on beneficial interests or par-

5. Eugene J. Keogh (N.Y.).

6. 112 CONG. REC. 10893, 10894, 89th Cong. 2d Sess.

ticipations outstanding, and to pay his proper share of the costs and expenses incurred by the Federal National Mortgage Association as trustee pursuant to the trust instrument, and for these purposes may use any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related.

(3) If any trustor shall guarantee to the trustee the timely payment of obligations he subjects to a trust pursuant to this subsection, and it becomes necessary for such trustor to meet his responsibilities under such guaranty, he is authorized to fulfill such guaranty by using any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related. . . .

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(7)</sup> The gentleman will state the point of order.

MR. JONAS: Mr. Chairman, I make a point of order against the language appearing on page 4, line 22, beginning with the word "and", which language is as follows: "and for these purposes may use any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related."

Mr. Chairman, I make the point of order against this language in the bill on the ground that it violates clause 4, rule XXI, of the rules of the House of Representatives, which requires that bills making appropriations may not

originate in committees other than the Committee on Appropriations.

THE CHAIRMAN: Does the gentleman from Texas desire to be heard on the point of order?

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order.

MR. JONAS: Mr. Chairman, I make a point of order against the language appearing on page 5, line 5, beginning with the word "he" and continuing through lines 5, 6, 7, and 8 to the word "related," which language is as follows: "he is authorized to fulfill such guaranty by using any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related."

Mr. Chairman, I make the point of order against this language on the ground that it violates clause 4, rule XXI of the House of Representatives.

MR. PATMAN: Mr. Chairman, I wonder if the gentleman from North Carolina has added some language which he does not really intend to include in his point of order? As I understand, the gentleman intended to make a point of order against the language on page 5, line 5, starting with the word "by" down to and including the word "related" on line 8. In other words, as I understand, the gentleman intends to make a point of order against the language reading as follows: "by using any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related."

7. Eugene J. Keogh (N.Y.).

MR. JONAS: Mr. Chairman, the gentleman from Texas is correct and it was my purpose to have the point of order lie against the language on page 5, line 5, beginning with the word "by" down to and including the word "related" on line 8.

As I said, Mr. Chairman, I make the point of order against this language on the ground that it violates clause 4, rule XXI, of the House of Representatives.

MR. PATMAN: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order.

***Unobligated Funds Previously Appropriated for Same or Related Purposes***

**§ 4.10 Language in a legislative bill providing that the cost of surveys therein authorized would be paid from the appropriation theretofore or thereafter made for such purposes was held to be an appropriation and therefore in violation of Rule XXI clause 4 (now clause 5).**

On July 29, 1937,<sup>(8)</sup> the Committee of the Whole was considering House Joint Resolution 175, a bill to authorize the submission to Congress of a comprehensive national plan for the prevention and control of floods of all the

8. 81 CONG. REC. 7838-40, 75th Cong. 1st Sess.

major rivers of the United States. The following proceedings took place:

The Clerk read as follows:

Sec. 2. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this resolution.

With the following committee amendment:

Strike out all of section 2 and insert: "The cost of surveys and preparing plans as herein authorized shall be paid from appropriations heretofore or hereafter made for such purposes."

MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, I regret to have to make a point of order against the committee amendment. The amendment changes the authorization to a direct appropriation, and, of course, an appropriation is not in order on a legislative bill. . . .

THE CHAIRMAN:<sup>(9)</sup> The language against which the point of order is raised reads as follow:

The cost of surveys and preparing plans as herein authorized shall be paid from the appropriations heretofore or hereafter made for such purposes. . . .

It seems clear to the Chair that the language of the amendment is prohibited by rule XXI, section 4, and, therefore, the Chair sustains the point of order.

**§ 4.11 Language in a legislative bill making available unobligated balances of appropria-**

9. Emmet O'Neal (Ky.).

**tions “heretofore” made to carry out the provisions of the bill was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5) and therefore not in order.**

On Mar. 18, 1946,<sup>(10)</sup> the Committee of the Whole was considering H.R. 5407, a bill granting certain powers to the Federal Works Administrator. The Clerk read as follows, and proceedings ensued as indicated below:

*Be it enacted, etc.,* That the Federal Works Administrator is hereby authorized under the provisions of the Public Buildings Act of May 25, 1926, as amended (40 U.S.C. 341–347), and as hereby further amended—

(a) For projects outside of the District of Columbia: To construct extensions to the marine hospitals at Seattle, Wash., and San Francisco, Calif. . . . and design new building projects where the sites are in Government ownership, notwithstanding the fact that appropriations for construction work shall not have been made. The total limit of cost for the foregoing shall be \$13,000,000 and the unobligated balances of appropriations heretofore made for the construction of projects outside the District of Columbia are hereby made available for this purpose.

(b) To construct an additional building for the General Accounting Office. . . . The unobligated balances of appropriations heretofore made for the

building are hereby made available for the enlarged project, including the acquisition of additional land, and contracts may be entered into for construction work within the full limit of cost pending additional appropriations.

(c) To acquire additional land in and contiguous to the area in the District of Columbia defined in the act of March 31, 1938 (52 Stat. 149), under a limit of cost of \$2,000,000. Funds for this purpose are hereby made available from the unobligated balances of appropriations heretofore made for the construction of buildings outside the District of Columbia.

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(11)</sup> The gentleman will state it.

MR. TABER: I make a point of order against the words beginning on page 2, line 4: “and the unobligated balances of appropriations heretofore made for the construction of projects outside the District of Columbia are hereby made available for this purpose”; on the ground that it is an appropriation and coming from a committee not authorized to report appropriation bills to the House. . . .

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, I desire to make a point of order against the language in paragraph (b) and paragraph (c), and in paragraph (b) I make the point of order against the language beginning in line 15 which reads:

The unobligated balances of appropriations heretofore made for the building are hereby made available for the enlarged project, including the acquisition of additional land,

10. 92 CONG. REC. 2371, 2372, 79th Cong. 2d Sess.

11. Fadjo Cravens (Ark.).

and contracts may be entered into for construction work within the full limit of cost pending additional appropriations. . . .

MR. [FRITZ G.] LANHAM [of Texas]: I call the gentleman's attention to the fact that there is a committee amendment striking out section (b).

MR. CASE of South Dakota: But the committee amendment has not been made. Consequently, I am making a point of order lest, by some slip, the amendment might not be accepted. I make the point of order that that would make appropriations for an unauthorized project by means of an appropriation reported by a committee without jurisdiction. . . .

MR. LANHAM: Mr. Chairman, I must reluctantly concede the points of order. I do it reluctantly because I had hoped they would not be made.

THE CHAIRMAN: Does the Chair understand that the gentleman from Texas concedes each point of order?

MR. LANHAM: The gentleman from Texas does reluctantly concede the points of order.

THE CHAIRMAN: The Chair is ready to rule.

The point of order made by the gentleman from New York [Mr. Taber] and the two points of order made by the gentleman from South Dakota [Mr. Case] are sustained by reason of the fact the language against which they are made is tantamount to new appropriations; and the language is stricken from the bill in each instance.

#### **§ 4.12 Provisions in a bill reported from a legislative committee that funds appropriated and made available**

**under specified items in the Agricultural Appropriation Act of 1946, to the extent that such funds have been validly obligated, should be continued available for use by the Farmers' Home Corporation established in the bill, and that certain appropriated funds should be transferred from one agency to another agency created in the bill, were held to be appropriations in violation of Rule XXI clause 4 (now clause 5), and therefore not in order.**

On Apr. 9, 1946,<sup>(12)</sup> the Committee of the Whole was considering H.R. 5991, a bill creating the Farmers' Home Corporation. The following proceedings took place:

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I have several points of order to submit.

My first point of order is against the language contained on page 5, lines 4 to 15, inclusive, on the ground that it constitutes an appropriation upon a legislative bill and is out of order for that reason. That language reads as follows:

(c) The funds appropriated, authorized to be borrowed, and made available under the items "Farmers' crop production and harvesting loans" (under the heading "Farm Credit Administration"), "Loans,

12. 92 CONG. REC. 3375, 79th Cong. 2d Sess.

grants, and rural rehabilitation", and "Farm tenancy", in the Department of Agriculture Appropriation Act, 1946, to the extent that such funds are validly obligated or committed by the Secretary of Agriculture, the Governor of the Farm Credit Administration, or their delegates, shall not lapse on June 30, 1946, but shall be continued available for use by the Corporation in fulfilling such obligations or commitments, subject to the limitations set forth in the acts appropriating or authorizing such funds.

I make the same point of order against the language contained on page 6, lines 4 to 18, inclusive, as follows:

(e) All funds made available by appropriation or authorization to the Secretary of Agriculture for the fiscal year 1947 for loans and administrative expenses for carrying on the farm tenancy program shall be available to the Corporation for loans under the provisions of section 40(d)(13)(A) hereof and for administrative expenses incident thereto. All such appropriations and authorizations for loans, grants, and rural rehabilitation and farmers' crop production and harvesting loans shall be available to the Corporation for loans for the purposes of section 40(d)(13)(B) hereof and for administrative expenses incident thereto. The limitations on the amounts of each such appropriations and authorization for loans and administrative expenses for each such purpose shall be observed by the Corporation.

I make the same point of order against the language contained on page 6, lines 19 to 25, inclusive, and on page 7, lines 1 to 5, as follows:

(f) There is hereby transferred to the Corporation from the revolving fund established for the purpose of

increasing the capital of the regional agricultural credit corporations, pursuant to section 84 of the Farm Credit Act of 1933, approved June 16, 1933, as amended (U.S.C., 1940 ed., title 12, sec. 1148a), \$10,001,000. \$1,000 of the funds so transferred shall be used for capital of the Corporation, as provided in section 40(b)(1) of the Bankhead-Jones Farm Tenant Act, as amended, and \$10,000,000 of such funds shall be covered into the farm tenant mortgage insurance fund, pursuant to section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended.

MR. [JOHN W.] FLANNAGAN [Jr., of Virginia]: Mr. Chairman, while I am not certain, I am afraid the points of order are well taken.

THE CHAIRMAN:<sup>(13)</sup> The points of order are well taken. The Chair sustains the points of order.

**§ 4.13 Language in a bill authorizing participation by the United States in the International Development Association (which prohibited further United States subscription to the fund "except that loans or other financing may be provided by [an] agency . . . which is authorized . . . to make loans or provide other financing to international organizations," which would have included funds theretofore appropriated) was held to be in violation of Rule XXI clause 4 (now clause 5), and ruled out**

13. Philip A. Traynor (Del.).

**on a point of order where it was not clear that the exception merely restated existing authority in law to make loans to this particular organization.**

On June 28, 1960,<sup>(14)</sup> the Committee of the Whole was considering H.R. 11001, a bill providing for U.S. participation in the International Development Association. At one point, the Clerk read as follows, and proceedings ensued as indicated below:

Sec. 5. Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States, (a) subscribe to additional funds under article III, section 1, of the articles; (b) accept any amendment under article IX of the articles; or (c) make a loan or provide other financing to the Association, except that loans or other financing may be provided to the Association by a U.S. agency created pursuant to an act of Congress which is authorized by law to make loans or provide other financing to international organizations.

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(15)</sup> The gentleman will state it.

MR. BOW: Mr. Chairman, I make the point of order against the language on page 3, beginning at the end of line 4 down through line 8, "except that loans

or other financing may be provided to the Association by a United States agency created pursuant to an act of Congress which is authorized by law to make loans or provide other financing to international organizations."

I will say to the Chair that I have made inquiry of the committee here on the floor and the committee says that these are organizations already in existence, with the possibility of transfers being made under Public Law 480 or by other organizations now authorized to make loans to these various countries. I make the point of order that this is a transfer of appropriated funds and is an appropriation on a legislative bill. . . .

MR. [ABRAHAM J.] MULTER [of New York]: . . . I suggest that the point of order should be overruled. I do not think I said anything to indicate that there was any attempt to transfer any appropriated funds or any authorized funds.

May I read from page 11 of the report which refers precisely to the language now under attack by the point of order?

The excepting clause does not confer upon any U.S. agency any authority it would not otherwise have and is intended to make clear that the prohibitory language does not in any way narrow, or preclude the use of, authority which any agency of the U.S. Government, including the President, possesses under other legislation to make loans or provide other financing to international organizations, including the International Development Association.

I suggest the point of order is not well taken.

MR. BOW: Mr. Chairman, may I reply to that and say that the one I am

14. 106 CONG. REC. 14789, 14790, 86th Cong. 2d Sess.

15. B.F. Sisk (Calif.).



referring to is the exception to what the gentleman from New York has just stated.

MR. MULTER: I have referred only to the language which begins with the words against which the point of order is made. It is that exception to which the report from which I have read is directed.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from New York whether or not he interprets this to be that the U.S. agencies could use funds heretofore appropriated for the purposes of this section?

MR. MULTER: Only if so authorized by the enabling or enacting legislation and the appropriation making the funds available to such other agencies.

THE CHAIRMAN: The Chair is ready to rule. Under the interpretation of the gentleman from New York, the point of order would lie; and therefore the Chair sustains the point of order.

### ***Directing Treasury to Make Funds Available***

#### **§ 4.14 Language directing the Secretary of the Treasury to make a certain fund available for the payment of adjusted-service certificates was held to be an appropriation and not in order on a legislative bill.**

On Jan. 9, 1936,<sup>(16)</sup> the Committee of the Whole was considering H.R. 9870, a bill dealing

16. 80 CONG. REC. 273, 274, 74th Cong. 2d Sess.

with payment of adjusted-service certificates (bonus bill). The Clerk read an amendment as follows and proceedings ensued as indicated below:

Amendment offered by Mr. Fish: Page 7, line 13, add section 6A, as follows:

"The Secretary of the Treasury is hereby directed to make the exchange stabilization fund of \$2,000,000,000 that expires on January 30, 1936, available on that date for payment of the adjusted-service certificates."

MR. [JERE] COOPER of Tennessee: Mr. Chairman, I make the point of order against the amendment that it is not germane to this section or to any part of the bill.

THE CHAIRMAN:<sup>(17)</sup> The Chair will hear the gentleman from New York on the point of order.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, the bill reads, "To provide for the immediate payment of World War adjusted-service certificates", and my amendment offers a method for the payment of these certificates. This is one of the many means that may be proposed for the payment of these certificates, and I should think there would be the greatest amount of latitude by the Chair for any Member to offer a specific way of paying the certificates.

THE CHAIRMAN: The bill is merely an authorization for an appropriation. The Chair thinks that a reading of the amendment offered by the gentleman from New York clearly shows that the amendment is an appropriation, and

17. Thomas L. Blanton (Tex.).

not proper on this bill, and the Chair, therefore, sustains the point of order.

**§ 4.15 Language in a bill reported by a legislative committee authorizing the Treasurer of the United States to honor requisitions of the Archivist in such manner and in accordance with such regulations as the Treasurer might prescribe was held an appropriation and not in order under Rule XXI clause 4 (now clause 5).**

On July 13, 1939,<sup>(18)</sup> the Committee of the Whole was considering Senate Joint Resolution 118, a bill to provide for the establishment and maintenance of the Franklin D. Roosevelt Library. The following proceedings took place:

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the section on the ground that it contains an appropriation of public funds and that it is reported by a committee not having jurisdiction to bring into the House an appropriation bill.

I call the attention of the Chair to the following language on page 6, in line 7:

The Treasurer of the United States is hereby authorized to honor the requisitions of the Archivist made in such manner and in accordance with such regulations as the

Treasurer may from time to time prescribe.

Those words take money directly from the Treasury of the United States without any limitation and are in violation of the provisions of clause 4 of rule XXI of the House. . . .

Now, this is a permanent appropriation which will go on forever of whatever amount the Archivist cares to draw for upon the Treasurer under such rules and regulations as the Treasurer may from time to time prescribe. I make the point of order against the section.

THE CHAIRMAN:<sup>(19)</sup> The Chair desires to direct a question to the gentleman from New York. In line 8, on page 6, is the gentleman of the opinion that the authorization there takes money from the United States Treasury or merely honors requisitions?

MR. TABER: It authorizes the Treasurer of the United States, without any further legislation, to take money right out of the United States Treasury. It is a permanent appropriation.

THE CHAIRMAN: Does the gentleman from Illinois wish to be heard on the point of order?

MR. [KENT E.] KELLER [of Illinois]: Yes, Mr. Chairman, it seems to me that the point of order is ill taken for this reason: This is not an appropriation. There is no appropriation provided in this at all. It is simply and solely for the purpose of accepting the requisitions of the proper authority in charge of all archives of all kinds and character, because this bill provides that the expense shall be appropriated for as a part of the Archivist's expenses to the Government as a whole.

18. 84 CONG. REC. 9060, 9061, 76th Cong. 1st Sess.

19. John W. Boehne, Jr. (Ind.).

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I call attention to the fact that the language in the section provides for the creation of a trust fund to be deposited in the Treasury of the United States. It provides for the raising of a trust fund to be placed in the Treasury, and the language does not take appropriated money out of the Treasury. It is not out of Government funds, but out of the trust fund. It is not in itself a direct appropriation, but more of an authorization for those in charge to draw on the trust fund.

MR. TABER: Mr. Chairman, I call the attention of the Chair to the fact that there is no limitation on the funds that this should be taken out of. The way it reads it would be taken directly out of the Treasury and not out of any trust fund whatever. It does not say that it shall be taken out of a trust fund, nor is it implied in any way.

THE CHAIRMAN: Does the gentleman from New York limit his point of order to the sentence which he read?

MR. TABER: Mr. Chairman, I made the point of order against the section.

MR. KELLER: Have you read what is at the bottom of page 5 as to the method of depositing the money in the Treasury first?

MR. TABER: Yes; I have read that. There is nothing whatever that limits the amount that can be taken out to the amount that is put in, nor is there anything whatever that limits it to being taken out of that fund. It is direct authority to the Treasury to pay it.

MR. KELLER: Well, what is a requisition, then?

MR. TABER: A requisition is a draft upon the Treasurer. This constitutes a permanent appropriation.

MR. KELLER: Only where the money is already provided, not where it is not provided.

MR. TABER: No; there is no such limitation.

THE CHAIRMAN: The Chair is ready to rule.

The Chair is of the opinion that the point of order made by the gentleman from New York against the section is well taken, and therefore sustains the point of order.

MR. [SAM] RAYBURN [of Texas]: Mr. Chairman, I offer an amendment. . . .

THE CHAIRMAN: The gentleman from Texas is recognized for 5 minutes on his amendment.

MR. TABER: Mr. Chairman, will the gentleman yield?

MR. RAYBURN: I yield.

MR. TABER: Will the gentleman tell us briefly what his amendment does?

MR. RAYBURN: I may say to the gentleman from New York that I conceded that his point of order was good.

The amendment I offer leaves out the language objected to by the gentleman from New York in lines 7, 8, 9, and 10 on page 6, reading:

The Treasurer of the United States is hereby authorized to honor the requisitions of the Archivist made in such manner and in accordance with such regulations as the Treasurer may from time to time prescribe.

This undoubtedly meets the objection raised by the gentleman from New York, and I contend that the amendment is in order.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

***Allocation of Agency's Receipts*****§ 4.16 Language in a legislative bill providing for the collection of certain fees and authorizing the use of the fees so collected for the purchase of certain installations was construed to be an appropriation and not in order under Rule XXI clause 4 (now clause 5).**

On June 17, 1937,<sup>(20)</sup> the Committee of the Whole was considering H.R. 7472, the District of Columbia tax bill. At one point, the Clerk read as follows, and proceedings ensued as indicated below:

The Commissioners of the District of Columbia are hereby authorized and empowered, in their discretion, to fix, prescribe, and collect fees for the parking of automobiles in or upon any street, avenue, road, highway, or other public space within the District of Columbia under their jurisdiction and control, and to make and enforce regulations to provide for the collection of such fees. Any person violating any such regulation shall be punished by a fine of not more than \$100 or imprisonment not to exceed 10 days.

The Commissioners of the District of Columbia are further authorized and empowered, in their discretion, to purchase, rent, and install such mechanical parking meters or devices as the

Commissioners may deem necessary or advisable to insure the collection of such fees as may be prescribed for the parking of vehicles as aforesaid, and to pay the purchase price or rental and cost of installation of the same from the fees collected, the remainder of such fees to be paid to the collector of taxes for deposit in the Treasury of the United States to the credit of the revenues of said District. . . .

MR. [THOMAS] O'MALLEY [of Wisconsin]: I make the point of order that this section appropriates money out of fees to be collected, and therefore it is appropriation on a legislative bill. Line 24 provides that the purchase price of these machines shall be paid from the fees collected and the remainder of the fee shall be paid into the Treasury.

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make the point of order that the point of order comes too late. The section has been debated and amendments have been offered, and an amendment to strike out the section has been offered.

MR. O'MALLEY: I was attempting to get recognition from the very beginning.

THE CHAIRMAN:<sup>(21)</sup> The Chair is ready to rule. The last sentence of section 4, rule 21, provides as follows:

A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

It is the opinion of the Chair that the point of order is properly raised at this time<sup>(1)</sup> and that this is purely an

20. 81 CONG. REC. 5915-18, 75th Cong. 1st Sess.

21. James M. Mead (N.Y.).

1. Points of order against appropriations in legislative bills may be

appropriation, and, therefore, that language, as indicated in the gentleman's point of order, is ruled out of order.

The Chair sustains the point of order.

**§ 4.17 A provision in a legislative bill authorizing the Director of the Census to use funds collected for issuance of birth certificates in administering the provisions of the bill until expended was held to be an appropriation not in order under Rule XXI clause 4 (now clause 5).**

On July 15, 1942,<sup>(2)</sup> the Committee of the Whole was considering H.R. 7239, a bill authorizing the Director of the Census to issue birth records. The following proceedings took place:

MR. [FRANCIS H.] CASE of [South Dakota]: Mr. Chairman, I make the point of order against the last sentence of the section just read that the language creates a revolving fund, constitutes an appropriation, and is reported in the bill by a committee which is without authority to report appropriations.

MR. [JOHN E.] RANKIN of Mississippi rose.

THE CHAIRMAN:<sup>(3)</sup> Does the gentleman from Mississippi desire to be heard on the point of order?

raised even after debate on the merits has taken place. See §12.15, *infra*.

2. 88 CONG. REC. 6209, 77th Cong. 2d Sess.
3. Wright Patman (Tex.).

MR. RANKIN of [Mississippi]: I wish to say that this is not an appropriation. This money never goes into the Federal Treasury. Therefore it does not come under the rule on which the gentleman from South Dakota relies.

MR. CASE of South Dakota: I pointed out that this creates a revolving fund.

THE CHAIRMAN: Where does this money go if it does not go into the Treasury?

MR. RANKIN of Mississippi: The money is used by the Director of the Census to pay for the copying of these records.

THE CHAIRMAN: What happens to the money?

MR. RANKIN of Mississippi: It is held in the Bureau of the Census just exactly as the Tennessee Valley Authority holds the money that is paid in there, and that is used in a revolving fund for the construction of dams, transmission lines, and so forth.

THE CHAIRMAN: The question seems to be whether or not the language is equivalent to appropriating this money. The language is:

All amounts collected in payment of such fees may be used by the Director in administering only the provisions of this act and shall be available until expended.

There are certain precedents which indicate that that language is equivalent to the phrase 'is hereby appropriated,' which would be in violation of the rule. The Chair cites Cannon's Precedents, volume VII, section 2152, page 896:

Provision for establishment of a special fund, to be available with other funds appropriated for the purpose in payment of refunds, was

ruled to be an appropriation and subject to a point of order under section 4 of rule XXI.

On January 12, 1933, in the course of the consideration of the bill (H.R. 13991), the Farm Relief Bill, in the Committee of the Whole House on the state of the Union, this paragraph was read:

“(b) The proceeds of all taxes collected under this section, less 2½ percent for the payment of administrative expenses under this act, shall be covered into the Treasury into a special fund to be available, together with any other funds hereafter appropriated for the purpose, for the payment of any refunds under this section.”

Mr. Carl R. Chindblom, of Illinois, raised the question of order that the paragraph was in violation of section 4 of rule XXI prohibiting committees other than the Committee on Appropriations from reporting appropriations.

The Chairman, Mr. Lindsay C. Warren, of North Carolina, sustained the point of order.

The Chair believes that the language objected to is in violation of section 4 of rule XXI, and sustains the point of order.

**§ 4.18 Language in a bill reported from a legislative committee providing that all moneys received by the Maritime Commission under the act would be deposited in the construction fund of the commission, and all disbursements made by the commission in carrying out the act would be paid from such fund, was held to be an appropriation and not in order.**

On Oct. 2, 1945,<sup>(4)</sup> the Committee of the Whole was considering H.R. 3603, a bill concerning the sale of surplus war vessels. At one point the Clerk read as follows and proceedings ensued as indicated below:

Sec. 13. (a) The Commission is authorized to reconvert or restore for normal operation in commercial services, including removal of national defense or war service features, any vessel authorized to be sold or chartered under this act. The Commission is authorized to make such replacements, alterations, or modifications with respect to any vessel authorized to be sold or chartered under this act . . . as may be necessary or advisable to make such vessel suitable for commercial operation on trade routes or services or comparable as to commercial utility to other such vessels of the same general type. . . .

(d) All moneys received by the Commission under this act shall be deposited in the construction fund of the Commission, and all disbursements made by the Commission in carrying out this act shall be paid from such fund. The provisions of sections 201(d), 204(b), 207, 209(a), and 905(c) of the Merchant Marine Act, 1936, as amended, shall apply to all activities and functions which the Commission is authorized to perform under this act. . . .

MR. [HERBERT C.] BONNER [of North Carolina]: Mr. Chairman, a point of order.

4. 91 CONG. REC. 9288, 9289, 79th Cong. 1st Sess.

THE CHAIRMAN:<sup>(5)</sup> The gentleman will state it.

MR. BONNER: Mr. Chairman, I make the point of order against the language on page 21, line 6, first sentence, on the ground that it is an appropriation.

THE CHAIRMAN: Does the gentleman from Virginia care to be heard on the point of order?

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Reluctantly, upon advice from the parliamentarian on the point of order that I would be foolish to argue otherwise, I concede the point of order.

THE CHAIRMAN: The point of order is conceded; the point of order is sustained.

### ***Use of Proceeds From User Charges***

#### **§ 4.19 An amendment establishing a user charge and making the revenues collected therefrom available without further appropriation is not in order to a bill reported by a committee not having the jurisdiction to report appropriations.**

On Mar. 29, 1972,<sup>(6)</sup> during consideration in the Committee of the Whole of the bill (H.R. 11896) to amend the Federal Water Pollution Control Act, the following proceedings took place:

MR. [JOHN] HEINZ [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

5. William G. Stigler (Okla.).
6. 118 CONG. REC. 10749–51, 92d Cong. 2d Sess.

Amendment offered by Mr. Heinz:  
On page 350 following line 6:

“Sec. 319(a) It is the purpose of this Section to supplement the enforcement procedures of this Act by providing for desirable economic incentives to water users to conserve water and to minimize pollution through reduction in the quantity of waste products dumped into these waterways. It is also the purpose of this Section to encourage the formation of regional waste treatment management organizations pursuant to section 208(a) of this Act.

“(b)(1) In furtherance of the purpose of this Section, the Administrator and the Secretary of the Treasury shall prescribe such regulations as are necessary to establish and put into effect two years after the enactment of this Act a schedule of national effluent charges for all those discharges including municipal sewage which detract from the quality of the water for municipal agricultural, industrial, recreational, sport, wildlife, and commercial fish uses. These discharges shall include, but not be limited to, biochemical oxygen demand (BOD), suspended solids, thermal discharges, and toxic wastes. The charges shall be set at a level which will provide for the attainment of the standards and goals of this Act. Such regulations shall also provide for making available as public information all amounts collected pursuant to such charges.

“(2) Any person who willfully fails to pay any charge as required by regulations established pursuant to this Section or who willfully fails to make any return, keep any records, supply any information, or to do any other act required by such regulations shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than one year or both, together with costs of prosecution. . . .

"(c) Revenues collected by the Secretary of the Treasury pursuant to such charges shall be deposited in a trust fund (hereinafter referred to as the 'fund') in the Treasury to be available without further appropriation to the Administrator for use as prescribed in subsection (d).

"(d) Money from the fund shall be available for distribution by the Administrator in each year for the purpose of funding Section 106 of this Act (to assist water pollution control programs of States and interstate agencies) . . . ."

THE CHAIRMAN:<sup>(7)</sup> The Chair will hear the gentleman from Ohio.

MR. [WILLIAM N.] HARSHA [of Ohio]: Mr. Chairman, my point of order is as follows: . . . [T]his amendment is not within the jurisdiction of the Committee on Public Works. It proposes a tax on effluents, and raises revenues, and therefore violates rule XI, which places jurisdiction of revenue raising in the Committee on Ways and Means.

Section 319(c), Mr. Chairman, categorically refers to revenues collected by the Secretary of the Treasury pursuant to such charges.

. . . [T]he amendment violates rule XXI, clause 4 prohibiting appropriations in legislative bills. Section 319(c) and (d) of the amendment directs the action to be taken with the revenues raised in accordance with the amendment. In addition to the clear language of the amendment, the stated purpose of the amendment in the proponent's March 22, 1972, letter demonstrates the intent that these funds be used for a specific purpose in violation of rule XXI, clause 4.

Therefore, Mr. Chairman, I insist upon my point of order. . . .

7. Neal Smith (Iowa).

MR. HEINZ: Mr. Chairman, I would argue, in response to the statement of the distinguished gentleman from Ohio (Mr. Harsha) in urging his point of order, that effluent charges are basically user charges, and user charges are fundamental to the bill. The bill would not work without them; they are the primary means of financing the operation and construction of the water treatment works herein.

And I would add further that this in itself is an important consideration in ruling on this.

Also I would hasten to add that clearly under sections 204(b)(2) and 204(b)(3) that in fact the purpose of this bill is to raise revenues for the purposes of the bill, and without this we could not possibly construct any water treatment facilities.

Finally—and to be brief—there are two historical precedents that I believe are important that establish the principle that user charges are germane to the legislation.

Volume IV, section 4119 of Hinds' Precedents of the House of Representatives—no relation, I would add—state that on February 23, 1905, the River and Harbor Appropriations Bill was under consideration, and included in such bill was a section permitting the collection of tolls on freight and passengers. A point of order was made to that. The point of order was not sustained.

Similarly, at a later date, in Volume VII, section 1929 of the same precedents, a bill that included a provision calling for fines and penalties for offenses on lands of the public domain was reported from the Committee on Public Lands, now called the Depart-



ment of the Interior, and it was determined that those charges might properly be considered by the Committee of the House as a Whole.

Mr. Chairman, I respectfully request that the Chair consider these precedents in ruling on the point of order raised by the gentleman from Ohio. . . .

THE CHAIRMAN: . . . The Chair has examined the amendment.

The gentleman from Pennsylvania states that the bill contains similar provisions. However, the rule under which we are operating specifically waives all points of order against sections 2, 8, and 12 of the committee amendment, but it does not waive such points of order against an amendment to the committee amendment.

So far as nongermaneness is concerned, the Chair finds in clause 3(c) of the amendment submitted a provision for collecting revenues or taxes. Also in section 3(d) it provides for money collected from the fund shall be available for distribution—in other words, an appropriation.

So the Chair finds it is not germane for the reason that it provides for raising revenue, or a tax, and appropriates money. Therefore, the amendment is in violation of clause 7, rule XVI and also it is in violation of clause 4, rule XXI, prohibiting appropriations on legislative bills.

The Chair sustains the point of order.

*Parliamentarian's Note:* Points of order had been waived against appropriations contained in the committee amendment in the nature of a substitute, but not

against amendments offered from the floor containing such provision. Hence, the amendment was subject to a point of order under Rule XXI clause 4 (clause 5 of Rule XXI in the 1981 *House Rules and Manual*).

### ***Allocation of Proceeds of Sale***

**§ 4.20 In a bill providing, in part, authority to construct certain facilities at military reservations, a provision permitting immediate use of funds derived from the sale of the San Jacinto Depot for purchase of a site and construction of a depot at Point-Aux-Pins, Alabama, was ruled out as an appropriation reported from a legislative committee in violation of Rule XXI clause 4 (now clause 5).**

On July 9, 1958,<sup>(8)</sup> the Committee of the Whole was considering H.R. 13015. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Sec. 110. The Secretary of the Army is authorized and directed to enter into a contract or contracts for the sale of the San Jacinto Ordnance Depot, Texas. . . . The Secretary of the Army is directed to act as follows:

8. 104 CONG. REC. 13277, 13284, 13285, 85th Cong. 2d Sess.

(1) The depot shall be moved to, and integrated with, the ammunition out-loading terminal previously authorized for construction at Point-Aux-Pins, Ala., and, notwithstanding any other provisions of this or any other act, the authority contained in the act of July 27, 1954 (68 Stat. 536), for the acquisition of land and initiation of construction for the Point-Aux-Pins facility shall continue in effect until specifically superseded, modified, or repealed.

(2) The sale of the San Jacinto Depot property shall be offered by the Chief of Engineers, United States Army, on behalf of and under the supervision of the Secretary of the Army within 18 months from the date of this act. No part of the land herein shall be sold, transferred, or occupied, by virtue of this transaction, by any Government agency or department.

(3) A contract or contracts for the sale of the San Jacinto Depot shall be consummated as expeditiously as possible thereafter. . . .

(4) All proceeds from the sale shall be available to administer the provisions of this section and to pay any and all expenses, including land acquisition, in connection with the relocation, exchange, or sale of the San Jacinto Depot or the establishment of a fully integrated depot at Point-Aux-Pins, Ala., or all proceeds deposited into the Treasury of the United States for obligation by the Army. . . .

MR. [HARRY R.] SHEPPARD [of California]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(9)</sup> The gentleman will state it.

MR. SHEPPARD: Mr. Chairman, I make a point of order against para-

graph 4 of section 110 which appears on page 18 of the bill. This paragraph is on appropriation in a bill from a committee not having jurisdiction to report appropriations, and is in violation of rule 21, paragraph 4.

Specifically, this provides that funds from the sale of the San Jacinto Ammunition Depot shall be available to the Secretary of the Army to pay any and all expenses, including land acquisition, in connection with the relocation, change, or sale of the San Jacinto Depot or for the establishment of a fully integrated depot at a specified location in Alabama.

THE CHAIRMAN: Does the gentleman from Georgia desire to be heard on the point of order?

MR. [CARL] VINSON [of Georgia]: I do not desire to be heard on the point of order, Mr. Chairman. I concede the point of order. Therefore, paragraph 4, if the Chair sustains the point of order, will be eliminated.

THE CHAIRMAN: The gentleman from Georgia concedes the point of order. The Chair sustains the point of order.

### ***Allocating Money Repaid From Loans***

**§ 4.21 A provision in a bill reported by a legislative committee making available for administrative purposes money repaid from advances and loans was held to be an appropriation and not in order.**

On Apr. 8, 1936,<sup>(10)</sup> the Committee of the Whole was consid-

10. 80 CONG. REC. 5207, 74th Cong. 2d Sess.

9. James J. Delaney (N.Y.).

ering H.R. 12037, the tobacco compact bill. At one point the Clerk read a provision of the bill and proceedings ensued as indicated below:

Sec. 7. (b) Any advances or loans which are repaid to the Secretary by any commission pursuant to section 3 of this act shall be held in a special fund in the Treasury of the United States and shall be available until expended for the purpose of administering this act or until such time as the Secretary shall determine that all or any part of such funds will not be needed for such purpose, whereupon all or any part of such funds shall, upon approval by the Secretary, revert to the general fund of the Treasury of the United States.

MR. [CARL E.] MAPES [of Michigan]: Mr. Chairman, a point of order. I desire to make a point of order against that paragraph.

MR. [MARVIN] JONES [of Texas]: We intend to offer an amendment striking out the appropriation.

MR. MAPES: Mr. Chairman, I make a point of order against the paragraph. I do not care to argue it. It is conceded by the chairman of the committee, I think.

MR. JONES: It is subject to a point of order.

THE CHAIRMAN:<sup>(11)</sup> The Chair sustains the point of order.

### ***Use of Excess Foreign Currency***

#### **§ 4.22 Language in a bill authorizing funds for the For-**

**ign Assistance Act and making excess foreign currencies available to stimulate private enterprise abroad was conceded to be an appropriation and in violation of Rule XXI clause 4 (now clause 5).**

On Aug. 24, 1967,<sup>(12)</sup> the Committee of the Whole was considering H.R. 12048, the Foreign Assistance Act for 1967. A provision was read, and a point of order was raised as indicated below:

On page 35, line 1: . . .

"Sec. 301. Chapter 1 of part III of the Foreign Assistance Act of 1961, as amended, which relates to general provisions, is amended as follows: . . .

"(d) Section 612, which relates to the use of foreign currencies, is amended by adding at end thereof the following new subsection:

"“(d) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, excess foreign currencies, as defined in subsection (b) may be made available, in addition to funds otherwise available, to encourage the establishment, improvement, or expansion of private enterprises in friendly less developed countries. . . . The President may make loans or guaranties with such currencies on such terms and conditions as he may deem appropriate in the circumstances. To the maximum extent practicable in making such loans or guaranties, the President shall utilize the services of private financing institutions, including inter-

11. John R. Mitchell (Tenn.).

12. 113 CONG. REC. 23974, 23975, 90th Cong. 1st Sess.

mediate credit institutions which finance private business activity even though there may be a governmental interest in such institutions. . . .”

MR. [THOMAS E.] MORGAN [of Pennsylvania]: . . . Mr. Chairman, I ask unanimous consent that the portion of the bill starting on page 35, line 1, to the bottom of page 37, be considered as read and printed in the Record, and open to amendment at any point.

THE CHAIRMAN: <sup>(13)</sup> Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and it is so ordered.

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, a point of order.

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

MR. ROONEY of New York: Mr. Chairman, I make a point of order against the language on page 36, beginning on line 3 and running through line 23, on the grounds that it makes an appropriation and is therefore in violation of paragraph 4 of rule XXI.

. . .

MR. MORGAN: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The point of order is conceded. The Chair sustains the point of order.

### ***Additional Use of Existing Foreign Credits***

#### **§ 4.23 To a law authorizing, for certain purposes, use of foreign credits already generated from sale of agricultural products abroad, a sec-**

**tion of a bill reported by the Committee on Agriculture to authorize use of such funds for an additional purpose, was ruled out as an appropriation in violation of Rule XXI clause 4 (now clause 5).**

On July 18, 1956,<sup>(14)</sup> during consideration in the Committee of the Whole of H.R. 11708, a bill to amend the Agricultural Trade Development and Assistance Act of 1954 the following proceedings occurred:

Sec. 2. Section 104 (h) of the act is amended by inserting the following language immediately before the period at the end of the section: “and for the providing of assistance to activities and projects authorized by section 203 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1448)”.

MR. [THOMAS B.] CURTIS [of Missouri]: Mr. Chairman, I make the point of order against all of section 2 that it is an appropriation on a bill by a committee not authorized to deal with appropriations.

In support of that statement, may I say that this is exceedingly technical and very difficult to follow. Nonetheless, by referring to the basic act, Public Law 480, with which this deals, we find that it refers to foreign currencies and I quote, “which accrue to the United States under this act.” Then refer to the specific section which states, “to use the foreign currencies

13. Charles M. Price (Ill.).

14. 102 CONG. REC. 13393, 84th Cong. 2d Sess.

which accrue." Then go right on down to section (h), to which this is an amendment. It states, "for the financing of." I submit this is obviously an appropriation. I might say that if this were only an authorization I would have no objection to it at all, but I do not believe this is a proper place to appropriate. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, This currency unquestionably belonging to the Government of the United States, which it receives under the provisions of section 2 of Public Law 480, 83d Congress, and being turned over by the terms of section 104 for specific purposes is for other things or for anything that they desire to purchase.

Paragraph (a) provides for providing new markets for United States agricultural commodities.

Paragraph (b) to purchase strategic and critical materials. . . .

Paragraph (e) for promoting balanced economic trade among nations.

Paragraph (f) to pay United States obligations abroad.

Paragraph (g) for loans to promote multilateral trade.

Mr. Chairman, the adding of one more item for which the funds can be used constitutes an additional appropriation of these currencies which belong to the Government of the United States as a result of the operations under paragraph (a) section 2. . . .

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, all of the money that goes into the financing of these programs have already been appropriated and turned over to the President to be used by the President. In the original act, he is given the

right to barter. He is given the right to sell for local currencies. He is given the right to give away. This only provides that he can barter just as has been pointed out heretofore in the debate; one of the rights he now has is to barter. We say he cannot barter with the U.S.S.R. or North Korea or China, but that he can barter with all other countries in the world. So it is not an appropriation on legislation at all. The moneys have already been appropriated and now are in the hands of the President. Mr. Chairman, without unduly delaying the matter, may I point out the language. It says:

The President may use or enter into agreements with friendly nations or organizations of nations and use the foreign currencies which accrue under this title for one or more of the following purposes.

And following that is barter, which is one of those purposes.

THE CHAIRMAN: <sup>(15)</sup> The Chair would like the gentleman from North Carolina to comment on this question. Do we not acquire foreign currencies which belong to this Government, which we receive for selling commodities?

MR. COOLEY: Certainly, we are acquiring foreign currencies, and the act provides for the use of those currencies by the President of the United States. One of the uses that he can use them for is (c) to produce military equipment, materials and so forth and services for the common defense.

THE CHAIRMAN: The point at issue is whether the funds can be used without a further appropriation by the Congress.

15. Prince H. Preston, Jr. (Ga.).

MR. COOLEY: Yes, Mr. Chairman, that is the question. But the point is, as I have pointed out, that the funds have already been appropriated and have already been used largely, and this act itself authorizes the increase of the authorization, but it does not authorize the President to use the foreign currencies or commodities for any purpose foreign to or in addition to the enumerated uses set forth in the act, one of which is to barter.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from North Carolina [Mr. Cooley] if all the currencies previously acquired have been used by this Government.

MR. COOLEY: They have been obligated. To the exact extent, I am not sure, but practically all of them have been obligated but not actually used. They are covered by gentlemen's agreements, some of which have not been fully consummated.

I would like to emphasize one point, if I may. The point of order is to the effect that we are adding to the enumeration of uses that the President could employ. We are not doing anything of the kind. Under the act we have a right to barter. That is what this provision authorizes him to do. We are only saying that he can barter with this money. The fact of the business is it might be considered a limitation because we limit the use of the money, in that he cannot use it in North Korea or China.

MR. TABER. If the Chair will permit, this is not barter at all. It is the use of funds. The appropriations having already been established in section 104, that of course can be continued. But to add new money and appropriate money

for other purposes that were not allowed in the first bill is beyond the rule, and it constitutes a new appropriation. Therefore, it is subject to a point of order because it comes from a committee other than the Committee on Appropriations.

MR. CURTIS [of Missouri]: Mr. Chairman, might I add also that in the committee hearings witnesses testifying on the part of the executive department used as one of their arguments that this would give them additional funds.

MR. COOLEY: Mr. Chairman, may I add one comment? The gentleman from New York [Mr. Taber] points out that we are adding something to the authority of the President by this amendment in the bill. Actually, I think some of these funds are now used in connection with the school lunch program in Japan. They are being used in other countries in connection with the education of the children of those countries. Certainly we are not adding to the authority of the President. It is rather strange that an objection to giving authority to the President should come from that side of the aisle. I do not think this is subject to a point of order.

THE CHIRMAN: The Chair is ready to rule. The gentleman from Missouri [Mr. Curtis] has made a point of order against section 2 of the bill, that this constitutes an appropriation. The bill under consideration by the Committee seeks to amend existing law known as Public Law 480 of the 83d Congress. In the pending bill it is clearly evident that a new activity is being created by the legislation. New authority is being granted in the handling of the foreign credit derived from the sale of commodities. Therefore, in the opinion of

the Chair, it constitutes an appropriation. The Chair therefore feels constrained to sustain the point of order.

*Parliamentarian's Note:* See §4.44, *infra*, where language authorizing use only of future foreign currency proceeds was held not to be an appropriation.

### ***Amendment to Legislative Bills—Generally***

#### **§ 4.24 An amendment appropriating money is not in order on a bill reported by a committee not having jurisdiction over appropriations.**

On May 22, 1936,<sup>(16)</sup> the Committee of the Whole was considering S. 3531, a bill to amend an act relating to Mississippi River flood control. The following proceedings took place:

MR. [ARTHUR P.] LAMNECK [of Ohio]: Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 2, line 7, after the word "Engineers", add the following: "*Provided*, That the Chief of Engineers, under the supervision of the Secretary of War, shall at the expense of the United States Government, construct a system of levees and reservoirs to adequately control the floodwaters of the Scioto, Olentangy, and Sandusky River Valleys in Ohio: *And provided further*, There is hereby appropriated the sum of

\$40,000,000 for the carrying out of the above project."

MR. [RILEY J.] WILSON [of Louisiana]: Mr. Chairman, I make the point of order against the amendment that it makes a direct appropriation.

THE CHAIRMAN:<sup>(17)</sup> The amendment proposes to appropriate \$40,000,000. Rule XXI provides that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations nor shall an amendment proposing an appropriation be in order during consideration of a bill or joint resolution reported by a committee not having that jurisdiction.

Inasmuch as the amendment appropriates money in violation of the rule, the Chair sustains the point of order.

### ***Emergency Fund***

#### **§ 4.25 An amendment to a legislative bill proposing to make available not to exceed \$120,000 of appropriations for rivers and harbors work as an emergency fund to be expended for repairing damage to and checking erosion on the Bayocean Peninsula in Oregon was held in violation of Rule XXI clause 4 (now clause 5).**

On May 17, 1939,<sup>(18)</sup> the Committee of the Whole was consid-

16. 80 CONG. REC. 7777, 74th Cong. 2d Sess.

17. John W. Flannagan, Jr. (Va.).

18. 84 CONG. REC. 5679, 76th Cong. 1st Sess.

ering H.R. 6264, a bill dealing with public works on rivers and harbors. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. Mott: Page 9, after line 6, insert a new paragraph, as follows:

"The sum of not to exceed \$120,000 of appropriations available for river and harbor work shall be immediately available as an emergency fund to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers for repairing damage to and checking erosion on the Bayocean Peninsula in Oregon, caused by storm in January 1939, in order to provide adequate protection to property on such peninsula and in Tillamook, Oreg."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment that it is an appropriation on a legislative bill.

THE CHAIRMAN:<sup>(19)</sup> Does the gentleman from Oregon desire to be heard on the point of order made by the gentleman from New York?

MR. [JAMES W.] MOTT [of Oregon]: Mr. Chairman, I think the gentleman from New York did not hear the amendment correctly, because it is not an appropriation but an authorization for the engineers to use river and harbor money.

Mr. Chairman, there is no language in this amendment which is appropriating language. The amendment authorizes the use by the Army engineers of money available for river and harbor

work to be used in emergency work on this project.

THE CHAIRMAN: Does the gentleman from New York insist on his point of order?

MR. TABER: Mr. Chairman, I think I shall have to insist on the point of order. If we are to have an appropriation, it should come in an appropriation bill after a hearing, and then it would go through quicker, if the need were shown, than this bill.

THE CHAIRMAN: The Chair is ready to rule.

The Chair is of the opinion that the amendment of the gentleman from Oregon contains language which proposes to divert an appropriation heretofore made to a new purpose and is therefore in violation of clause 4 of rule XXI of the House of Representatives. The Chair sustains the point of order.

### *Unemployment Benefits*

**§ 4.26 To a bill amending the Social Security Act to provide a national program for war mobilization and reconversion, an amendment directing payments to states on account of unemployment benefits was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5), and not in order.**

On Aug. 31, 1944, the Committee of the Whole was considering S. 2051, the war mobilization and reconversion bill of 1944. The following proceedings took place:<sup>(20)</sup>

20. 90 CONG. REC. 7464, 78th Cong. 2d Sess.

19. Orville Zimmerman (Mo.).



MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the [committee] amendment that it is an appropriation of funds in violation of clause 4 of rule XXI of the House. I call the attention of the Chair particularly to this language. I refer to the page and line of the Senate bill rather than the amendment, because I have that in front of me and I assume the Chair can refer to it readily. It begins on page 21, line 6:

(c) Each State shall be entitled to receive from the Federal unemployment account for each quarter, beginning with the first quarter commencing after enactment of this act, an amount equal to the total of all payments of unemployment compensation made by such State during such quarter, pursuant to an agreement under this section.

(d) In the event that any State does not agree to make such payments to such persons, the Civil Service Commission is hereby authorized and directed to make such payments. . . .

(f) In case of an agreement under this section that a State agency will make payments as agent of the United States, there shall be paid in advance to the State such sum as the Board estimates the State will be entitled to receive for each quarter under such section. All money paid to a State under this subsection shall be used solely for the payment of unemployment compensation. Any money so paid to a State which is not used for the purpose for which it was paid shall, upon termination of the agreement, be returned to the Treasury. . . .

THE CHAIRMAN:<sup>(1)</sup> The Chair will state to the gentleman from Rhode Is-

land that the rule under which we are considering this measure, waives points of order against the committee substitute, but not against the amendments which would be offered to that substitute. The rule cited by the gentleman from New York is very clear and specific:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bills, joint resolution, or amendment thereto may be raised at any time.

In the opinion of the Chair, the language cited by the Chair and other language cited by the gentleman from New York, clearly provides for an appropriation.

MR. [AIME J.] FORAND [of Rhode Island]: Mr. Chairman, if the committee amendment, which is an entire new bill, had not been brought to the floor of the House as it is now, we would be considering the George [Senate] bill, and that would be in the George bill. Would not the rule given to us by the Committee on Rules clear that? We understood this was a broad rule.

THE CHAIRMAN: Yes; the rule would clear the Senate bill, but we are not considering the Senate bill; we are considering the committee substitute amendment to the Senate bill. This is offered as an amendment to the committee amendment. In the opinion of the Chair the point of order is well taken.

The Chair sustains the point of order on the authorities cited.

1. Fritz G. Lanham (Tex.).

***Guaranteeing Agencies' Use of Previously Appropriated Funds***

**§ 4.27 Language in an amendment to a bill reported by the Committee on Banking and Currency providing that certain guaranteeing agencies were thereby authorized to use for the purposes of the section any funds "heretofore" appropriated was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5), and not in order.**

On Aug. 2, 1950,<sup>(2)</sup> the Committee of the Whole was considering H.R. 9176, the Defense Production Act of 1950. At one point, a Member raised a point of order against an amendment. The proceedings were as follows:

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:<sup>(3)</sup> The gentleman will state it.

MR. TABER: I make the point of order that the amendment violates the provisions of section 4 of rule 21. . . .

THE CHAIRMAN: Will the gentleman from New York point out the specific language in the bill to which he objects?

2. 96 CONG. REC. 11599, 11600, 81st Cong. 2d Sess.

3. Howard W. Smith (Va.).

MR. TABER: I call the Chair's attention to page 7, lines 18 to 23:

(d) Each guaranteeing agency is hereby authorized to use for the purposes of this section any funds which have heretofore been appropriated or allocated or which hereafter may be appropriated or allocated to it, or which are or may become available to it, for such purposes or for the purpose of meeting the necessities of the national defense. . . .

THE CHAIRMAN: The Chair is ready to rule. . . .

. . . . [T]he Chair is of the opinion that the language there does constitute an appropriation in violation of the rule cited by the gentleman from New York, and accordingly sustains the point of order against the amendment on account of that objectionable language.

***Use of Foreign Interest Payments***

**§ 4.28 To a bill authorizing the furnishing of emergency food relief assistance to India on specified credit terms, an amendment providing that interest on the principal of any debt incurred pursuant to such relief program be deposited in a special account in the Treasury, to be immediately available for certain types of expenditures by the Department of State was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5).**

On May 24, 1951,<sup>(4)</sup> the Committee of the Whole was considering H.R. 3791, a bill to furnish emergency food relief assistance to India. An amendment was offered and a point of order raised as indicated below:

MR. [WILLIAM G.] BRAY [of Indiana]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Bray: On page 3, at line 20, add a new section reading as follows:

"Sec. 4 (a) any sums payable by the Government of India, under the interest terms agreed to between the Government of the United States and the Government of India, on or before January 1, 1957 . . . as interest on the principal of any debt incurred under this act shall, when paid, be placed in a special deposit account in the Treasury of the United States, notwithstanding any other provisions of law, to remain available until expended. This account shall be available to the Department of State for the following uses:

"(1) Allocation, for designated educational, agricultural, experimental, scientific, medical, or philanthropic activities, to American institutions engaged in such activities in India. . . .

MR. [JOHN M.] VORYS [of Ohio]: Mr. Chairman, because of my admiration for the gentleman I dislike to press the point of order, but I think the rules of the House keep our thinking straight. I therefore make the point of order. I submit the gentleman's amendment goes far beyond the scope of the legis-

lation. It introduces a great deal of new matter and provides for an appropriation in a legislative act, and is therefore not in order. . . .

THE CHAIRMAN:<sup>(5)</sup> The Chair is ready to rule.

The gentleman from Indiana offers an amendment, which the Clerk has reported, providing certain conditions relating to the assistance proposed to be granted under the pending bill; in addition it proposes the creation of a fund and makes available those funds for certain specific purposes.

The gentleman from Ohio makes a point of order against the amendment on two grounds: One, that it is not germane; two, that it seeks to make an appropriation.

The Chair would call attention to page 88 of Cannon's Precedents where the following statement is made:

The mere fact that an amendment proposes to attain the same end sought to be attained by the bill to which offered—

Which is the contention of the gentleman from Indiana—

does not render it germane.

Though the proposed amendment seeks accomplishment of ends undoubtedly worthy and somewhat related to the aims of the pending bill, it does provide conditions separate and apart from the pending bill.

Clause 4 of rule 21 provides:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an amendment be in order during the

4. 97 CONG. REC. 5837, 5838, 82d Cong. 1st Sess.

5. Albert A. Gore (Tenn.).

consideration of a bill or joint resolution reported by a committee not having that jurisdiction.

The proposed amendment would in the opinion of the Chair, violate this rule.

The Chair, therefore, sustains the point of order made by the gentleman from Ohio in both respects.

### ***Appropriations to Another Government Agency***

**§ 4.29 To a bill to amend the Agriculture Act of 1949 to permit the importation of Mexican agricultural workers, an amendment relating to the detention of Mexican aliens, generally, in the United States and providing that appropriations made heretofore shall be available for expenditures to carry out the purposes of the provision was held to be an appropriation in violation of Rule XXI clause 4 (subsequently clause 5).**

On June 27, 1951,<sup>(6)</sup> during consideration in the Committee of the Whole of H.R. 3283, a bill to amend the Agricultural Act of 1949, the following proceedings occurred:

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I offer an amendment.

6. 97 CONG. REC. 7274, 7275, 82d Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Mr. Celler:  
Add a new section:

"Sec. 512. Notwithstanding any other provision of law to the contrary and without regard to section 3709 of the revised statutes, the Attorney General is authorized to purchase, construct, lease, equip, operate, and maintain on either Government-leased or Government-owned land such detention facilities as may be necessary for the apprehension and removal to Mexico of Mexican aliens illegally in the United States Appropriations made to the Immigration and Naturalization Service shall be available for expenditures to carry out the purposes of this act."

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I reserve a point of order against the amendment offered by the gentleman from New York (Mr. Celler). . . .

MR. COOLEY: Mr. Chairman, I renew my point of order.

THE CHAIRMAN:<sup>(7)</sup> Will the gentleman please state the grounds of his point of order?

MR. COOLEY: First, that it broadens the scope of the legislation under consideration. It is not germane, and it actually constitutes an appropriation. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York offers an amendment to the bill before the committee and the gentleman from North Carolina makes the point of order against the amendment on the ground that it is not germane and that it contains an appropriation.

The Chair has had an opportunity to study the amendment offered by the

7. Albert A. Gore (Tenn.).

gentleman from New York. As the Chair understands the bill before the committee, H.R. 3283, it applies to certain Mexican aliens as a class and as described in the bill. The amendment offered by the gentleman from New York broadens the group to include Mexican aliens illegally in the United States, beyond the class described in the bill. The amendment also proposes to appropriate funds for a certain purpose described in the amendment.

For these two reasons, the Chair is constrained to sustain the point of order.

***Funds Previously Appropriated for Mutual Security Agency***

**§ 4.30 To a bill reported by the Committee on Agriculture, an amendment authorizing the use of funds “heretofore appropriated for the use of the Mutual Security Agency” was ruled out as an appropriation in violation of Rule XXI clause 4 (now clause 5).**

On July 29, 1953,<sup>(8)</sup> the Committee of the Whole was considering H.R. 6016, a bill concerned with emergency famine relief. An amendment was offered and the following proceedings occurred:

MR. [PAUL C.] JONES [of Missouri]: Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

8. 99 CONG. REC. 10392, 83d Cong. 1st Sess.

Amendment offered by Mr. Jones of Missouri: Page 2, lines 10 and 11, strike out the words “(including the Corporation’s investment in the commodities)” and insert in lieu thereof “of funds heretofore appropriated for the use of the Mutual Security Agency.”

MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(9)</sup> The gentleman will state it.

MR. HOPE: I make the point of order against the amendment that it is not germane and that it constitutes an appropriation. . . .

THE CHAIRMAN: The Chair is ready to rule. This amendment as drafted, would divert previously appropriated funds to a new purpose. Therefore the Chair sustains the point of order.

***Foreign Credits for New Purpose***

**§ 4.31 To a bill providing for extension of a law authorizing, for certain purposes, use of foreign credits generated from the sale of surplus agricultural products abroad, an amendment proposing use of a limited percentage of the generated funds for an additional purpose, was ruled out as an appropriation in violation of Rule XXI clause 4 (now clause 5).**

9. Glenn R. Davis (Wisc.).

On June 4, 1957,<sup>(10)</sup> the Committee of the Whole was considering H.R. 6974, a bill to extend the Agricultural Trade Development and Assistance Act of 1954, among other things. At one point a Member offered the following amendment, and proceedings ensued as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Cooley: On page 2, following line 3, add the following new paragraph No. 4:

"Section 104(e) of such act is amended by striking out the semicolon at the end thereof and adding a comma and the following: 'for which purposes not more than 25 percent of the currencies received pursuant to each such agreement shall be available through and under the procedures established by the Export-Import Bank for loans mutually agreeable to said bank and the country with which the agreement is made to United States business firms and branches, subsidiaries, or affiliates of such firms for business development and trade expansion in such countries for the establishment of facilities for aiding in the utilization, distribution, or otherwise increasing the consumption of, and markets for, United States agricultural products. Foreign currencies may be accepted in repayment of such loans.'"

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(11)</sup> The gentleman will state his point of order.

MR. TABER: Mr. Chairman, this is an appropriation on a bill coming from a

committee which has no authority to report appropriations to this body. . . .

MR. [HAROLD D.] COOLEY [of North Carolina]: As I understand it, the President now has the authority in existing law to make these agreements and to use the money as provided by law. This is in effect saying he shall not use more than 25 percent of it for these purposes.

THE CHAIRMAN: The Chair is ready to rule. The Parliamentarian has directed the Chair's attention to the fact that on July 18, 1956, in the consideration of a similar measure, the gentleman from Georgia [Mr. Preston], being Chairman of the Committee of the Whole, ruled on a point of order similar to that made by the gentleman from New York.

This is the ruling, and the reasons for it in the language of Chairman Preston, which the Chair adopts:

The gentleman has made a point of order against section 2 of the bill. The bill under consideration by the Committee seeks to amend existing law known as Public Law 480 of the 83d Congress. In the pending bill it is clearly evident that a new activity is being created by the legislation. New authority is being granted in the handling of the foreign credit derived from the sale of commodities. Therefore, in the opinion of the Chair, it constitutes an appropriation. The Chair, therefore, feels constrained to sustain the point of order.

The Chair sustains the point of order made by the gentleman from New York [Mr. Taber].

### ***Use of Tax Receipts for School Construction***

#### **§ 4.32 An amendment (to a bill reported from the Committee**

10. 103 CONG. REC. 8298, 85th Cong. 1st Sess.

11. Brooks Hays (Ark.).

**on Education and Labor) providing that the District Director of Internal Revenue shall, under a formula, pay an allotment to each state out of tax funds for school construction has been ruled out as an appropriation in violation of Rule XXI clause 4 (subsequently clause 5).**

On July 25, 1957,<sup>(12)</sup> the Committee of the Whole was considering H.R. 1, a bill to authorize federal assistance to the states and local communities in financing an expanded program of school construction so as to eliminate the national shortage of classrooms. The following proceedings took place:

MR. [EDWIN H.] MAY [Jr., of Connecticut]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. May: Page 31, beginning with line 19, strike out everything down through line 11, page 46, and insert the following:

**"TITLE I—PAYMENTS TO STATE  
EDUCATIONAL AGENCIES**

*"Authorization of appropriations*

"Sec. 101. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1957, and the four succeeding fiscal years, such amounts, not to exceed \$300

million in any fiscal year, as may be necessary for making payments to State educational agencies as provided in section 104.

*"Allotments to States*

"Sec. 102(a)(1) The sums appropriated for any fiscal year pursuant to section 101 shall be allotted among the States on the basis of the income per child of school age, the school-age population, and effort for school purposes, of the respective States. Subject to the provisions of section 103, such allotments shall be made as follows: The Commissioner shall allot to each State an amount which bears the same ratio to the sums appropriated pursuant to section 101 for such year as the product of—

"(A) the school-age population of the State, and

"(B) the state's allotment ratio (as determined under paragraph (2)), bears to the sum of the corresponding products for all the States.

*"Payments to States*

"Sec. 104. When he has computed a State's allotment for a year, the Commissioner shall certify the amount thereof to the District Director of Internal Revenue for the Internal Revenue District of which the State is a part (or, if the State lies in more than one such District, to the District Director designated by the Secretary of the Treasury). From the collections made from such State from taxes levied under part I of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1954 (relating to income tax on individuals), the District Director of Internal Revenue shall retain an amount equal to the State's allotment. He shall then pay the State's allotment for the year, in equal monthly installments, to the State educational agency. . . ."

12. 103 CONG. REC. 12728, 12729, 12733, 85th Cong. 1st Sess.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that section 104 of the amendment constitutes an appropriation and it is on a bill coming from a committee not authorized to report appropriations.

That motion is in order at any time before the bill is enacted.

MR. [Charles A.] HALLECK [of Indiana]: Mr. Chairman, I would like to be heard on the point of order.

THE CHAIRMAN:<sup>(13)</sup> The gentleman is recognized.

MR. HALLECK: In my opinion, the point of order comes too late. The amendment has been offered and reported and debate has begun on the amendment.

MR. TABER: Mr. Chairman, it is specifically specified in the rules that that point of order is available at any time during the progress of the bill.

MR. [H. R.] GROSS [of Iowa]: Under rule XXI

MR. TABER: Under rule XXI.

THE CHAIRMAN: As to the question of timeliness of the point of order, there is no question but that it can be made at this time.

The Chair feels that this language "shall pay the State's allotment for the year, in equal monthly installments, to the State educational agency" makes the amendment subject to the point of order.

The Chair sustains the point of order.

### ***Corps of Engineers—Use of Prior Appropriations***

#### **§ 4.33 Where a committee amendment to a rivers and**

13. Francis E. Walter (Pa.).

**harbors authorization bill contained language which permitted the Chief of Engineers to use, for certain purposes, appropriations heretofore or hereinafter made for civil works, the amendment was conceded to contain an appropriation and was ruled out as in violation of Rule XXI clause 4 (subsequently clause 5).**

On Oct. 3, 1962,<sup>(14)</sup> the Committee of the Whole was considering H.R. 13273, the rivers and harbors authorization bill for 1962. At one point the Clerk read a committee amendment as follows, and proceedings ensued as indicated below:

The Clerk read as follows:

Committee amendment: Page 13, line 15, insert:

"Sec. 102. (a) The Act approved August 13, 1946, as amended by the Act approved July 28, 1956 (33 U.S.C. 426e-h), pertaining to shore protection, is hereby further amended as follows: . . .

"(4) Sections 2 and 3 are amended to read as follows:

"Sec. 2. The Secretary of the Army is hereby authorized to reimburse local interests for work done by them . . . *Provided*, That the work which may have been done on the projects is approved by the Chief of Engineers as being in accordance with the authorized projects: *Provided further*, That such reimburse-

14. 108 CONG. REC. 21883, 21884, 87th Cong. 2d Sess.



ment shall be subject to appropriations applicable thereto or funds available therefor and shall not take precedence over other pending projects of higher priority for improvements.

“Sec. 3. The Chief of Engineers is hereby authorized to undertake construction of small shore and beach restoration and protection projects not specifically authorized by Congress, which otherwise comply with section 1 of this Act, when he finds that such work is advisable, and he is further authorized to allot from any appropriations heretofore or hereinafter made for civil works, not to exceed \$3,000,000 for any one fiscal year for the Federal share of the costs of construction of such projects. . . .”

MR. [WILLIAM C.] CRAMER [of Florida]: Mr. Chairman, I raise a point of order against the amendment in that it appears clearly in the amendment that it is an appropriation on an authorization bill.

THE CHAIRMAN:<sup>(15)</sup> Does the gentleman from Minnesota desire to be heard?

MR. [JOHN A.] BLATNIK [of Minnesota]: Mr. Chairman, the committee concedes the point of order.

THE CHAIRMAN: The Chair sustains the point of order.

The Chair will state, this applies to the entire amendment from page 13, line 15, down to and including line 19 on page 16.

MR. BLATNIK: Mr. Chairman, am I correct, then, that this applies to the entire section 102, it deletes that section?

THE CHAIRMAN: That is correct.

15. Francis E. Walter (Pa.).

### ***Language Held To Be “Authorization”***

#### **§ 4.34 Language in a bill authorizing an appropriation of not less than a certain amount for a specified purpose has been held not to be an appropriation.**

On May 11, 1934,<sup>(16)</sup> the Committee of the Whole was considering a bill<sup>(17)</sup> which stated in part as follows:

*Be it enacted, etc.,* That for the purpose of increasing employment by providing for emergency construction of public highways and other related projects there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not less than \$400,000,000 for allocation under the provisions of section 204 of the National Industrial Recovery Act.

A point of order was raised against the provision, as follows, and proceedings ensued as indicated below:

MR. [JOHN] TABER [of New York]: The language of this section provides that there is authorized to be appropriated the sum of not less than \$400,000,000. That is, in effect, a mandatory piece of legislation, and must result in an appropriation. This bill does not come from the Committee on Appropriations and therefore this sec-

16. 78 CONG. REC. 8640, 73d Cong. 2d Sess.

17. H.R. 8781.

tion, with that language in it, is out of order. . . .

THE CHAIRMAN:<sup>(18)</sup> . . . This is simply an authorization, and the point of order is overruled.

### ***Reappropriation***

#### **§ 4.35 Language of an amendment providing that an appropriation when made should come out of any unexpended balances heretofore appropriated or made available for emergency purposes was held to be in order on a legislative bill since such language did not constitute an appropriation.**

On Jan. 9, 1936,<sup>(1)</sup> the Committee of the Whole was considering H.R. 9870, a bill dealing with payment of adjusted service certificates. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Sec. 7. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this act. . . .

MR. [ALLEN T.] TREADWAY [of Massachusetts]: Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment by Mr. Treadway:  
Page 7, line 13, after the word "ap-

propriated", insert "out of any unexpended balances heretofore appropriated or made available for emergency purposes."

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Chairman, I make the point of order against the amendment that it is not definite enough. It does not specify what law or what appropriation is intended to be covered by the proposed amendment.

MR. TREADWAY: Mr. Chairman, I should like to be heard on the point of order.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, I make the further point of order that it is an appropriation. . . .

THE CHAIRMAN:<sup>(2)</sup> The Chair does not think it necessary to hear the gentleman from Massachusetts unless the gentleman seeks to convince the Chair that the Chair would be in error in holding his amendment in order.

While it is restrictive and limits Congress to just one source in making its appropriation, while the bill in no way limits, the amendment is merely an authorization. It will require action on the part of Congress later to appropriate the money, and the Chair, therefore, overrules the point of order.<sup>(3)</sup>

### ***Funds Made Available to Other Agencies***

#### **§ 4.36 Language in a bill reported by a legislative committee providing that all**

18. David D. Glover (Ark.).

1. 80 CONG REC. 274, 74th Cong. 2d Sess.

2. Thomas L. Blanton (Tex.).

3. Reappropriations are no longer permitted. See § 3, *supra*.

**funds available for carrying out the act would be available for allotment to other bureaus and offices for a similar purpose was held not to be an appropriation, inasmuch as the bill permitted no use of existing funds but merely authorized new funds, when appropriated, to be so allocated.**

On Apr. 8, 1936,<sup>(4)</sup> during consideration in the Committee of the Whole of H.R. 12037, the tobacco compact bill, the Clerk read as follows, and a point of order was made as indicated below:

Sec. 8. All funds available for carrying out this act shall be available for allotment to the bureaus and offices of the Department of Agriculture and for transfer to such other agencies of the Federal or State governments as the Secretary may request to cooperate or assist in carrying out this act.

MR. [CARL E.] MAPES [of Michigan]: Mr. Chairman, I desire to make a point of order against section 8 for the same reason as applied to section 7. The section makes available and transfers funds in the Treasury for a different purpose than that for which they have been appropriated, and I think under the precedents and decision of the Speaker and of the Chair it is subject to the same point of order as was raised to section 7. . . .

I call the Chair's attention to the fact that the fees paid by the handlers

of tobacco for so-called marketing agreements under section 3 go into the Treasury of the United States and are a part of the funds referred to in this section. They would remain in the Treasury and not be available to the Secretary of Agriculture or to anyone except for the language in section 8.

MR. [MARVIN] JONES [of Texas]: Mr. Chairman, I submit the suggestion that by the provisions of the amendment to the previous section any advance or loans repaid to the Secretary by any commission, and so forth, shall revert to the Treasury of the United States; so the point of order made by the gentleman is not applicable. Section 7(a) is where provision is made with reference to the funds mentioned in section 3. All that is involved in section 8 is the amount appropriated to the Secretary of Agriculture for administrative purposes, and this is merely a matter of allowing him to permit some other bureau assisting him to use the same fund. It is not a new appropriation, it is the same appropriation and it is for the same function, that of administration. It does not involve a new appropriation if a man's assistant spends the man's money helping do the job. In fact, this involves no appropriation at all. It only refers to the use of funds authorized to be appropriated in a previous section—if and when such appropriation is made.

If the gentleman from Michigan will look at the previous section, he will find the funds mentioned in section 3, and the collections thereof revert to the Treasury automatically, under the amendment which we just adopted and which takes the place of the provision which was stricken out. . . .

4. 80 CONG. REC. 5207, 5208, 74th Cong. 2d Sess.

MR. MAPES: Will not the gentleman from Texas admit that section 8 might divert some of the funds which may be appropriated under the committee's substitute for section 7, which would not be so diverted except for section 8?

MR. JONES: That would be true for any part of the funds that are appropriated there for administrative purposes but not for advances and loans, because subdivision (b) of section 7 specifically eliminates all loans and advances and puts them back into the Treasury when they are repaid. So, by virtue of the limitation in section (b) this can apply only to administrative funds.

THE CHAIRMAN:<sup>(5)</sup> . . . As the Chair understands, this bill does not carry any appropriation—that part of the bill was stricken out on a point of order—and therefore there are no funds available so far as the bill stands at the present time.

The Chair therefore overrules the point of order.

### ***Farm Loans***

#### **§ 4.37 An amendment authorizing the making of farm loans was held not to be an appropriation under Rule XXI clause 4 (now clause 5).**

On Jan. 25, 1937,<sup>(6)</sup> the Committee of the Whole was considering H.R. 1545. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Sec. 2. (a) No loan shall be made under this act to any applicant who

5. John R. Mitchell (Tenn.).

6. 81 CONG. REC. 394–98, 75th Cong. 1st Sess.

shall not have first established to the satisfaction of the proper officer or employee of the Farm Credit Administration, under such regulations as the Governor may prescribe, that such applicant is unable to procure from other sources a loan in an amount reasonably adequate to meet his needs for the purposes for which loans may be made under this act; and preference shall be given to the applications of farmers whose cash requirements are small.

. . .

Amendment offered by Mr. Massingale: Amend paragraph C of section 2, page 3, by striking out the period after the word “prescribe”, on line 5 of said paragraph, inserting a comma, and adding the following: “and loans for seed oats shall be immediately available in localities where it is customary that sowing or planting shall be done in the late winter or early spring months.” . . .<sup>(7)</sup>

MR. [MARVIN] JONES [of Texas]: Mr. Chairman, I am sorry to have to disagree with the gentleman from Oklahoma [Mr. Massingale].

Mr. Chairman, I make the point of order that the gentleman's amendment would amount to inserting an appropriation in a legislative bill. . . .

THE CHAIRMAN:<sup>(8)</sup> The Chair overrules the gentleman's point of order insofar as the point of order is based on the ground that the amendment involves an appropriation.

### ***Advances From Treasury***

#### **§ 4.38 Language authorizing and directing an executive**

7. Note: Loans are not considered charges against the Treasury.

8. Edward E. Cox (Ga.).

**officer to advance, when appropriated, sums of money out of the Treasury was held not to constitute an appropriation on a legislative bill.**

On June 17, 1937,<sup>(9)</sup> the Committee of the Whole was considering H.R. 7472. At one point an amendment was offered and proceedings ensued as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Nichols: Page 1, after line 4, insert the following:

**"TITLE I—AUTHORIZATION FOR  
ADVANCE OF FUNDS**

"Until and including June 30, 1938, the Secretary of the Treasury, notwithstanding the provisions of the District of Columbia Appropriation Act approved June 29, 1922, is authorized and directed, when appropriated, to advance, on the requisition of the Commissioners of the District of Columbia, made in the manner now prescribed by law, out of any money in the Treasury of the United States not otherwise appropriated, such sums as may be necessary from time to time during said fiscal year to meet the general expenses of said District, as provided by law, and such amounts so advanced shall be reimbursed by the said Commissioners to the Treasury out of the taxes and revenue collected for the support of the government of the said District of Columbia."

MR. [THOMAS] O'MALLEY [of Wisconsin]: Mr. Chairman, a point of order. . . .

9. 81 CONG. REC. 5914, 75th Cong. 1st Sess.

. . . I make the same point of order against the amendment as was raised by the gentleman from New York [Mr. Taber] and upon which the Chair just ruled. The language of the District of Columbia Appropriation Act makes this amendment an exception to the appropriation act. The amendment states "out of any money in the Treasury of the United States not otherwise appropriated." It seems to me the amendment seeks to have Congress authorize and appropriate a certain amount of money which the Congress would have to reimburse the Treasury for if the District itself was not able to reimburse the Treasury out of the revenues to be obtained under this bill.

THE CHAIRMAN:<sup>(10)</sup> The Chair is ready to rule. It is the opinion of the Chair that the language included in the amendment offered by the gentleman from Oklahoma [Mr. Nichols], which indicates that the money cannot become available until and when appropriated, is proper, and therefore overrules the point of order.

*Parliamentarian's Note:* The language objected to by Mr. John Taber, and subsequently referred to by Mr. O'Malley in his point of order, was substantially the same as that in the Nichols amendment, but did not include the phrase "when appropriated."<sup>(11)</sup>

***Special Accounts for Specified  
Purposes***

**§ 4.39 Language directing that  
the proceeds of taxes shall be**

10. James M. Mead (N.Y.).

11. 81 CONG. REC. 5910, 75th Cong. 1st Sess.

**deposited in a special account in the Treasury entirely to the credit of the District of Columbia and would thereafter be appropriated and used solely and exclusively for certain enumerated purposes was held merely a direction to appropriate in the future and not in violation of Rule XXI clause 4 (subsequently clause 5), as being an appropriation on a legislative bill.**

On June 17, 1937,<sup>(12)</sup> the Committee of the Whole was considering H.R. 7472. At one point the Clerk read as follows, and proceedings ensued as indicated below:

"All proceeds of the taxes imposed under this act . . . shall be deposited in a special account in the Treasury of the United States entirely to the credit of the District of Columbia, and shall be appropriated and used solely and exclusively for the following purposes:

"(1) For the construction, reconstruction, improvement, and maintenance of public highways, including the necessary administrative expenses in connection therewith . . ."

MR. [ALBERT J.] ENGEL [of Michigan]: Mr. Chairman, I make a point of order against that part of section 2 on page 12, line 2, beginning with the words "and shall", through and including line 24 on page 12, on the ground

that it is an appropriation and violates the rule which requires that appropriations shall come from the Committee on Appropriations.

THE CHAIRMAN:<sup>(13)</sup> Will the gentleman advise the Chair of the language to which he makes the point of order.

MR. ENGEL: On page 12, line 2, commencing with the words "and shall be appropriated", continuing through the remainder of the section.

THE CHAIRMAN: Does the gentleman from Illinois desire to be heard on the point of order?

MR. [EVERETT M.] DIRKSEN [of Illinois]: Yes, Mr. Chairman. I do not believe the point of order will lie. This section first does not appropriate any money. It is only an affirmative direction for the expenditure of money or an indication of how the money shall be expended, but it does not undertake, either by language or implication, to appropriate money.

THE CHAIRMAN: The Chair is ready to rule. The Chair will state that the gentleman from Illinois [Mr. Dirksen] has stated the matter correctly. The point of order is overruled.

***"Appropriation" Defined as  
"Payment of Funds From the  
Treasury"***

**§ 4.40 A bill to regulate barbers in the District of Columbia containing language providing that fees and charges payable under the act would be paid to the secretary-**

12. 81 CONG. REC. 5924, 5925, 75th Cong. 1st Sess.

13. James M. Mead (N.Y.).

**treasurer of a board to carry out these regulations and providing compensation of members of the board from such funds was held not to be an appropriation of funds from the Treasury where it was stated that expenses under the bill were not chargeable against the United States or the District of Columbia.**

On Jan. 24, 1938,<sup>(14)</sup> the House was considering H.R. 7085. At one point the Clerk read as follows, and a point of order was raised as indicated below:

Sec. 11. All fees and charges payable under the provisions of this act shall be paid to the secretary-treasurer of the Board. The Board is hereby authorized to refund any license fee or tax, or portion thereof, erroneously paid or collected under this act.

(a) For the examination of an applicant for a certificate as a registered barber, \$5. . . .

Sec. 12. The Commissioners are authorized and directed to provide suitable quarters for examinations and equipment to the Board and for the compensation of the members of the Board at the rate of \$9 per day . . . *Provided*, That payments under this section shall not exceed the amount received from the fees provided for in this act; and if at the close of each fiscal year any funds unexpended in ex-

cess of the sum of \$1,000 shall be paid into the Treasury of the United States to the credit of the District of Columbia: *Provided*, That no expense incurred under this act shall be a charge against the funds of the United States or the District of Columbia. . . .

MR. [THOMAS] O'MALLEY [of Wisconsin]: Mr. Speaker, I make the point of order that sections 11 and 12 provide for an appropriation which the Committee on the District of Columbia, as a legislative committee, is not authorized to do. Section 11 sets up a schedule of fees and section 12 appropriates such fees to the use of the Commissioners, stating that any sums unexpended in excess of a thousand dollars shall revert to the Treasury. . . .

THE SPEAKER:<sup>(15)</sup> The Chair is ready to rule on the point of order raised by the gentleman from Wisconsin.

The gentleman from Wisconsin makes the point of order against section 12 of the bill that under the terms of the section there is an appropriation of funds out of the Public Treasury.

If, in the opinion of the Chair, the language of the section sustained that position, clearly the point of order of the gentleman from Wisconsin would be good. However, the Chair calls attention to the fact it is stated in a precedent which will be found in the Congressional Record, Sixty-seventh Congress, first session, page 3388:

The term "appropriation" in the rule means the payment of funds from the Treasury.

As far as the Chair is able to read the language of section 12, it provides

14. 83 CONG. REC. 1008, 1009, 75th Cong. 3d Sess.

15. William B. Bankhead (Ala.)

only the payment of funds into the Treasury under certain contingencies, and does not provide for the payment of funds out of the Treasury.

For the reasons stated, the Chair overrules the point of order made by the gentleman from Wisconsin.

### ***Unused Appropriations Paid Into Treasury Account***

**§ 4.41 A provision in a legislative bill providing that sums already appropriated and not used for making parity payments would be covered into the Treasury to offset the subsequent appropriations made pursuant to the authority of the bill under consideration was held not in violation of Rule XXI clause 4 (subsequently clause 5), inasmuch as further action would be required to appropriate such sums authorized.**

On Jan. 29, 1942,<sup>(16)</sup> the Committee of the Whole was considering H.R. 6350, a bill dealing with relief for certain agricultural producers. The following proceedings took place:

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, I wish to make a point of order against paragraph (b), on the ground that it violates clause 4 of rule XXI.

16. 88 CONG. REC. 851, 852, 77th Cong. 2d Sess.

Paragraph (b) reads as follows:

The Congress further determines that substantial amounts of the sums which have heretofore been appropriated for making parity payments will not be needed for making such payments; and it hereby directs that so much of the money appropriated in the Department of Agriculture Appropriation Act, 1942, for the purpose of making parity payments as is not used for such purpose shall be covered into the Treasury to offset the appropriations made pursuant to the authority of this act. . . .

My contention is that paragraph (b) diverts an appropriation already made to a different purpose, therefore is a violation of the rule. If there should be any doubt in the mind of the Chair, I should like to be heard further on the point of order.

THE CHAIRMAN:<sup>(17)</sup> Does the gentleman from South Carolina [Mr. Fulmer] desire to be heard on the point of order?

MR. [HAMPTON P.] FULMER: Mr. Chairman, I do not care to comment on the point of order except to state I do not believe that the point of order is germane; therefore, it should not be sustained. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined this paragraph very carefully. The Chair calls attention to the fact that the paragraph provides that the sum of money, whatever sum it may be, appropriated for the purpose of making parity payments and not used for such purpose shall be covered into the Treasury to offset the appropriations made pursuant to the authority of this act.

17. Alfred L. Bulwinkle (N.C.).



The paragraph contemplates that there will be further action by the Congress before any appropriation is made available. Therefore, the Chair overrules the point of order.

MR. CASE of South Dakota: Mr. Chairman, a parliamentary inquiry

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: Is the holding of the Chair in the language the Chair just used to the effect that further action is necessary, that under the legislative history of this bill it would not be possible for the proponents of this legislation to come before the Committee on Appropriations and maintain that the hands of the Committee on Appropriations had already been tied by the action on this bill?

THE CHAIRMAN: Before there could be any activity under the provisions of this bill, there must be appropriate action by the Congress making money available for the purposes therein set forth.

### ***Membership in International Organization***

**§ 4.42 Language in a bill reported by a legislative committee providing “that the President is hereby authorized to accept membership for the United States in the United Nations Educational, Scientific, and Cultural Organization, the Constitution of which was approved in London on November 16,**

**1945, by the United Nations Conference for the establishment of an Educational, Scientific, and Cultural Organization, and deposited in the Archives of the Government of the United Kingdom” was held not to involve an appropriation in violation of Rule XXI clause 4 (subsequently clause 5) merely because the constitution of the organization provided that “the general conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the states members of the organization . . . .” since a subsequent appropriation was authorized by the bill.**

On May 21, 1946,<sup>(18)</sup> the Committee of the Whole was considering House Joint Resolution 305, relating to United States participation in the United Nations Educational, Scientific, and Cultural Organization. The following proceedings took place as the joint resolution was considered for amendment:

*Resolved, etc.,* That the President is hereby authorized to accept membership for the United States in the United Nations Educational, Scientific,

18. 92 CONG. REC. 5388-95, 79th Cong. 2d Sess

and Cultural Organization (hereinafter referred to as the "Organization"), the constitution of which was approved in London on November 16, 1945. . . .

MR. [JOHN] TABER (of New York): Mr. Chairman, I make a point of order against section 1 of the bill, beginning in line 3 on page 1, and ending in line 2 on page 2. . . .

I make the point of order, Mr. Chairman, on the ground that it is an appropriation coming from a committee not authorized to report appropriations to the House. That kind of a point of order can be made at any time during the consideration of the bill.

I call the attention of the Chair to article IX of the constitution of this Organization which appears in the report of the committee on page 9.

It says:

The General Conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the states members of the Organization subject to such arrangement with the United Nations as may be provided in the agreement to be entered into pursuant to article X.

Let me call attention to the fact that this authorizes the validation of that article. . . .

THE CHAIRMAN:<sup>(19)</sup> The Chair is prepared to rule. The gentleman from New York makes a point of order against section 1 of the resolution on the ground that it appropriates money and comes from a committee not authorized to make appropriations.

No appropriation is made in section 1 of the bill.

Section 4 of the joint resolution would authorize an appropriation at a

later date to be appropriated by the appropriate committee.<sup>(20)</sup>

The Chair overrules the point of order.

MR. [FRANK A.] MATHEWS [Jr., of New Jersey]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MATHEWS: The point of order is as follows: As I understand, upon the adoption of this resolution the United States of America authorizes the President to make it, the United States, a member of this Organization whose constitution is set forth in the report of the committee.

Under article IX of that constitution headed "Budget" the following appears:

Sec. 1. The budget shall be administered by the Organization.

2. The General Conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the states members of the Organization—

**20. Sec. 4 stated in part:**

There is hereby authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the Organization as apportioned by the General Conference of the Organization in accordance with article IX of the constitution of the Organization, and such additional sums as may be necessary to pay the expenses of participation by the United States in the activities of the Organization.

**19.** William M. Colmer (Miss.)

And so forth. I contend, Mr. Chairman, that that in effect practically delegates the power of appropriation of this body to an organization or a part of an organization which is not composed of Members of this body and not acting officially. I contend further, therefore, that we have no right constitutionally to so delegate liability for those appropriations or expenditures.

...

MR. [KARL E.] MUNDT [of South Dakota]: May I suggest to the gentleman from New Jersey that the Chair has already ruled on practically an identical point of order.

MR. MATHEWS: That was not the same point.

THE CHAIRMAN: The Chair is prepared to rule. The Chair, in construing a point of order raised by the gentleman from New York (Mr. Taber) on a similar proposition, ruled that it was not an appropriation and, therefore, the point of order did not lie. The Chair calls the attention of the gentleman from New Jersey to the fact that section 4, page 5, is the authorization section of the joint resolution, and that money could not be appropriated until it was authorized by that section.

The point of order is overruled.

### ***Loans From Public Debt Proceeds***

**§ 4.43 A discussion of the nature of an "appropriation" took place in the House when language in a housing bill authorizing the Secretary of the Treasury to use proceeds of public-debt**

**issues for the purpose of making loans was held not to be an appropriation and not in violation of Rule XXI clause 4 (subsequently clause 5).**

On June 27, 1949,<sup>(21)</sup> the House resolved itself into the Committee of the Whole to consider the Housing Act of 1949.<sup>(22)</sup> During the committee's consideration, the following language was read: <sup>(1)</sup>

(e) To obtain funds for loans under this title, the Administrator, on and after July 1, 1949, may, with the approval of the President, issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount not to exceed \$25,000,000. . . .

(f) Notes or other obligations issued by the Administrator under this title shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Administrator, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of such notes or other obligations. The Sec-

21. 95 CONG. REC. 8451, 81st Cong. 1st Sess.

22. H.R. 4009.

1. 95 CONG. REC. 8480, 81st Cong. 1st Sess.

retary of the Treasury is authorized and directed to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

On the next day, Members discussed the effect of such language:<sup>(2)</sup>

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, the point of order I make is that subparagraphs (e) and (f) of section 102 in title I constitute the appropriation of funds from the Federal Treasury, and that the Committee on Banking and Currency is without jurisdiction to report a bill carrying appropriations under clause 4, rule 21, which says that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

This is no casual point of order made as a tactical maneuver in consideration of the bill. I make this point of order because this proposes to expand and

develop a device or mechanism for getting funds out of the Federal Treasury in an unprecedented degree.

The Constitution has said that no money shall be drawn from the Treasury but in consequence of appropriations made by law. It must follow that the mechanism which gets the money out of the Treasury is an appropriation.

I invite the attention of the Chairman to the fact that subparagraph (e) states:

To obtain funds for loans under this title, the Administrator may issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount not to exceed \$25,000,000, which limit on such outstanding amount shall be increased by \$225,000,000 on July 1, 1950, and by further amounts of \$250,000,000 on July 1 in each of the years 1951, 1952, and 1953, respectively—

Within the total authorization of \$1,000,000,000.

Further that subparagraph (f) provides that—

The Secretary of the Treasury is authorized and directed—

And I call particular attention to the use of the words “and directed”—to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended—

And so forth. The way in which this particular language extends this device of giving the Secretary authority to subscribe for notes by some authority

2. *Id.* at pp. 8536–38.

is this: It includes the words "and directed."

In other words, the Secretary of the Treasury has no alternative when the Administrator presents to him some of these securities for purchase but to purchase them. The Secretary of the Treasury is not limited to purchasing them by proceeds from the sale of bonds or securities. He is directed to purchase these notes and obligations issued by the Administrator. That means he might use funds obtained from taxes, that he might use funds obtained through the assignment of miscellaneous receipts to the Treasury, that he might use funds obtained through the proceeds of bonds. . . .

Mr. Chairman, this is not, as I said earlier, a casual point of order; we are here dealing with the fundamental power of the Congress to control appropriations. No such device has ever before, so far as I can find out, been presented to the Congress for getting money in the guise of a legislative bill without its having been considered by the Committee on Appropriations. It is a mandatory extraction of funds from the Public Treasury, and, consequently, constitutes an appropriation and is beyond the authority or the jurisdiction of the Committee on Banking and Currency to report in this bill.

. . .

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, the raising of funds by public debt transaction has been frequently authorized by the Congress: The Export-Import Bank raises funds by that method; the Bretton Woods Agreement, in my recollection, is carried out by that method; the British loan was financed by that method, and the Federal Deposit Insurance Cor-

poration was also financed by that method. It does not seem to me that this is a seasonable objection. This has been the policy of the Congress for years.

Mr. Chairman, this is not raising money to be appropriated for the purposes that ordinary appropriation bills carry. All of this money is to be used as loans.

The gentleman says that in other acts the Secretary of the Treasury is "authorized" but not "directed". I contend that the meaning of "authorized" and "directed" in this act is absolutely the same.

Do you think when you authorize the Secretary of the Treasury to raise funds to carry out a great public purpose it is in his discretion whether he shall raise those funds and that that shall depend on the discretion of the Secretary of the Treasury? I say "authorized" in this sense means "directed." It could not mean anything else, otherwise you would be delegating to an officer of the Government entire discretion as to whether or not great national acts should be carried out and the purposes of Congress should be subserved.

MR. CASE of South Dakota: Mr. Chairman, in most of the acts which the gentleman has suggested, points of order were waived, and I refer to Bretton Woods and some of the other bills. But as to the particular point here in issue, the question whether the words "and directed" have any meaning, if they do not have any meaning why are they there? The present housing act merely authorizes the Secretary of the Treasury to purchase. It does not say "and directed." The very inclu-

sion of the words "and directed" is evidence of the fact they have a special meaning. They create a mandatory extraction of funds from the Public Treasury.

MR. SPENCE: Mr. Chairman, I still contend unless you would make our acts a nullity "authorized" and "directed" have exactly the same meaning when applied to a public official charged with carrying out a great national act. I do not think there can be any reasonable construction that would hold otherwise. . . .

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Chairman, I agree with my friend who has raised the point of order that this is not a casual one, but, on the contrary, is a very sincere one. It presents a new question from a legislative angle to be passed upon in the direct question raised by the point of order.

The gentleman from South Dakota has referred to the Constitution. The Constitution says:

No money shall be drawn from the Treasury but in consequence of appropriations made by law.

The word "appropriations" is used.

The rule referred to, clause 4, rule 21, says:

No bill or resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

You will note the word "appropriations" is used. Now, let us see what "appropriations" means.

I have before me Funk & Wagnalls Standard Dictionary and "appropriations" is defined as follows: To set apart for a particular use. To take for one's own use.

The provisions of this bill are not taking for one's own use, because this is a loan designed purely for loan purposes. It is not a definite appropriation. It is giving authority to utilize for loan purposes and the money comes back into the Treasury of the United States with interest.

Again, the word "appropriations" is defined:

Something, as money, appropriated—

I call particular attention to those words "something, as money, appropriated"—

or set apart, as by a legislature, for a special use.

I repeat "something, as money."

The provision in paragraph (f) that my friend has raised a point of order against relates entirely to loans. As we read section 102 of title I it starts out with loans. Throughout the bill, a number of times, there is reference to loans.

Paragraph (e) says:

To obtain funds for loans under this title.

It is a loan.

The meat of the two paragraphs, as I see it, is this:

Paragraph (f), line 23, page 8, says:

The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of such notes and other obligations.

It seems to me that that is the meat. Certainly, the language there does not amount to an appropriation. It is entirely for loan purposes. . . .

MR. [RALPH E.] CHURCH [of Illinois]: The gentleman has discussed the point—the difference between the word “authorized” and “directed.” Does not the gentleman realize that he is “authorized” to appear on the floor and “authorized” to make statements? The gentleman is not “directed” to. Now, following further, the Committee on Appropriations of this House is “authorized” to do certain things, but the gentleman must realize that the Committee on Appropriations is not “directed” to do certain things. There is a real difference, a constitutional difference between the words “authorized” and “directed.” The gentleman is “authorized” to walk down the street and “authorized” to do many things. But the gentleman would fight for his right not to be “directed” to do what he is “authorized” to do. The gentleman’s argument is farfetched. This is a serious situation.

MR. MCCORMACK: There is nothing the gentleman has said that I can disagree with except that everything the gentleman has said has no application to the matter pending now. The basic question here is whether or not this is an appropriation within the meaning of the rules or money that is going to be utilized for loan purposes and recovered back into the General Treasury. So the gentleman’s observations, as I see it, respecting the gentleman as I do, have no application at all to the basic and pertinent question presented to the Chair by the point of order raised by the gentleman from South Dakota. . . .

MR. [JOHN] PHILLIPS of California: The question has to do with the meaning of “authorized and directed.” Within the past 6 weeks I have had a bill before one of the major committees of this House. The county counsel of my home county raised the question of whether the wording should be “authorized” or “authorized and directed” in four different places in the bill. It was taken up with the attorneys for the Interior Department. The attorneys recognized the distinction between “authorized” and “authorized and directed,” and agreed upon the inclusion in certain instances and not in others. There is a recognized distinction, Mr Chairman.

THE CHAIRMAN: <sup>(3)</sup> The Chair is prepared to rule.

The Chair agrees with the gentleman from South Dakota that the point which has been raised is not a casual point of order. As a matter of fact, as far as the Chair has been able to ascertain, this is the first time a point of order has been raised on this issue as violative of clause 4 of rule XXI.

As the Chair sees the point of order, the issue involved turns on the meaning of the word “appropriation.” “Appropriation,” in its usual and customary interpretation, means taking money out of the Treasury by appropriate legislative language for the support of the general functions of Government. The language before us does not do that. This language authorizes the Secretary of the Treasury to use proceeds of public-debt issues for the purpose of making loans. Under the language, the Treasury of the United

3. Hale Boggs (La.).

States makes advances which will be repaid in full with interest over a period of years without cost to the taxpayers.

Therefore, the Chair rules that this language does not constitute an appropriation, and overrules the point of order. . . .

MR. CASE of South Dakota: Would the Chair hold then that that language restricts the Secretary of the Treasury to using the proceeds of the securities issued under the Second Liberty Bond Act and prevents him from using the proceeds from miscellaneous receipts or tax revenues?

THE CHAIRMAN: The Chair does not have authority to draw that distinction. The Chair is passing on the particular point which has been raised. . . . The Chair can make a distinction between the general funds of the Treasury and money raised for a specific purpose by the issuance of securities. That is the point involved here.

### ***Future Foreign Currency Proceeds From Exports***

**§ 4.44 To a bill reported by the Committee on Foreign Affairs, an amendment earmarking a specified amount of the funds authorized by the bill to be used specifically for the purchase and export of surplus agricultural commodities and providing that future foreign currency proceeds therefrom would be used for the purposes of the act was held not**

### **to be an appropriation in violation of Rule XXI clause 4 (now clause 5).**

On June 29, 1954,<sup>(4)</sup> the Committee of the Whole was considering H.R. 9678, the Mutual Security Act of 1954. An amendment was offered and a point of order raised as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Judd:

Page 29, line 15, strike out all on lines 15 through 23 and insert in lieu thereof the following:

"Sec. 402. Earmarking of funds: Of the funds authorized to be made available pursuant to this act, not less than \$500 million shall be used to finance the purchase and export of surplus agricultural commodities or products thereof produced in the United States and foreign currency proceeds therefrom shall be used for the purposes of this act pursuant to section 104 of the Agricultural Trade and Development Act of 1954."

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(5)</sup> The gentleman will state it.

MR. TABER: Mr. Chairman, I make the . . . point of order that it involves an appropriation of funds, and I call attention to the fact that the language says that these funds that are realized from the sale of these products can be used for a particular purpose. That makes an appropriation out of it.

THE CHAIRMAN: Does the gentleman from Minnesota desire to be heard?

MR. [WALTER H.] JUDD [of Minnesota]: Yes, Mr. Chairman.

4. 100 CONG. REC. 9238, 9239, 83d Cong. 2d Sess.

5. Clarence J. Brown (Ohio).



This is not an appropriation. The total bill authorizes the appropriation of about \$3.4 billion. This section is a limitation or earmarking of funds that may be appropriated under the authorization. It says that of the \$3.4 billion, if and when it is appropriated, not less than \$500 million shall be used for a given purpose. This is language that is almost word for word the same as section 550 of the act last year, except the act last year said not less than \$100 million and not to exceed \$250 million should be used for this purpose of purchasing surplus agricultural commodities to be used as aid instead of dollars. . . .

THE CHAIRMAN: The Chair is prepared to rule.

On a careful reading of the amendment as modified—and I wish to read the wording of it—“of the funds authorized to be made available pursuant to this act not less than,” and so forth—it is the ruling of the Chair that this amendment should be interpreted to mean that unless the appropriation is first authorized, the amendment has no effect whatsoever and therefore the Chair overrules the point of order.

*Parliamentarian's Note:* See Sec. 4.23, *supra*, where language authorizing new use of existing foreign currency proceeds already available for a different purpose under existing law was ruled out as an appropriation.

### ***Reconstituted Area Redevelopment Fund***

#### **§ 4.45 Language in an amendment to a bill reported by the**

**Committee on Banking and Currency repealing the public-debt financing provisions of the Area Redevelopment (revolving) Fund, and, in lieu thereof, authorizing appropriations for a reconstituted Area Redevelopment Fund, was held not to be an appropriation within the purview of Rule XXI clause 4 (subsequently clause 5) where another section of the bill authorized subsequent appropriations for the fund.**

On June 12, 1963,<sup>(6)</sup> the Committee of the Whole was considering H.R. 4996, a bill amending the Area Redevelopment Act. At one point the Clerk read as follows, and a point of order was raised as indicated below:

Sec. 6. (a) Subsection (a) of section 9 of the Area Redevelopment Act is repealed.

(b) Subsection (b) of section 9 of such Act is redesignated as subsection (a), and the first sentence of such subsection as so redesignated is amended to read as follows: “There shall be in the Treasury of the United States an area redevelopment fund (hereinafter referred to as the ‘fund’) which shall be available to the Secretary for the purpose of extending financial assistance under sections 6 and 7 and for repayment of all obligations and expenditures arising therefrom.”. . .

6. 109 CONG. REC. 10721, 10722, 88th Cong. 1st Sess

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(7)</sup> The gentleman from Iowa will state it.

MR. GROSS: Mr. Chairman, I make a point of order against the language on page 5, line 18, beginning with the words "and the first sentence of such subsection as so redesignated is amended to read as follows:". . .

Mr. Chairman, I make the point of order that this constitutes, in fact, an appropriation in a legislative bill

THE CHAIRMAN: Does the gentleman from Texas desire to be heard on the point of order?

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, this just merely restates existing law. It just creates a fund which already exists, really, and the fund will be supplemented by the amount appropriated through regular channels. . . .

THE CHAIRMAN: The Chair would like to inquire of the gentleman whether or not additional appropriations are required for this fund?

MR. PATMAN: Yes, sir; they are required.

THE CHAIRMAN: They are required?

MR. PATMAN: Yes; section 10 says:

Funds appropriated for the purpose of extending financial assistance under sections 6 and 7 shall be deposited in the Area Redevelopment Fund in the Treasury of the United States.

THE CHAIRMAN: Additional legislation would be necessary to appropriate funds. The Chair holds this is an authorization and overrules the point of order.

7. Frank M. Karsten (Mo.).

### *Use of Loan Repayments*

**§ 4.46 Language in an amendment to a bill reported by the Committee on Banking and Currency repealing the public debt financing provisions of the Area Redevelopment Act fund, in lieu thereof authorizing appropriations for a reconstituted fund, and applying receipts from the repayments of loans to the credit of available appropriations was held not to be an appropriation within the purview of Rule XXI clause 4 (subsequently clause 5) upon assurances that such receipts could not be reused without a subsequent appropriation.**

On June 12, 1963,<sup>(8)</sup> during consideration in the Committee of the Whole of the Area Redevelopment Act amendments (H.R. 4996) a point of order was raised against the following language, and proceedings ensued as indicated below:

Sec. 7. Section 11 of the Area Redevelopment Act is amended—

(1) by striking out "\$4,500,000" and inserting in lieu thereof "\$10,000,000"; and

(2) by inserting before the last sentence the following: "The Secretary, in

8. 109 CONG. REC. 10722, 88th Cong. 1st Sess.

his discretion, may require repayment of the assistance provided under this section and prescribe the terms and conditions of such repayment. Receipts from such repayments shall be credited to the appropriation available for assistance under this section which is current at the time of repayment." . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(9)</sup> The gentleman will state it.

MR. GROSS: Mr. Chairman, I make a point of order against the language found on page 6 of the bill, line 23, which reads as follows:

Receipts from such repayments shall be credited to the appropriation available for assistance under this section which is current at the time of repayment.

I again make the point of order that this constitutes in fact an appropriation in a legislative act.

THE CHAIRMAN: Does the gentleman from Texas wish to be heard on the point of order?

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, this concerns repayment and disposal of it after it has been repaid from which it was originally appropriated. I do not believe the gentleman's point of order is well taken.

THE CHAIRMAN: May the Chair inquire whether these funds can be reused?

MR. PATMAN: I am sure they have to be reappropriated. The funds received cannot be reused, they have to be reappropriated.

THE CHAIRMAN: Relying upon that assurance, the Chair overrules the

point of order because additional legislation would be necessary.

### ***Senate Ruling on Public Debt Transaction Financing***

**§ 4.47 The Presiding Officer of the Senate ruled that a provision in a bill authorizing use of proceeds of public debt transactions for financing loans to the Development Loan Fund did not constitute an appropriation in a legislative bill in contravention of Senate Rule XVI.**

On July 1, 1959,<sup>(10)</sup> the following point of order was raised, and the proceedings were as indicated below:

MR. [FRANCIS H.] CASE of South Dakota: Mr. President, I desire to make a point of order regarding the language which appears on page 16, beginning in line 13, and through line 13 on page 17. That part of the bill is section 203; and I make the point of order against it. . . .

The point of order is that that provision constitutes an appropriation, and that an appropriation cannot be made in a legislative bill reported by the Foreign Relations Committee. . . .

I invite the attention of the Chair to the language of the provision itself:

(b) For purposes of the loans provided for in this section, the Sec-

10. 105 CONG. REC. 12435-37, 86th Cong. 1st Sess.

See also § 4.43, *supra*, for a similar ruling under the rules of the House.

9. Frank M. Karsten (Mo.).

retary of the Treasury is authorized to use the proceeds of the sale of any securities issued under the Second Liberty Bond Act as now in force or as hereafter amended, and the purposes for which securities may be issued under the Second Liberty Bond Act are hereby extended to include this purpose. The President shall determine the terms and conditions of any advances or loans made to the Fund pursuant to this section. . . .

The amount of such obligations also may not exceed the limitations specified in section 203(a) of this Act except that, to the extent that assets of the Fund other than capitalization provided pursuant to section 203(a) are available, obligations may be incurred beyond such limitations. . . .

THE PRESIDING OFFICER:<sup>(11)</sup> The Chair has not had an opportunity to study the point of order. After discussion with the Parliamentarian, the Chair believes it may be necessary to examine the precedents in connection with this matter.

The Chair wonders whether the chairman of the Foreign Relations Committee has any comment to make in connection with this matter.

MR. [J. WILLIAM] FULBRIGHT [of Arkansas]: Mr. President, I think the precedents are so clear that the Chair would not need to study the matter. There have been many precedents. The form of this provision is precisely the same as the language used 2 years ago when the Senate voted to approve this very operation of borrowing through the public debt transactions. . . .

THE PRESIDING OFFICER: In view of the precedents of other legislation which has passed this body, including

11. Frank E. Moss (Utah).

revolving funds created thereunder, even though the point of order was not squarely raised before, the Chair feels disposed to follow the precedents, and overrules the point of order.

## § 5. Contingent Fund Expenditures

Money appropriated for the contingent fund of the House is used for such miscellaneous purposes as employees salaries or salary increases, including those of committee investigative personnel; certain allowances<sup>(12)</sup> house-keeping actions<sup>(13)</sup> and the like. Simple House resolutions, which provide for expenditures from the contingent fund, are reported by the Committee on House Administration and called up as privileged.<sup>(14)</sup>

On occasion, a resolution not formally reported by the Committee on House Administration, providing for payment from the contingent fund of salaries of in-

12. On one occasion, expenses incident to a special session of Congress, including mileage for the Vice President, Senators, and Representatives, and payments to pages, were provided for by appropriations made in a joint resolution. See § 8.21, *infra*.

13. See *Procedure in the U.S. House of Representatives*, Ch. 6 §§ 10–13 (4th ed.).

14. See § 5.1, *infra*.

vestigative personnel of standing and select committees for a three months period (pending adoption of annual committee funding resolution), is called up and agreed to by unanimous consent.<sup>(15)</sup>

The Committee on House Administration formerly had authority to fix allowances without subsequent House approval. Such authority, except for cost of living adjustments, was withdrawn on July 1, 1976, by a House resolution thereafter enacted into law. Subsequent House approval is presently required for Committee on House Administration orders fixing allowances beyond the 94th Congress.<sup>(16)</sup>

### ***Privileged Resolution***

#### **§ 5.1 A resolution reported by the Committee on House Administration providing for an expenditure from the contingent fund is called up as privileged.**

On June 16, 1965,<sup>(1)</sup> a resolution<sup>(2)</sup> authorizing each Member

15. See *Procedure in the U.S. House of Representatives* Ch. 25 §4.4 (4th ed.)

16. See *Procedure in the U.S. House of Representatives* Ch. 25 §4.5 (4th ed.)

1. 111 CONG. REC. 13799, 89th Cong. 1st Sess.

2. H. Res. 416.

and the Resident Commissioner to employ a "summer Congressional Intern" and permitting payment from the contingent fund of amounts required to carry out the resolution, was reported by the Committee on House Administration and called up as privileged:

MR. [SAMUEL N.] FRIEDEL [of Maryland]: Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 416, with amendments thereto, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 416

*Resolved*, That (a) notwithstanding any other provision of law, each Member of the House of Representatives and the Resident Commissioner from Puerto Rico are authorized to hire . . . one additional employee. . . . For this purpose each Member of the House of Representatives and the Resident Commissioner from Puerto Rico shall have available for payment to such intern a gross allowance of \$750 . . . payable from the contingent fund of the House until otherwise provided by law.

In response to a parliamentary inquiry, Speaker John W. McCormack, of Massachusetts, indicated that such a report, privileged under Rule XI, may be called up for consideration on the same day reported, and unanimous consent is not required.

*Parliamentarian's Note:* Such reports are now subject to the

three-day layover requirement of Rule XI clause 2(l)(6).

**§ 5.2 A resolution reported by the Committee on House Administration, providing for payment from the contingent fund of additional compensation for certain positions created by House resolution, was called up as privileged.**

On Aug. 5, 1970,<sup>(3)</sup> the following proceedings took place:

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, by direction of the Committee on House Administration, I [call up] a privileged report (Rept. No. 91-1378) on the resolution (H. Res. 1117) relating to the compensation of two positions created by House Resolution 543, 89th Congress, and ask for immediate consideration of the resolution.

The Clerk read the resolution as follows:

H. RES. 1171

*Resolved*, That, until otherwise provided by law, effective as of January 1, 1970, the per annum (gross) rate of compensation (basic compensation plus additional compensation authorized by law) of each of the two positions referred to in House Resolution 543, Eighty-ninth Congress, shall not exceed the annual rate of basic pay for level IV of the Executive Schedule of section 5315 of

title 5, United States Code. The contingent fund of the House of Representatives is made available to carry out the purposes of this resolution.

[The resolution was rejected.]

***Surplus Contingent Funds***

**§ 5.3 The House agreed to a resolution authorizing the transfer of surplus 1960 contingent funds to liquidate 1962 contingent fund obligations of the House.**

On June 21, 1962,<sup>(4)</sup> the following proceedings took place:

MR. [SAMUEL N.] FRIEDEL [of Maryland]: Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Res. 694) authorizing the transfer of certain funds within the contingent fund of the House of Representatives, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That such funds as may be necessary to liquidate the 1962 obligations may be transferred, within the contingent fund of the House of Representatives, from "Miscellaneous Items, 1960", to "Special and Select Committees, 1962".

The resolution was agreed to.

A motion to reconsider was laid on the table.

3. 116 CONG. REC. 27449-51, 91st Cong. 2d Sess.

4. 108 CONG. REC. 11314, 87th Cong. 2d Sess.

See also 109 CONG. REC. 11462, 88th Cong. 1st Sess., June 25, 1963, for a

resolution authorizing transfer of surplus 1961 contingent funds to liquidate 1963 contingent fund obligations of the House.

## B. REPORTING AND CONSIDERATION OF APPROPRIATION BILLS TEXT

### § 6. Generally; Privileged Status

The rules<sup>(5)</sup> give a privileged status to reports on general appropriation bills. Under the rules, the Committee on Appropriations is given “leave to report at any time” on general appropriation bills. But the privilege is subject to the requirement under another rule<sup>(6)</sup> that general appropriation bills not be considered in the House until printed committee hearings and a committee report thereon have been available for the Members for at least three calendar days (excluding Saturdays, Sundays, and legal holidays). Of course, the rule requiring printed hearings and the committee report to have been available for three days may be waived by unanimous consent.<sup>(7)</sup>

5. See Rule XI clause 4(a), *House Rules and Manual* Sec. 726 (1981).

See § 5, *supra*, for discussion of the privileged status of resolutions reported by the Committee on House Administration that provide for expenditures from the contingent fund of the House.

6. Rule XXI clause 6 (subsequently clause 7), *House Rules and Manuals* § 848 (1981).

7. See 108 CONG. REC. 19237, 87th Cong. 2d Sess., Sept. 12, 1962 (proceedings relating to H.R. 13175).

The precedence of appropriation bills is also recognized in provisions relating to the order of business in Committee of the Whole.<sup>(8)</sup> But the usual practice is to consider general appropriation bills under the rule giving privileged status to a motion that the House resolve itself into the Committee of the Whole for the purpose of considering general appropriation bills.<sup>(9)</sup> The motion ordinarily designates the particular bill to be considered.

It should be emphasized that the right of the Committee on Appropriations to report at any time is confined strictly to general appropriation bills, and does not include appropriations for specific purposes or resolutions extending appropriations. An example of measures not considered “general appropriation bills,” and therefore not reported or called up as privileged, is a joint resolution providing continuing appropriations for departments and agencies of

8. See Rule XXIII clause 4, *House Rules and Manual* § 869 (1981).

9. Rule XVI clause 9, *House Rules and Manual* § 802 (1981). Under the rule, the motion to consider general appropriation bills and the motion to consider revenue bills are of equal privilege.

government, to provide funds until the regular appropriation bills are enacted.<sup>(10)</sup> Similarly, a joint resolution providing an appropriation for a single government agency is not a general appropriation bill and is not reported as privileged.<sup>(11)</sup>

Of course, consideration of non-privileged appropriation bills may be made in order by unanimous consent. Thus, a joint resolution continuing appropriations for a fiscal year may be called up as if privileged pursuant to a special order entered into by unanimous consent, even where such joint resolution has been reported pursuant to the rule<sup>(12)</sup> relating to the filing of nonprivileged reports.<sup>(13)</sup> Similarly, by unanimous

consent, the House may make in order the consideration of a resolution providing supplemental appropriations for a single government agency.<sup>(14)</sup>

All bills that make appropriations—in fact all proceedings touching appropriations of money—require consideration first in Committee of the Whole, and a point of order made pursuant to this rule is good at any time before the consideration of a bill has commenced.<sup>(15)</sup>

### *Relative Privilege*

**§ 6.1 The House having agreed that consideration of a general appropriation bill take priority over all business except conference reports, it was held that such agreement gave a higher privilege to the appropriation bill than to consideration of a resolution disapproving reorganization plans of the Presi-**

10. See § 8.9, *infra*.

11. See § 7.4, *infra*; and 111 CONG. REC. 9518, 89th Cong. 1st Sess., May 5, 1965.

The Committee on Appropriations filed as privileged a joint resolution making supplemental appropriations to two diverse departments for the balance of the fiscal year. See *Procedure in the U.S. House of Representatives* Ch. 25 § 1.2 (4th ed.).

12. Rule XIII clause 2, *House Rules and Manual* § 743 (1981).

13. See § 8.8, *infra*. Joint resolutions continuing appropriations pending enactment of regular annual appropriation measures are, by unanimous consent, generally considered “in the House as in Committee of the

Whole,” but are sometimes considered in Committee of the Whole to permit more extensive general debate. See 115 CONG. REC. 31867, 31886, 91st Cong. 1st Sess., Oct. 28, 1969 (H.J. Res. 966).

14. 108 CONG. REC. 1149, 87th Cong. 2d Sess., Jan. 30, 1962.

15. Rule XXIII clause 3, *House Rules and Manual* § 865 (1981).



**dent, business in order under the "21-day rule," and other business**

On May 9, 1950<sup>(16)</sup> the following proceedings took place:

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order that the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of House Resolution 516.

The gentleman from Michigan being on his feet to present this highly privileged motion, the regular order is that he be recognized for that purpose that the motion be entertained and the question put before the House, and my motion is that the House proceed to the consideration of House Resolution 516.

THE SPEAKER PRO TEMPORE:<sup>(17)</sup> That is the resolution disapproving one of the reorganization plans?

MR. HOFFMAN of Michigan: That is right, House Resolution 516 disapproving plan No. 12. . . .

MR. [GEORGE H.] MAHON (of Texas): Mr. Speaker, on April 5, 1960, as shown at page 4835 of the daily Record of that day, the chairman of the Committee on Appropriations, the gentleman from Missouri (Mr. Cannon) asked and received unanimous consent

that the appropriation bill should have the right-of-way over other privileged business under the rules until disposition, with the exception of conference reports. Therefore, I believe the regular order would be to proceed with the further consideration of H.R. 7786. . . .

MR. [JOHN] TABER [of New York]: Under the established rules of practice of the House, when a special order like that is granted, like that which was granted at the request of the gentleman from Missouri (Mr. Cannon), if those in charge of the bill do not present on any occasion a motion to go into Committee of the Whole, it is in order for the Speaker to recognize other Members for other items that are in order on the calendar. That does not deprive the holder of that special order of the right, when those items are disposed of, to move that the bill be considered further in Committee of the Whole. . . .

MR. [ROBERT F.] RICH [of Pennsylvania]: If the 21 resolutions that were presented to the House by the President, a great many of which have been considered by the Committee on Expenditures in the Executive Departments—of which the chairman is a member, and which have been acted on by that committee—are not presented to the House before the twenty-fourth of this month, they become law. The general appropriation bill does not necessarily have to be passed until the 30th of June, but it is necessary that the 21 orders of the President be brought before the House so they can be acted on by the twenty-fourth of this month, and it seems to me that they ought to take precedence over any other bill. . . .

16. 96 CONG. REC. 6720–24, 81st Cong. 2d Sess.

17. John W. McCormack (Mass.).

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER PRO TEMPORE: The Chair will hear the gentleman.

MR. RANKIN: I was going to say that if this is of the highest constitutional privilege it comes ahead of the present legislation.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Michigan makes a point of order, the substance of which is that the motion he desires to make or that someone else should make in relation to the consideration of a disapproving resolution of one of the reorganization plans takes precedence over the appropriation bill insofar as recognition by the Chair is concerned. The gentleman from Michigan raises a very serious question and the Chair feels at this particular time that it is well that he did so.

The question involved is not a constitutional question but one relating to the rules of the House and to the Legislative Reorganization Act of 1949.

. . . The Chair calls attention to the language of paragraph (b) of section 201 of title II of the Reorganization Act of 1949 which reads as follows: "with full recognition of the constitutional right of either House to change such rules so far as relating to procedure in such House at any time in the same manner and to the same extent as in the case of any other rule of such House." . . .

On April 5, the gentleman from Missouri [Mr. Cannon], chairman of the Committee on Appropriations, submitted a unanimous-consent request to the House, which was granted, which

has the force of a rule, and which relates to the rules of the House governing the consideration of the omnibus appropriation bill while it is before the House and, of course, incidentally affecting other legislation. The consent request submitted by the gentleman from Missouri was "that the general appropriation bill for the fiscal year 1951 have right-of-way over all other privileged business under the rules until disposition, with the exception of conference reports."

That request was granted by unanimous consent. On the next day the gentleman from Missouri [Mr. Cannon], in correcting and interpreting the consent request granted on April 5, submitted a further unanimous-consent request.

The daily Record shows, on page 4976, April 6, that the gentleman from Missouri [Mr. Cannon] said:

Mr. Speaker, on page 4835 of the daily Record of yesterday, the first column carrying the special order made by the House last night reads that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was until final disposition. I ask unanimous consent that the Record and Journal be corrected to conform with the proceedings on the floor of the House yesterday.

The Record further shows that the Speaker put the request and there was no objection.

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

We for the first time this year have all the appropriations in one bill. Now, if they drag out consideration under the 5-minute rule beyond the 24th, would that not shut the Congress off

entirely from voting on any of these recommendations? So we do have a constitutional right to consider these propositions without having them smothered in this way.

THE SPEAKER PRO TEMPORE: The Chair will state that the House always has a constitutional right and power to refuse to go into the Committee of the Whole on any motion made by any Member, so that the House is capable of carrying out its will, whatever may be the will of the majority of the House.

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House, if any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will.

MR. [ARTHUR L.] MILLER of Nebraska: Mr. Speaker, a parliamentary inquiry. . . .

I understood the statement of the gentleman from Missouri on April 6 was that the appropriation bill would take precedence over all legislation and special orders until entirely disposed of. Does that include conference reports?

THE SPEAKER PRO TEMPORE: A conference report is in a privileged status in any event.

MR. TABER: They were specifically exempted.

THE SPEAKER PRO TEMPORE: They were specifically exempted. In relation to the observation made by the gentleman from Michigan [Mr. Hoffman] that because other business has been brought up and that therefore constitutes a violation of the unanimous-consent request, the Chair, recognizing the logic of the argument, disagrees with it because that action was done through the sufferance of the Appropriations Committee and, in the opinion of the Chair, does not constitute a violation in any way; therefore does not obviate the meaning and effect of the unanimous-consent request heretofore entered into, and which the Chair has referred to.

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

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. EBERHARTER: I believe I am correct, Mr. Speaker, in stating that since the unanimous-consent request of the gentleman from Missouri [Mr. Cannon] was granted, that the House took up a measure under the new 21-day rule. I would like to know, Mr. Speaker, whether or not that was taken up because of its high privilege or whether it was taken up because of the sufferance of the chairman of the Committee on Appropriations, the gentleman from Missouri [Mr. Cannon].

THE SPEAKER PRO TEMPORE: The present occupant of the Chair, of course, is unable to look into the mind of the Speaker who was presiding at the time. But from the knowledge that the Chair has, which, of course, is

rather close, it was because the chairman of the Committee on Appropriations permitted it to be done through sufferance. In other words, if the chairman of the Committee on Appropriations had insisted on going into the Committee of the Whole House on the State of the Union, and if the present occupant of the chair had been presiding, there is nothing else that could have been done under the unanimous-consent request, in the Chair's opinion, but to recognize the motion.

MR. EBERHARTER: A further parliamentary inquiry, Mr. Speaker. . . .

As I understand the unanimous-consent request of the gentleman from Missouri, it was that the appropriation bill would take preference over any other matters having a high privilege. My understanding of the new 21-day rule is that that is a matter of the highest privilege, and therefore I am wondering whether the same rule applies.

THE SPEAKER PRO TEMPORE: The gentleman is correct, but that rule can be changed just like any other rule of the House can be changed. . . .

The unanimous-consent request . . . appears in the Record of April 6, that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was "until final disposition."

### ***House Determines Question of Consideration***

#### **§ 6.2 An automatic roll call was had on the motion to go into the Committee of the Whole to consider an appropriation**

#### **bill after a motion to adjourn was rejected.**

On Feb. 14, 1946,<sup>(18)</sup> a Member addressed Speaker pro tempore John J. Sparkman, of Alabama, as follows, and proceedings ensued as indicated below:

MR. [LOUIS T.] LUDLOW [of Indiana]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5452) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1947, and for other purposes.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Indiana.

The question was taken; and on a division (demanded by Mr. Cochran) there were—ayes 103, no 1.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count. (After counting.) One hundred and seventy-four Members present; not a quorum.

MR. [COMPTON I.] WHITE [of Idaho]: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. White) there were—ayes 31, noes 103.

So the motion was rejected.

18. 92 CONG. REC. 1324, 79th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Indiana [Mr. Ludlow].

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 243, nays 16, not voting 171.

## § 7. Nonprivileged Appropriations—“Continuing” Appropriations

The right of the Committee on Appropriations to report at any time is confined strictly to general appropriation bills.<sup>(19)</sup> This section discusses the consideration of appropriations not falling within the category of general appropriation bills. For example, joint resolutions continuing appropriations pending enactment of general appropriation bills for the ensuing fiscal year are not “general” appropriation bills and therefore are not reported or called up as privileged.<sup>(20)</sup> Similarly, supplemental

appropriations for a single agency or department of government do not comprise a “general” appropriation bill, though bills making supplemental appropriations for diverse agencies are considered general appropriation bills.<sup>(1)</sup>

### *Use of Continuing Appropriations*

**§ 7.1 Where appropriations for certain operations of the Federal Government have remained unprovided for at the beginning of a fiscal year, through the failure of enactment of the supply bills customarily providing for such operations, a bill to extend appropriations for a limited time period for the same operations as those previously provided for, and under the same conditions, restrictions, and limitations has been considered by unanimous consent.**

On June 30, 1937,<sup>(2)</sup> the following actions took place in the

19. See the discussion at the beginning of § 6, *supra*; and the precedents in this section.

20. See *Procedure in the U.S. House of Representatives* Ch. 25 § 2.2 (4th ed.). See also 8 Cannon's Precedents § 2282, *et seq.* In 1981, rule XI clause 4, was amended to allow con-

tinuing appropriation bills to be reported as privileged after September 15 (H. Res. 5, 97th Cong.). Precedents arising under this new rule will appear in later volumes.

1. See § 7.4, *infra*.

2. 81 CONG. REC. 6611, 6612, 75th Cong. 1st Sess.

House prior to passage of H.R. 7726:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I call up . . . H.R. 7726 . . . and ask unanimous consent that the bill may be considered in the House as in Committee of the Whole.

The Clerk read the title of the bill.

MR. [JOHN] TABER [of New York]: Mr. Speaker, reserving the right to object, as I understand it, the Senate has adjourned until tomorrow, so that it is absolutely impossible to have all the appropriation bills passed before the 1st of July. I have never known of this kind of a situation arising before.

THE SPEAKER: <sup>(3)</sup> Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That for defraying during the first half of the month of July 1937 all expenses of the necessary operations of the Federal Government, which, on July 1, 1937, remain unprovided with appropriations through the failure of enactment on or before such date of the supply bills customarily providing for such operations, there are hereby extended for and during such period all appropriations available for obligation for such expenses during the fiscal year ending June 30, 1937, in the same detail and under the same conditions, restrictions, and limitations as such appropriations were provided for on account of such fiscal year. . . .

MR. CANNON of Missouri: Mr. Speaker, the fiscal year ends at midnight tonight, and all departments for which supply bills have not been enacted by

that time are without authority to operate. They can spend no money; they cannot enter into contracts; they cannot employ assistants, rent quarters, buy supplies, or legally transact business of any character.

All of the supply bills have been enacted with the exception of two War Department bills and the Interior bill.

It is our hope that they will be ready, in the next day or two, but in the meantime, in order to provide for the maintenance of the War Department and the Interior Department, it is necessary to pass a continuing resolution.

This is the usual bill, prepared in the regular form, and has been submitted to, and approved by, the Comptroller and the Director of the Budget.

### ***Continuing Appropriations Not Privileged***

**§ 7.2 A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted, is not a "general appropriation bill," and is not reported as privileged.**

Whereas general appropriation bills are normally called up as privileged, consideration of joint resolutions continuing appropriations is usually made in order by unanimous consent, since such resolutions are not reported as privileged. The following pro-

3. William B. Bankhead (Ala.).

ceedings<sup>(4)</sup> are illustrative of the manner in which bills providing for continuing appropriations for departments or agencies of government are made in order for consideration:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, September 27, or any day thereafter, for the House to consider a joint resolution making continuing appropriations.

THE SPEAKER:<sup>(5)</sup> Is there objection to the request of the gentleman from Texas?

MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, reserving the right to object, I wish to address a parliamentary inquiry to the Chair.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BOW: Mr. Speaker, the parliamentary inquiry is this: Is a continuing resolution subject to amendment when it is brought onto the floor of the House, if the amendment is germane?

THE SPEAKER: The Chair will state that any germane amendment will be in order. It would have to be a germane amendment.

MR. BOW: I thank the Speaker, and I withdraw my reservation of objection.

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

4. See 113 CONG. REC. 26370, 90th Cong. 1st Sess., Sept. 21, 1967. See also 8 Cannon's Precedents §§2282 et seq.

5. John W. McCormack (Mass.).

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, further reserving the right to object, I would assume the Speaker could add to that the statement: "If the gentleman is recognized for the purpose of offering an amendment."

Mr. Speaker, as a parliamentary inquiry is that not correct? . . .

THE SPEAKER: The Chair will state that the question answers itself. The answer would be yes, subject to the right of recognition, it is a question within the discretion of the Speaker. . . .

MR. MAHON: Mr. Speaker, this is the third continuing resolution to be considered by the House this year.

I would also say in this case, as in former cases, that the continuing resolution would be considered in the House under the 5-minute rule, and I assume any relevant amendment could be offered. . . .

MR. GROSS: . . . I assume the continuing resolution is for a month or is it for a longer period?

MR. MAHON: It would probably be for 1 month. The committee meets next week to consider the matter. We are pushing to get our bills through, but there are three appropriation bills which we have not been able to report. One of them is military construction; another is foreign assistance; both of these are awaiting authorization; another is the final supplemental which will include the poverty program for which authorization legislation has not been considered. There is other legislation to be worked on before the supplemental appropriation bill can be reported. . . .

MR. GROSS: Mr. Speaker, in view of the fact that the gentleman says the 5-

minute rule will prevail and that any germane amendments will be in order to the continuing resolution, I withdraw my reservation of objection.

THE SPEAKER: Is there objection to the request of the gentleman from Texas [Mr. Mahon]?

There was no objection.

### ***Appropriation for Specific Purpose***

**§ 7.3 A joint resolution making an appropriation to a department for a specific purpose is not a “general” appropriation bill within the meaning of Rule XI clause 22 [now clause 4(a)] and is therefore not privileged for consideration when reported by the Committee on Appropriations. For this reason the Committee on Rules may provide for the immediate consideration of a special bill reported from the Committee on Appropriations.**

On Aug. 4, 1971,<sup>(6)</sup> the following proceedings took place in the House:

MR. [B. F.] SISK [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up [House Resolution 577] and ask for its immediate consideration.

The Clerk read the resolution, as follows:

6. 117 CONG. REC. 29384, 92d Cong. 1st Sess.

### **H. RES. 577**

*Resolved*, That immediately 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 joint resolution (H.J. Res. 833) making an appropriation for the Department of Labor for the fiscal year 1972, and for other purposes. . . .

THE SPEAKER:<sup>(7)</sup> The gentleman from California (Mr. Sisk) is recognized for 1 hour.

MR. SISK: . . . Mr. Speaker, House Resolution 577 provides an open rule with 1 hour of debate on House Joint Resolution 833, which implements the emergency assistance Employment Act of 1971.

House Joint Resolution 833, being for a single purpose, is not regarded as a general appropriation bill. For this reason it was necessary to grant a rule providing for its consideration.

### ***Supplemental Appropriations***

**§ 7.4 A joint resolution making a supplemental appropriation for a single department of the government is not a “general appropriation bill,” and not reported as privileged, and is therefore brought up for consideration in a different manner.**

On Jan. 30, 1962,<sup>(8)</sup> a joint resolution was made in order by unanimous consent, as follows:

7. Carl Albert (Okla.).

8. 108 CONG. REC. 1149, 87th Cong. 2d Sess.



MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that a joint resolution providing appropriations for the Veterans' Administration may be in order for consideration tomorrow.

THE SPEAKER:<sup>(9)</sup> Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

On the next day,<sup>(10)</sup> proceedings were as indicated below:

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, in accordance with the unanimous-consent agreement of yesterday, I call up the joint resolution (H.J. Res. 612) making supplemental appropriations for the Veterans' Administration for the fiscal year ending June 30, 1962, and for other purposes, and ask unanimous consent that it be considered in the House as in Committee of the Whole.

The Clerk read the title of the joint resolution.

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

The reference of the joint resolution to the Union Calendar was carried in the Record as follows:

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

MR. THOMAS: Committee on Appropriations. House Joint Resolution 612. Joint resolution making supplemental

appropriations for the Veterans' Administration for the fiscal year ending June 30, 1962, and for other purposes; without amendment (Rept. No. 1294). Referred to the Committee of the Whole House on the State of the Union.<sup>(11)</sup>

### ***Requests for Supplemental Appropriations***

**§ 7.5 The House has given unanimous consent to make in order "tomorrow, or on a subsequent day this week," consideration of a joint resolution providing supplemental appropriations for the Department of Defense, pursuant to a message from the President.**

On May 4, 1965,<sup>(12)</sup> the following proceedings occurred in the House:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order tomorrow, or on a subsequent day this week, to consider a House joint resolution making

**11.** Note: Proposals for supplemental appropriations, normally requested by a communication from the President (31 USC §14) are sometimes requested by message. The usual practice is for the President to transmit letters requesting such appropriations to the Speaker, who refers them to the Committee on Appropriations and orders them printed.

**12.** 111 CONG. REC. 9390, 89th Cong. 1st Sess.

**9.** John W. McCormack (Mass.).

**10.** 108 CONG. REC. 1352, 1385, 87th Cong. 2d Sess, Jan. 31, 1962.

a supplemental appropriation for the Department of Defense.

THE SPEAKER:<sup>(13)</sup> Is there objection to the request of the gentleman from Texas?

MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Speaker, reserving the right to object, it is my understanding that the message from the President of the United States which has been just submitted will satisfy the Budget and Accounting Act as far as a budget estimate is concerned.

MR. MAHON: Mr. Speaker, if the gentleman will yield, that is certainly my opinion, and I am sure the gentleman is correct. This is a request for \$700 million by the President. It follows one of the procedures used by the Executive in submitting budget estimates and I consider this, and I am sure the gentleman does, a budget request from the President.

MR. LAIRD: I would like to state to the gentleman from Texas [Mr. Mahon] that it was my understanding yesterday that before we considered this we would have a budget estimate. I wholeheartedly support the principle of following the regular procedure in seeing that these funds are appropriated, and if this satisfies the Budget and Accounting Act, I certainly would have no objection to its being considered either tomorrow or the next day.

Mr. Speaker, I withdraw my reservation of objection.

### ***Bill Reducing Appropriations***

#### **§ 7.6 A bill reported from the Committee on Appropriations**

13. John W. McCormack (Mass.).

**tions reducing certain appropriations and contract authorizations available for fiscal 1946 was held not to be a general appropriation bill and a germane amendment rescinding appropriations was permitted.**

On Oct. 19, 1945,<sup>(14)</sup> a bill<sup>(15)</sup> as described above was under consideration. The bill contained a paragraph appropriating money for grants to states for unemployment compensation benefits and related expenses. During consideration of the bill, an amendment was offered, and a point of order made against the amendment. During the ensuing debate on a point of order, a question arose as to the nature of the bill. The proceedings were as follows:

The Clerk read as follows: . . .

#### SOCIAL SECURITY BOARD

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1946, for grants to States for administration of unemployment compensation and employment service facilities operated in conjunction therewith, as authorized in title III of the Social Security Act, approved August 14, 1935, as amended, \$30,000,000, which shall be in addition to the amounts appropriated for such purposes in title II

14. 91 CONG. REC. 9851, 79th Cong. 1st Sess.

15. H.R. 4407.

of the Labor-Federal Security Appropriation Act, 1946.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCormack: On page 8, line 10, after the period, strike out lines 11 through 20 and insert the following:

"On July 1, 1946, any unobligated balance of the appropriation made in the first paragraph under the heading 'Employment Office Facilities and Services' in title VII of the Labor-Federal Appropriation Act, 1946, shall be carried to the surplus fund and covered into the Treasury, and after June 30, 1946, appropriations shall be made only for grants to States for administration of unemployment compensation and employment service facilities as authorized in title III of the Social Security Act, approved August 11, 1935, as amended, and in the act of June 6, 1933, as amended, known as the Wagner-Peyser Act." . . .

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, I make the point of order that the amendment is not germane, that it is legislative in character.

THE CHAIRMAN: <sup>(16)</sup> In the opinion of the Chair, the amendment is obviously germane. It relates to the same subject as specified in the bill.

MR. [FRANCIS H.] CASE of [South Dakota]: Mr. Chairman, I make an additional point of order. If I understood the amendment correctly, it makes an appropriation. Has this bill not been regarded as a legislative bill?

THE CHAIRMAN: The paragraph under consideration makes an appropriation of \$30,000,000.

MR. [JOHN] TABER [of New York]: Mr. Chairman, this, to my mind, is the situation: The amendment is a rescission. The paragraph which is made in order under the rule is an appropriation; therefore the amendment is not in order.

THE CHAIRMAN: In the opinion of the Chair, the amendment offered is germane to the paragraph which deals with appropriations for this purpose. The amendment offered also deals with appropriations for the same purpose. In the opinion of the Chair the amendment offered by the gentleman from Massachusetts is clearly germane and the Chair overrules the point of order. . . .

MR. CASE of South Dakota: Has the Chair ruled at any time whether this is an appropriation bill or a legislative bill?

THE CHAIRMAN: The Chair does not have to rule upon that question. This is a question with reference to rescission of funds and incidentally involves appropriations, as does this particular paragraph. The Chair, in a bill of this character, which is not a general appropriation bill, is simply called upon to pass upon the question of germaneness. . . .

MR. CASE of South Dakota: I do not question the germaneness, but I heard the bill referred to as a legislative bill, and if it is interpreted as a legislative bill, the amendment making an appropriation, of course, would not be in order.

THE CHAIRMAN: This certainly is not a general appropriation bill but a bill with reference to rescission of appropriations. The only question which could occur from a parliamentary

16. Fritz G. Lanham (Tex.).

standpoint would be the question of germaneness. . . . The Chair overruled the point of order. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: As a matter of fact, the rule waiving points of order would apply to any point of order that an amendment was legislation on an appropriation bill.

THE CHAIRMAN: The Chair is not at all passing upon that question. . . .

MR. CASE of South Dakota: Mr. Chairman, since that question has been raised, may we have a ruling on the question whether or not the rule waives points of order as against amendments or merely waives points of order against the contents of the bill?

THE CHAIRMAN: The Chair is called upon to rule only upon the point of order made and cannot rule upon other points of order not pertinent to the pending amendment. The Chair has overruled the point of order.<sup>(17)</sup>

## § 8. Consideration Made in Order by Special Rule or Unanimous Consent

### *Special Orders*

#### § 8.1 The form of a modified closed rule reported from the

17. *Parliamentarian's Note*: A special rule (see 91 CONG. REC. 9813, 79th Cong. 1st Sess., Oct. 18, 1945) had provided that the above bill be considered for amendment by appropriation titles. Appropriation bills are, of course, generally read for amendment by paragraphs. See §§ 11.8–11.10, *infra*.

### **Committee on Rules making in order consideration of a joint resolution providing temporary appropriations, fixing debate, and limiting amendments to those offered by direction of the Committee on Appropriations.**

On June 28, 1951,<sup>(18)</sup> a resolution was called up as follows:

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, I call up House Resolution 287 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That immediately 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 joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes. That after general debate, which shall be confined to the joint resolution and continue not to exceed 3 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be read for amendment. No amendment shall be in order to said joint resolution except amendments offered by the direction of the Committee on Appropriations. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the pre-

18. 97 CONG. REC. 7408, 82d Cong. 1st Sess.

vious questions shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

**§ 8.2 The form of a resolution providing for consideration of a general appropriation bill and waiving points of order against the bill or any of the provisions contained therein, excepting a specific paragraph, is set out below.**

On Apr. 7, 1949,<sup>(1)</sup> the following resolution was read:

*Resolved*, That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, 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. 4046) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1949, and for other purposes, and all points of order against the bill or any of the provisions contained therein are hereby waived excepting the provision appearing on page 19, lines 18 to 21, inclusive, in the paragraph under the heading "General Provisions." That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read

1. 95 CONG. REC. 4113, 81st Cong. 1st Sess.

for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same 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.

***Deficiency Appropriations***

**§ 8.3 An illustrative resolution, making in order consideration of the first deficiency appropriation bill of 1949, notwithstanding the requirement that committee reports and hearings on appropriation bills be made available three calendar days before consideration, is set out below.**

On Feb. 15, 1949,<sup>(2)</sup> a resolution was called up as follows:

MR. [ADOPLH J.] SABATH [of Illinois]: Mr. Speaker, I call up House Resolution 99 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

2. 95 CONG. REC. 1214, 81st Cong. 1st Sess. Under §139(a) of the Legislative Reorganization Act of 1946, committee reports and hearings were required to be made available three calendar days before general appropriation bills were to be considered. See Rule XXI clause 7, *House Rules and Manual* §848 (1981)

*Resolved*, That, notwithstanding any rule of the House to the contrary, it shall be in order on Tuesday, February 15, 1949, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2632) making appropriations to supply urgent deficiencies for the fiscal year 1949, and for other purposes, and all points of order against the bill or any of the provisions contained therein are hereby waived. That after general debate which shall be confined to the bill and continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same 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.

**§ 8.4 Pursuant to a special order previously agreed to, a joint resolution continuing appropriations has been called up as if privileged and considered in the House as in the Committee of the Whole.**

On June 24, 1969,<sup>(3)</sup> the following proceedings took place in the House:

3. 115 CONG. REC. 17015-17, 91st Cong. 1st Sess. See also 109 CONG. REC. 20361, 20362, 88th Cong. 1st Sess., Oct. 28, 1963

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, pursuant to the order of the House of June 19, 1969, I call up House Joint Resolution 790, making continuing appropriations for the fiscal year 1970 and for other purposes, and ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution

THE SPEAKER: <sup>(4)</sup> Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution.

***Special Order Rejected***

**§ 8.5 The House has rejected a resolution providing for consideration of a joint resolution continuing appropriations.**

On Oct. 1, 1964,<sup>(5)</sup> a Member called up a resolution as follows:

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 892, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That immediately 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 consider-

4. John W. McCormack (Mass.)

5. 110 CONG. REC. 23361, 23363, 23364, 88th Cong. 2d Sess.

ation of the joint resolution (H.J. Res. 1183), making continuing appropriations for the fiscal year 1965, and for other purposes. That after general debate, which shall be confined to the joint resolution and continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be read for amendment. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit. . . .

MR. SMITH of Virginia: Mr. Speaker, I move the previous question

The previous question was ordered

THE SPEAKER PRO TEMPORE:<sup>(6)</sup> The question is on the resolution.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 160, nays 193, not voting 78. . . .

So the resolution was rejected.<sup>(7)</sup>

### ***Debate on Special Orders***

#### **§ 8.6 Rejection of the previous question on a special rule**

6. Carl Albert (Okla.).

7. Note: A prior continuing resolution had expired, and the chairman of the Committee on Appropriations had requested a special rule from the Committee on Rules for consideration of a resolution to extend the continuing resolution.

**was sought for purposes of opening the special rule to amendment and further debate.**

On Oct. 3, 1967,<sup>(8)</sup> a simple resolution was called up providing for consideration of a joint resolution continuing certain appropriations. It was desired by some Members to vote down the previous question on the special rule, thereby opening it for amendment and debate.<sup>(9)</sup> The following proceedings took place during consideration of the special rule:

MR. [WILLIAM H.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 938 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 938

*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 joint resolution (H.J. Res. 853) making continuing appropriations for the fiscal year 1968, and for other purposes. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and con-

8. 113 CONG. REC. 27644, 27652, 90th Cong. 1st Sess.

9. For discussion of special rules and their consideration, generally, see Ch. 21, *supra*.

trolled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be read for amendment. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendment as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER:<sup>(10)</sup> The gentleman from Mississippi is recognized.

MR. COLMER: . . . Mr. Speaker, I move the previous question.

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

MR. [H. ALLEN] SMITH [of California]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered

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

THE SPEAKER: The gentleman will state it.

MR. GERALD R. FORD: If the previous question is rejected, then the rule will be open to amendment and there will be debate on any amendments to the rule. Is that correct?

THE SPEAKER: Of course, the gentleman's question answers itself. But the answer, specifically and directly, is "Yes."

MR. GERALD R. FORD: I thank the Speaker

The question was taken; and there were—yeas 213, nays 205, not voting 14. . . .

So the previous question was ordered. . . .

10. John W. McCormack (Mass.).

THE SPEAKER: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

### ***Consideration by Unanimous Consent***

#### **§ 8.7 Pursuant to unanimous consent previously obtained, a joint resolution continuing appropriations (or making a special supplemental appropriation) may be called up as if privileged and considered in the House as in the Committee of the Whole**

On Aug. 18, 1964,<sup>(11)</sup> the following proceedings occurred in the House:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, pursuant to the unanimous-consent agreement obtained yesterday, I call up the joint resolution (H.J. Res. 1160) making continuing appropriations for the fiscal year 1965, and for other purposes, and ask unanimous consent that it be considered in the House as in the Committee of the Whole.

11. 110 CONG. REC. 20055, 88th Cong. 2d Sess.

See also 116 CONG. REC. 21239, 91st Cong. 2d Sess., June 24, 1970 [H.J. Res. 1264]; 115 CONG. REC. 17015-17, 91st Cong. 1st Sess., June 24, 1969 [H.J. Res. 790]; 111 CONG. REC. 26881, 89th Cong. 1st Sess., Oct. 13, 1965; and 111 CONG. REC. 25342, 89th Cong. 1st Sess., Sept. 28, 1965.



The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of June 29, 1964 (Public Law 88-325), is hereby amended by striking out "August 31, 1964" and inserting in lieu thereof "September 30, 1964".*

THE SPEAKER:<sup>(12)</sup> Is there objection to the request of the gentleman from Texas?

There was no objection.

MR. MAHON: Mr. Speaker, I move to strike out the last word.

On Mar. 25, 1969,<sup>(13)</sup> the following proceedings occurred in the House with respect to a joint resolution making a supplemental appropriation:

MR. MAHON: Mr. Speaker, pursuant to the unanimous-consent agreement on yesterday, I call up House Joint Resolution 584, making a supplemental appropriation for the fiscal year ending June 30, 1969, and for other purposes, and ask unanimous consent that the joint resolution be considered in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

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

12. John W. McCormack (Mass.).

13. 115 CONG. REC. 7378, 7383, 91st Cong. 1st Sess.

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 584

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated out of any money in the Treasury not otherwise appropriated, to supply a supplemental appropriation for the fiscal year ending June 30, 1969, and for other purposes; namely:*

DEPARTMENT OF AGRICULTURE

*Commodity Credit Corporation*

For partial restoration of capital impairment of the Commodity Credit Corporation for costs heretofore incurred, \$1,000,000,000.

**§ 8.8 Parliamentarian's Note: A joint resolution continuing appropriations for a fiscal year may be called up as if privileged pursuant to a previous order entered into by unanimous consent, although it had been reported pursuant to Rule XIII clause 2 as nonprivileged by filing in the hopper.**

Procedures like those described above took place on June 28, 1965,<sup>(14)</sup> with respect to a joint resolution making continuing appropriations for fiscal 1966:

MR. [GEORGE H.] MAHON [OF TEXAS]: Mr. Speaker, I call up House Joint

14. See 111 CONG. REC. 14846-50, 89th Cong. 1st Sess.

Resolution 553 making continuing appropriations for the fiscal year 1966, and for other purposes, and I ask unanimous consent that it be considered in the House as in the Committee of the Whole House on the State of the Union.

The Clerk read the House joint resolution as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums is appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1966, namely: . . .*

THE SPEAKER:<sup>(15)</sup> Is there objection to the request of the gentleman from Texas?

There was no objection. . . .

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Speaker, I move to strike out the last word. . . .

THE SPEAKER: The question is on the joint resolution.

The joint resolution was agreed to.

A motion to reconsider was laid on the table.

### ***Consideration on Specified Day***

#### **§ 8.9 A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the reg-**

15. John W. McCormack (Mass.).

**ular appropriation bills are enacted, is not a “general appropriation bill,” and not called up as privileged, but a unanimous-consent request may be granted that it be in order for the House to consider such a resolution on a specified day.**

On Sept. 21, 1967,<sup>(16)</sup> Mr. George H. Mahon, of Texas, made the following unanimous-consent request, which was granted:

Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, September 27, or any day thereafter, for the House to consider a joint resolution making continuing appropriations.

#### **§ 8.10 Unanimous consent of the House has been obtained on one day to make in order on the following day consideration of a joint resolution providing for continuing appropriations.**

On July 25, 1962,<sup>(1)</sup> the following unanimous-consent request was made and agreed to:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous consent that it may be in order tomorrow to take up for consideration a House joint resolution to provide con-

16. 113 CONG. REC. 26370, 90th Cong. 1st Sess.

1. 108 CONG. REC. 14731, 87th Cong. 2d Sess.

tinuing appropriations for the month of August.

THE SPEAKER: <sup>(2)</sup> Is there objection to the request of the gentleman from Missouri?

There was no objection.

**§ 8.11 Consideration of a bill making appropriations for a single agency of government for the fiscal year was, by unanimous consent, made in order on a designated day, or any day thereafter.**

On Aug. 15, 1967,<sup>(3)</sup> the following exchange took place:

MR. [JOSEPH L.] EVINS [of Tennessee]: Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday next or any day thereafter for the House to consider the National Aeronautics and Space Administration appropriation bill for 1968.

THE SPEAKER PRO TEMPORE: <sup>(4)</sup> Is there objection to the request of the gentleman from Tennessee?

There was no objection.

**§ 8.12 A unanimous-consent request has been granted making in order, on a specified day or on any day subsequent thereto, consideration of a joint resolution continuing appropriations.**

2. John W. McCormack (Mass.).

3. 113 CONG. REC. 22678, 90th Cong. 1st Sess.

4. Carl Albert (Okla.).

On Aug. 21, 1967,<sup>(5)</sup> the following proceedings took place:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it be in order on Thursday, August 24, or any subsequent day, to consider a joint resolution making continuing appropriations for the month of September.

THE SPEAKER: <sup>(6)</sup> Is there objection to the request of the gentleman from Texas?

There was no objection.

**§ 8.13 Consideration of a supplemental appropriation bill, providing funds for a single government agency, was made in order on a designated day by unanimous consent of the House.**

On Mar. 24, 1969,<sup>(7)</sup> a unanimous-consent request was made as follows:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday, March 25, for the House to consider a House joint resolution making appropriations for the Commodity Credit Corporation.

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

5. 113 CONG. REC. 23279, 90th Cong. 1st Sess.

6. John W. McCormack (Mass.).

7. 115 CONG. REC. 7147, 91st Cong. 1st Sess. See also 109 CONG. REC. 23971, 88th Cong. 1st Sess., Dec. 10, 1963 (foreign aid appropriation bill).

8. John W. McCormack (Mass.).

There was no objection

***Special Order Superseded***

**§ 8.14 Consideration of a supplemental appropriation bill was made in order, by unanimous consent, on a day certain, even though the House had earlier agreed to a special order establishing a different date for taking up the bill.**

On Oct. 11, 1965,<sup>(9)</sup> the following exchange took place:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Thursday, October 14, to consider the supplemental appropriation bill for 1966.

THE SPEAKER:<sup>(10)</sup> Is there objection to the request of the gentleman from Texas?

There was no objection.<sup>(11)</sup>

***Reports Not Available for Three Days***

**§ 8.15 General debate on two general appropriation bills was made in order on a day certain during the following week by unanimous consent, although reports on those**

9. 111 CONG. REC. 26528, 89th Cong. 1st Sess.

10. John W. McCormack (Mass.).

11. Note: The House had, on Oct. 7, agreed to take up this bill on Oct. 15.

**bills would not be available for the three days required by the rule.**

On June 15, 1972,<sup>(12)</sup> the following proceedings occurred in the House:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order in the House on Tuesday next— clause 6 of rule XXI to the contrary notwithstanding—to have general debate only on the bill making appropriations for public works for water and power development, the Atomic Energy Commission, and certain other agencies for the fiscal year ending June 30, 1973, and to have general debate only on the bill making appropriations for the Treasury Department, the Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1973.

THE SPEAKER:<sup>(13)</sup> Is there objection to the request of the gentleman from Texas?

There was no objection.

***Consideration Within Same Week***

**§ 8.16 The House has given unanimous consent making in order “on any day later this week” consideration of a joint resolution continuing appropriations.**

12. 118 CONG. REC. 21150, 92d Cong. 2d Sess. See also 94 CONG. REC. 2844, 80th Cong. 2d Sess., Mar. 15, 1948 (agriculture appropriations bill).

13. Carl Albert (Okla.).

On Aug. 24, 1965,<sup>(14)</sup> a unanimous-consent request was made and agreed to as follows:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on any day later this week to consider a House joint resolution making continuing appropriations for the month of September.

THE SPEAKER:<sup>(15)</sup> Is there objection to the request of the gentleman from Texas? . . .

There was no objection.

**§ 8.17 The unanimous consent of the House has been obtained to make it in order to call up at any time during the week a joint resolution providing continuing appropriations for departments and agencies of government where the regular appropriation bills had not been passed for the fiscal year.**

On June 22, 1962,<sup>(16)</sup> the following proceedings took place:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous consent that it may be in order any time next week to call up a joint resolution to provide continuing appropriations for the various Government departments and agencies for the fiscal year beginning July 1.

14. 111 CONG. REC. 21545, 89th Cong. 1st Sess.
15. John W. McCormack (Mass.).
16. 108 CONG. REC. 11410, 87th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE:<sup>(1)</sup> Is there objection to the request of the gentleman from Missouri? . . .

There was no objection.

### *During Following Week*

**§ 8.18 The House has given its consent to make in order consideration during the following week of a joint resolution providing for continuing appropriations**

On June 20, 1963,<sup>(2)</sup> the following exchange took place:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous consent that it may be in order during the coming week to consider a joint resolution providing continuing appropriations.

THE SPEAKER:<sup>(3)</sup> Is there objection to the request of the gentleman from Missouri?

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object, what is the nature of the continuing resolution?

MR. CANNON: I will say to the distinguished gentleman from Iowa it is the stereotyped continuing resolution such as has been presented, I am sorry to say, every year for a number of years, due to our failure to get all of the appropriation bills through before the

1. Carl Albert (Okla.).
2. 109 CONG. REC. 11236, 88th Cong. 1st Sess. See also 115 CONG. REC. 16630, 16631, 91st Cong. 1st Sess., June 19, 1969.
3. John W. McCormack (Mass.).

end of the fiscal year. It follows in general the language of every previous continuing resolution.

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

There was no objection.

### ***Consideration During Current Month***

#### **§ 8.19 Consideration of a joint resolution providing continuing appropriations was made in order, by unanimous consent, on any day during the current month**

On June 20, 1967,<sup>(4)</sup> the following proceedings took place in the House:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Monday, June 26, or any succeeding day in June, to consider a joint resolution making continuing appropriations.

THE SPEAKER:<sup>(5)</sup> Is there objection to the request of the gentleman from Texas?

There was no objection.

### ***At Any Time***

#### **§ 8.20 By unanimous consent, a House joint resolution continuing certain appropriations for a department of the**

4. 113 CONG. REC. 16420, 90th Cong. 1st Sess.

5. John W. McCormack (Mass.).

**government has been made in order for consideration at any time.**

On Oct. 11, 1962,<sup>(6)</sup> a Member addressed Speaker John W. McCormack, of Massachusetts, as follows, and proceedings ensued as indicated below:

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, by direction of the Committee on Appropriations I submit a report (Rept. No. 2551) on the joint resolution (H.J. Res. 903) making continuing appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1963, and for other purposes and ask unanimous consent that it may be taken up at any time

THE SPEAKER: The Clerk will report the joint resolution.

The Clerk read as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate and other revenues, receipts, and funds, such amounts as may be necessary for continuing projects or activities which were conducted in the fiscal year 1962 by the Department of Agriculture. . . .

THE SPEAKER: The joint resolution is referred to the Union Calendar and ordered to be printed.

Is there objection to the request of the gentleman from Mississippi [Mr. Whitten] that it be in order to consider the joint resolution at any time? . . .

6. 108 CONG. REC. 23206, 23207, 87th Cong. 2d Sess.

There was no objection.

***Immediate Consideration  
When Introduced***

**§ 8.21 A joint resolution providing appropriations for mileage for the Vice President, Senators, Representatives, and for other expenses incident to a special session of Congress, was given immediate consideration.**

On Sept. 25, 1939,<sup>(7)</sup> a Member introduced a resolution as follows, and proceedings were as indicated below:

MR. [EDWARD T.] TAYLOR [of Colorado]: Mr. Speaker, I send to the desk a joint resolution and ask unanimous consent for its immediate consideration.

The Clerk read the joint resolution, as follows:

**HOUSE JOINT RESOLUTION 384**

*Resolved, etc.,* That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of expenses incident to the second session of the Seventy-sixth Congress, namely:

For mileage of the President of the Senate and of Senators, \$51,000.

For mileage of Representatives, the Delegate from Hawaii, and the Resident Commissioner from Puerto Rico, and for expenses of the Delegate from Alaska, \$171,000.

For the payment of 21 pages for the Senate and 48 pages for the

House of Representatives, at \$4 per day each, for the period commencing September 21, 1939, and ending with the last day of the month in which the Seventy-sixth Congress adjourns sine die at the second session thereof, so much as may be necessary for each the Senate and House of Representatives.

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

There was no objection.

**§ 9. Waiver of Points of Order—by Resolution**

***Waiver Agreed to After General Debate***

**§ 9.1 A resolution waiving points of order against a certain provision in a supplemental appropriation bill was considered and agreed to by the House after general debate on the bill had been concluded and reading for amendment had begun in the Committee of the Whole.**

On May 21, 1969,<sup>(9)</sup> the following proceedings took place:

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 414 and ask for its immediate consideration.

**8.** William B. Bankhead (Ala.).

**9.** 115 CONG. REC. 13246, 13251, 13252, 91st Cong. 1st Sess.

**7.** 85 CONG. REC. 16, 76th Cong. 2d Sess.

The Clerk read the resolution, as follows:

H. RES. 414

*Resolved*, That during the consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes, all points of order against title IV of said bill are hereby waived.

MR. COLMER: . . . The language that the rule waives the point of order against is found in title IV of the bill. Title IV of the bill places a ceiling upon the amount of the expenditures that the Chief Executive can make within the fiscal year. Now, that amount is, roughly, \$192 billion. . . .

THE SPEAKER PRO TEMPORE:<sup>(1)</sup> The question is on the resolution.

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

MR. [WILLIAM F.] RYAN [of New York]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present. . . .

The question was taken; and there were—yeas 326, nays 53, not voting 54. . . .

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole

House on the State of the Union for the further consideration of the bill H.R. 11400, with Mr. [Chet] Holifield [of California] in the chair.

THE CHAIRMAN: When the Committee rose on yesterday, the Clerk had read through line 7 on page 2 of the bill.

***Points of Order Against All Provisions But One***

**§ 9.2 The form of a resolution waiving all points of order against consideration of an appropriation bill, waiving points of order against the bill or any of the provisions contained therein excepting a specific paragraph is set out below.**

On Apr. 7, 1949,<sup>(2)</sup> the Clerk read the following resolution:

*Resolved*, That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, 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. 4046) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1949, and for other purposes, and all points of order against the bill or any of the provisions contained therein are hereby waived excepting the provision appearing on page 19, lines 18 to 21, inclusive, in the paragraph under the heading "General Provisions." That after general de-

1. Edmond Edmondson (Okla.).

2. 95 CONG. REC. 4113, 81st Cong. 1st Sess.



bate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same 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.

***Certain Legislative Language Made in Order***

**§ 9.3 The form of a resolution waiving points of order against the independent offices appropriation bill, and making in order a legislative amendment described in general terms in the text of the resolution is set out below.**

On June 17, 1947,<sup>(3)</sup> the following proceedings took place:

MR. [FOREST A.] HARNESS [of Indiana]: Mr. Speaker, I call up House Resolution 248 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That during the consideration of the bill (H.R. 3839) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions,

and offices, for the fiscal year ending June 30, 1948, and for other purposes, all points of order against the bill or any provisions contained therein are hereby waived; and it shall also be in order to consider without the intervention of any point of order any amendment to said bill prohibiting the use of the funds appropriated in such bill or any funds heretofore made available, including contract authorizations, for the purchase of any particular site or for the erection of any particular hospital.

***Waiver of Three-day Availability Requirement***

**§ 9.4 The House has considered a resolution on the same day reported making in order consideration of an appropriation bill, notwithstanding the fact that the bill and report have not been available for three calendar days as required by Rule XXI clause 6 (subsequently clause 7) and waiving all points of order against the bill.**

On Sept. 19, 1968,<sup>(4)</sup> a Member addressed Speaker John W. McCormack, of Massachusetts, as follows, and proceedings ensued as indicated below:

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1308 and ask for its immediate consideration.

3. 93 CONG. REC. 7166, 80th Cong. 1st Sess.

4. 114 CONG. REC. 27646, 27647, 90th Cong. 2d Sess.

The Clerk read the resolution, as follows:

H. RES. 1308

*Resolved*, That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, 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. 19908) making appropriations for Foreign Assistance and related agencies for the fiscal year ending June 30, 1969, and for other purposes, and all points of order against said bill are hereby waived.

THE SPEAKER: The question is, will the House now consider House Resolution 1308?

The question was taken.

MR. [PETER H. B.] FRELINGHUYSEN [of New Jersey]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 293, nays 58, not voting 80. . . .

So (two-thirds having voted in favor thereof), the House agreed to consider House Resolution 1308. . . .

MR. COLMER: Mr. Speaker, the House has just voted to consider the resolution which provides for consideration, in turn, of the foreign aid appropriation bill.

Frankly, I do not subscribe to this procedure generally. I do subscribe to

this procedure in this particular instance.

This matter was presented to the committee only this morning. The conference report on the authorization bill was adopted only a few hours ago by the House. But it is anticipated that the other body will approve it and that it will go to the White House for the President's signature. . . .

MR. [H. ALLEN] SMITH [of California]: . . . [B]y way of a simple review of the matter, the last vote was for two-thirds to consider this particular resolution, House Resolution 1308. Otherwise it would have had to have laid over until tomorrow or next week.

Mr. Speaker, this procedure is as the chairman of the Committee on Rules said, unorthodox and unusual, and insofar as I am concerned I doubt that there will be any other type of piece of legislation that I would agree to this particular procedure being worked upon a bill.

After all, the bill is here and the conference report has been adopted. Further, if we are ever going to adjourn we will have to proceed in this particular manner even though it is a little unusual.

The matter we have under consideration right now is House Resolution 1308 that waives points of order on the foreign assistance bill; namely, H.R. 19908. If this rule is adopted by a majority vote then we can proceed to its consideration with 2 hours of debate, proceed to the consideration of the Foreign Assistance Act for the fiscal year ending June 30, 1969, with the time equally divided.

### ***Waiver of Points of Order Against Bill or Provisions***

### **§ 9.5 The form of a resolution waiving all points of order**

**against a general appropriation bill or any provisions contained therein is set out below.**

On June 26, 1945,<sup>(5)</sup> a resolution was called up, as follows:

MR. [JOE B.] BATES [of Kentucky]: Mr. Speaker, I call up House Resolution 301 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That during the consideration of the bill (H.R. 3579) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1945, and for prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1945, and June 30, 1946, to provide appropriations for the fiscal year ending June 30, 1946, and for other purposes all points of order against the bill or any provisions contained therein are hereby waived.

### ***Specific Paragraph of Supplemental Appropriation Bill Protected***

**§ 9.6 The form of a resolution waiving points of order against a specific paragraph of a supplemental appropriation bill (language making certain funds that were available for construction also available for purchase of furniture for the new Ray-**

5. 91 CONG. REC. 6766, 79th Cong. 1st Sess.

**burn Office Building) is set out below.**

On Apr. 9, 1963,<sup>(6)</sup> a Member called up a resolution, as follows:

MR. [JAMES J.] DELANEY [of New York]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 311 and ask for its immediate consideration.

The Clerk read the resolution as follows:

*Resolved*, That during the consideration of the bill (H.R. 5517) making supplemental appropriations for the fiscal year ending June 30, 1963, and for other purposes, all points of order against the provisions contained in lines 5 through 10, page 22, are hereby waived.

### ***Points of Order Against Committee Amendments***

**§ 9.7 The form of a resolution waiving points of order against a supplemental appropriation bill or any of the provisions contained therein, and waiving points of order against any amendment offered by direction of the Committee on Appropriations is set out below.**

On June 9, 1948,<sup>(7)</sup> the following resolution was called up:

MR. [LEO E.] ALLEN [of Illinois]: Mr. Speaker, I call up House Resolution

6. 109 CONG. REC. 6043, 88th Cong. 1st Sess.

7. 94 CONG. REC. 7603, 80th Cong. 2d Sess. See also 83 Cong. Rec. 6777, 75th Cong. 3d Sess., May 12, 1938.

651 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That during the consideration of the bill (H.R. 6829) making supplemental appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1949, and for other purposes, all points of order against the bill or any provisions contained therein are hereby waived, and it shall be in order to consider without the intervention of any point of order any amendment offered by direction of the Committee on Appropriations.

### ***Waiver Against One Title of Bill***

#### **§ 9.8 The form of a resolution waiving points of order against part of a military establishment appropriation bill is set out below.**

On June 4, 1947,<sup>(8)</sup> a resolution was called up, as follows:

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 230 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That during the consideration of the bill (H.R. 3678) making appropriations for the Military Establishment for the fiscal year ending June 30, 1948, and for other purposes,

all points of order against title II of said bill or any provisions contained therein are hereby waived.

#### **§ 10. General Appropriation Bills Considered by Unanimous Consent**

##### ***Generally***

##### **§ 10.1 Consideration of a supplemental appropriation bill, without the intervention of any point of order against the provisions of the bill, was made in order on the following Tuesday or any day thereafter, by unanimous consent.**

On Dec. 6, 1967,<sup>(9)</sup> the following proceedings took place:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday next or any subsequent day next week to consider a bill making supplemental appropriations for fiscal year 1968 and that all points of order against the bill or any provisions contained therein be considered as waived.

THE SPEAKER:<sup>(10)</sup> Is there objection to the request of the gentleman from Texas? . . .

MR. GERALD R. FORD [of Michigan]: I am glad that point has just been clarified. As I understand it, the reason for waiving points of order is be-

8. 93 CONG. REC. 6346, 80th Cong. 1st Sess.

9. 113 CONG. REC. 35164, 35165, 90th Cong. 1st Sess. See also the unanimous-consent requests in §8, *supra*.

10. John W. McCormack (Mass.).

cause the authorization bill for the Office of Economic Opportunity will not have become law through the signature of the President at the time specified? In other words, that is the only reason that the gentleman from Texas [Mr. Mahon] asks to waive all points of order?

MR. MAHON: Mr. Speaker, if the gentleman from Ohio will yield further, the gentleman from Michigan is correct. This is the only reason for the request. There is nothing else that I can envisage in the appropriation bill where a point of order might obtain.

MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER: Is there objection to the request of the gentleman from Texas [Mr. Mahon].

There was no objection.

### ***Three-day Availability Requirement***

**§ 10.2 Consideration of a supplemental appropriation bill was made in order on the following Tuesday or any day thereafter, by unanimous consent, despite the fact that the bill and report would not be available for three calendar days as required by Rule XXI clause 6 (now clause 7).**

On Feb. 15, 1968,<sup>(11)</sup> a Member addressed Speaker John W.

11. 114 CONG. REC. 3022, 3023, 90th Cong. 2d Sess.

McCormack, of Massachusetts, as follows, and proceedings ensued as indicated below:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight Monday, February 19, to file a privileged report on the urgent supplemental appropriation bill for the fiscal year 1968.

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

MR. MAHON: Mr. Speaker, I ask unanimous consent to revise and extend my remarks during the colloquy just held to make it in order for the House to consider the urgent supplemental appropriations bill for 1968 on Tuesday, February 20, or any day subsequent thereto. . . .

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

There was no objection.

**§ 10.3 By unanimous consent, the rule [Rule XXI clause 6 (now clause 7)] prohibiting consideration of general appropriation bills until printed committee hearings and the committee report have been available for three days was waived.**

On Sept. 12, 1962,<sup>(12)</sup> the following proceedings took place:

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Speaker, I take this time

12. 108 CONG. REC. 19237, 87th Cong. 2d Sess.

in order to announce that it is our intention to report the foreign aid appropriation bill for 1963 to the House on Tuesday, September 18. I therefore now ask unanimous consent that the 3-day rule be waived and that the bill be considered in the House on Thursday, September 20.

THE SPEAKER:<sup>(13)</sup> Is there objection to the request of the gentleman from Louisiana?

There was no objection.

## § 11. Consideration and Debate; Amendments

### *Motion to Close Debate*

**§ 11.1 A motion to fix the time of general debate on an appropriation bill is not in order prior to resolving into the Committee of the Whole; but after there has been debate in the Committee of the Whole and the Committee rises, the motion is in order in the House.**

On Feb. 18, 1947,<sup>(14)</sup> a Member addressed Speaker Joseph W. Martin, Jr., of Massachusetts, as follows and proceedings ensued as indicated below:

MR. [JOHN] TABER [of New York]: Mr. Speaker, I 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. 1968) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1947, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 1 hour, to be equally divided and controlled by the gentleman from Missouri [Mr. Cannon] and myself.

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

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, reserving the right to object, is this the bill that contains the cuts of appropriations for OPA?

MR. TABER: Yes.

MR. MARCANTONIO: Then I object, Mr. Speaker.

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

THE SPEAKER: The gentleman will state it.

MR. TABER: The House may go into the Committee of the Whole and later, after debate has occurred, rise, and then a motion would be in order to close debate; but otherwise a motion would not be in order at this time to close?

THE SPEAKER: The gentleman from New York states the situation accurately. The House must first go into Committee and have general debate, and then rise and fix the time of debate by vote.

## *Consideration of Senate Amendments*

**§ 11.2 The House has considered Senate amendments to a**

13. John W. McCormack (Mass.).

14. 93 CONG. REC. 1138, 80th Cong. 1st Sess.

**general appropriation bill in Committee of the Whole under the five-minute rule.**

On July 12, 1945,<sup>(1)</sup> a Member addressed Speaker Sam Rayburn, of Texas, and proceedings ensued as indicated below:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of Union for the consideration of the bill (H.R. 3368) making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes, with Senate amendments. Pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate.

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

MR. [JOHN] TABER [of New York]: Mr. Speaker, reserving the right to object, that is satisfactory to me. That would not mean, of course, that there could be no debate on amendments?

MR. CANNON of Missouri: Amendments will be considered under the 5-minute rule.

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

There was no objection.

THE SPEAKER: The question is on the motion of the gentleman from Missouri.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3368) making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes, with Senate amendments, with Mr. Sparkman in the chair.

The Clerk read the title of the bill.

*Parliamentarian's Note:* This procedure is different from consideration in the House as in Committee of the Whole, where motions under Rule XVI clause 4 are in order.

***Terms of Debate***

**§ 11.3 Before consideration of the general appropriation bill, 1951, containing all the appropriations for the various agencies of the government, it was agreed by unanimous consent that general debate run without limit to be equally divided between the Chairman and ranking minority member of the Committee on Appropriations; and that following the reading of the first chapter of the bill not to exceed two hours general debate be had before the reading of each subsequent chapter, one-half to be controlled by the chairman and one-half by the ranking**

1. 91 CONG. REC. 7474, 79th Cong. 1st Sess. See also 91 CONG. REC. 7226, 7227, 79th Cong. 1st Sess., July 5, 1945. For further discussion see Ch. 32, House-Senate Relations, *infra*.

**minority member of the subcommittee in charge of the chapter.**

On Apr. 3, 1950,<sup>(2)</sup> a Member addressed Speaker Sam Rayburn, of Texas, as follows, and the proceedings were as indicated below:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I 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. 7786) making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes; and pending that I ask unanimous consent that time for general debate be equally divided, one-half to be controlled by the gentleman from New York [Mr. Taber] and one-half by myself; that debate be confined to the bill; and that following the reading of the first chapter of the bill, not to exceed 2 hours general debate be had before the reading of each subsequent chapter, one-half to be controlled by the chairman and one-half by the ranking minority member of the subcommittee in charge of the chapter. . . .

MR. [BEN F.] JENSEN [of Iowa]: Of course, Mr. Speaker, I will not object, except to say that I trust and am sure the majority of the Members of the House hope that the chairman of the full committee, the gentleman from Missouri [Mr. Cannon] will not make points of order against Members on the ground that they are speaking out of order when so much is involved in this

bill. I think we should have the greatest leeway to discuss these things.

THE SPEAKER: The Chair would think that this appropriation bill actually being 11 bills in one, and covering everything in the Government, a Member speaking on the bill would have a rather wide range.

MR. JENSEN: I thank the Speaker. I was hoping the Speaker would say just that.

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

There was no objection.

**§ 11.4 During the consideration of the general appropriation bill, 1951, terms of consideration were agreed upon, including: that a chapter then under consideration be considered as read and open to points of order and amendment; and that a certain Member be authorized to offer a blanket amendment to a part of the chapter.**

On Apr. 27, 1950,<sup>(3)</sup> the following unanimous-consent requests were made:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous consent that—

The chapter on agricultural appropriations be considered as read and open to points of order and amendment; that the gentleman from Min-

2. 96 CONG. REC. 4614, 4615, 81st Cong. 2d Sess.

3. 96 CONG. REC. 5910, 81st Cong. 2d Sess.



nesota [Mr. H. Carl Andersen] have consent to offer a blanket amendment relating to administrative expenses;

That when the House adjourns on Friday it adjourn to meet on Monday next;

That no debate be in order on Friday, Monday, and Tuesday except general debate;

That general debate on the civil functions appropriations bill be confined to Tuesday;

That when the House adjourns on Tuesday next all general debate be concluded on the entire bill.

There was no objection to the request.

***House as in Committee of the Whole***

**§ 11.5 On numerous occasions the House has by unanimous consent provided for the consideration of a nongeneral appropriation bill in the House as in the Committee of the Whole.**

On June 14, 1962,<sup>(4)</sup> the following request was made in the House:

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, in accordance with the unanimous-consent agreement of yesterday, I ask for the immediate consideration of the joint resolution (H.J. Res. 745), making supplemental appropriations for the fiscal year 1962; and

4. 108 CONG. REC. 10481, 87th Cong. 2d Sess. See also § 8, *supra*.

I ask unanimous consent, Mr. Speaker, that it be considered in the House as in Committee of the Whole.

The Clerk read the title of the joint resolution.

THE SPEAKER:<sup>(5)</sup> Is there objection to the request of the gentleman from Texas? . . .

There was no objection.

**§ 11.6 Unanimous consent was granted that a joint resolution providing supplemental appropriations for the Department of Labor be considered in the House as in Committee of the Whole.**

On Mar. 24, 1964,<sup>(6)</sup> the following proceedings took place in the House:

MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Speaker, in accordance with the unanimous consent granted yesterday, I call up House Joint Resolution 962, making a supplemental appropriation for the fiscal year ending June 30, 1964, for the Department of Labor, and for other purposes, and ask unanimous consent that the joint resolution be considered in the House as in Committee of the Whole.

The Clerk read the title of the joint resolution

THE SPEAKER:<sup>(7)</sup> Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

5. John W. McCormack (Mass.).

6. 110 CONG. REC. 6096, 88th Cong. 2d Sess.

7. John W. McCormack (Mass.).

The Clerk read the joint resolution, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1964, namely:*

DEPARTMENT OF LABOR

*Bureau of Employment Security*

Unemployment Compensation for Federal Employees and ex-Servicemen

For an additional amount for "Unemployment compensation for Federal employees and ex-servicemen", \$42,000,000.

### ***Suspension of the Rules***

**§ 11.7 The two Houses having been unable to agree on all provisions of the 1943 agriculture appropriation bill, the House adopted a motion to suspend the rules and pass a new bill containing matters in the original bill not in controversy.**

On July 2, 1942,<sup>(8)</sup> a Member addressed Speaker Sam Rayburn, of Texas, as follows, and proceedings ensued as indicated below:

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, I move to suspend

8. 88 CONG. REC. 5953, 5954, 77th Cong. 2d Sess.

the rules and pass the bill H.R. 7349, which I send to the Clerk's desk.

The Clerk read as follows:

A bill making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1943, and for other purposes.

THE SPEAKER: Is a second demanded?

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Speaker, I demand a second.

MR. TARVER: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

THE SPEAKER: Is there objection to the request of the gentleman from Georgia [Mr. Tarver]?

There was no objection.

After some discussion,<sup>(9)</sup> the rules were suspended and the bill was passed.<sup>(10)</sup>

### ***Amendments—Reading Bill***

**§ 11.8 General revenue and appropriation bills are considered by paragraph for amendment and all other bills are considered by sections, including bills making appropriations for specific purposes.**

On May 21, 1940,<sup>(11)</sup> the Committee of the Whole was considering House Joint Resolution 544,

9. *Id.* at pp. 5954–60.

10. *Id.* at p. 5960.

11. 86 CONG. REC. 6542, 76th Cong. 3d Sess. For discussion of amendments generally, see Ch. 27, *infra*.

a relief appropriation bill. The following proceedings took place:

MR. [JOHN] TABER [of New York]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:<sup>(12)</sup> The gentleman will state it.

MR. TABER: Mr. Chairman, this bill comes from the Appropriations Committee. Ordinarily bills coming from the Appropriations Committee are read by paragraph. Bills coming from other committees are read by sections. I want to ask the Chairman, so that all Members may know as we approach the reading of the bill, how this bill will be read, so that they may know where to offer amendments.

THE CHAIRMAN: The Chair will state, in response to the parliamentary inquiry presented by the gentleman from New York [Mr. Taber], that it is the understanding of the Chair that, under the rule, general revenue measures and appropriation bills are considered by paragraph and that all other measures are considered by sections. Consequently, the pending bill will be considered by sections and amendments offered by sections rather than by paragraphs.

**§ 11.9 Appropriation bills are read by paragraph and amendments are in order only to the paragraph just read, not to the entire subject matter under a heading in an appropriation bill.**

On Jan. 17, 1940,<sup>(13)</sup> the Committee of the Whole was consid-

12. Fritz G. Lanham (Tex.).

13. 86 CONG. REC. 442, 443, 76th Cong. 3d Sess. See also 116 CONG. REC.

ering H.R. 7922, an independent offices appropriation bill. Proceedings took place as indicated below:

MR. [ROBERT] LUCE [of Massachusetts]: A parliamentary inquiry.

THE CHAIRMAN:<sup>(14)</sup> The gentleman will state it.

MR. LUCE: May I ask where the proper place would be to insert an amendment before the next part of the bill headed by capitals?

THE CHAIRMAN: The Chair was unable to hear all of the inquiry by the gentleman from Massachusetts.

MR. LUCE: May I ask how far the bill has been read?

THE CHAIRMAN: Down through the bottom of page 50. The only paragraph under the heading "United States Housing Authority" that would now be subject to amendment would be the last four lines on page 50.

MR. LUCE: Mr. Chairman, if I recollect the practice of the House, it has always been to include everything under a heading for amendment.

THE CHAIRMAN: It has been the practice of the House from time immemorial to read appropriation bills by paragraphs

**§ 11.10 The rule of germaneness applies to amendments to appropriation bills; and an amendment proposing a specific appropriation must be**

11648, 91st Cong. 2d Sess., Apr. 14, 1970 (proceedings relating to H.R. 16916).

14. Lindsay C. Warren (N.C.).

**offered when the paragraphs dealing with that subject are being considered**

On Jan. 31, 1938,<sup>(15)</sup> the Committee of the Whole was considering H.R. 8181, a District of Columbia appropriation bill. An amendment was read and a point of order raised as follows:

PUBLIC UTILITIES COMMISSION

For two commissioners, people's counsel, and for other personal services, \$76,000, of which amount \$1,620 shall be available for the employment of a secretary to the people's counsel, and not to exceed \$5,000 may be used for the employment of expert services by contract or otherwise and without reference to the Classification Act of 1923, as amended.

MR. [VINCENT L.] PALMISANO [of Maryland]: Mr. Chairman, I make a point of order against the language on page 7, line 3, after "\$76,000", beginning with the words "of which" and ending with the word "amended." . . .

THE CHAIRMAN:<sup>(16)</sup> In the opinion of the Chair, very clearly this is an attempt to impose legislation on an appropriation bill, and the point of order is therefore sustained. . . .

The Clerk read as follows:

For general advertising, authorized and required by law, and for tax and school notices and notices of changes in regulations, \$9,000: *Provided*, That this appropriation shall

not be available for the payment of advertising in newspapers published outside of the District of Columbia, notwithstanding the requirement for such advertising provided by existing law. . . .

Amendment by Mr. [Alfred N.] Phillips [Jr., of Connecticut]: On page 11, line 13, after the period, insert two new paragraphs as follows:

"For the employment of a secretary to the People's Counsel before the public utilities commission, \$1,620.

"For the employment of expert aid to the People's Counsel, \$5,000." . . .

MR. PALMISANO: Mr. Chairman, I made a point of order against the language on page 7, line 13, after the figures "\$76,000" to the end of the paragraph, which point of order was sustained on the ground that it was legislation in an appropriation bill. The amendment offered by the gentleman from Connecticut would restore the language that was stricken out on the point of order; not only that, but we have passed that particular section and the amendment comes too late. . . .

THE CHAIRMAN: The gentleman from Maryland bases his point of order on two grounds. . . .

The second ground raised by the gentleman from Maryland, that the amendment comes too late, and the point of order raised by the gentleman from Oklahoma, that the amendment is not germane to the paragraph offered, the Chair will be forced to sustain.

***When Paragraph Is Considered Passed***

**§ 11.11 In reading a general appropriation bill under the**

15. 83 CONG. REC. 1307-09, 75th Cong. 3d Sess. For discussion of amendments generally, see Ch. 27, *infra*.

16. William J. Driver (Ark.).

**five-minute rule, a section or paragraph is considered as having been passed for an amendment when an amendment in the form of a new section or paragraph has been agreed to. On appeal, the Chair's ruling that the adoption of an amendment adding a new paragraph precludes further amendments to the prior paragraph of the bill was sustained.**

On Jan. 23, 1942,<sup>(17)</sup> the Committee of the Whole was considering H.R. 6448, a supplemental appropriation bill for national defense. The Clerk read as follows, and proceedings ensued as indicated below:

Tennessee Valley Authority Fund: For an additional amount for the Tennessee Valley Authority fund, fiscal year 1942, for (1) the construction of a hydroelectric project on the French Broad River near Dandridge, Tenn., (2) the purchase or building of transmission facilities needed to connect this project to the existing transmission system of the Authority, and (3) the acquisition of land necessary for and the relocation of highways in connection with the accomplishment of the above project; \$30,000,000, to be available for the administrative objects of expenditure and subject to the conditions specified under this heading in the Independent Offices Appropriation Act, 1942.

17. 88 CONG. REC. 606, 607, 77th Cong. 2d Sess.

Mr. Lambertson rose.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. Cannon of Missouri: Page 4, after line 9, insert:

"DEPARTMENT OF STATE

"Transportation Foreign Service: For an additional amount for Transportation, Foreign Service, fiscal year 1942, including the objects specified under this head in the Department of State Appropriation Act, 1942, \$800,000."

MR. CANNON of Missouri: Mr. Chairman, the purpose of this amendment is to make provision for a deficiency which was not foreseen, and which has occurred as the result of the declaration of war. We have in all parts of Europe and Asia diplomatic and consular representatives and attachés who must be brought home, together with their families and clerks and office staffs. They have to be shifted as a result of a change in the status brought about by the declaration of war. In the original appropriation there was something in excess of \$700,000 in this fund—an amount which would have sufficed under normal conditions, but under recent developments there have been such heavy expenditures that only about \$17,000 remains, which is insufficient to carry the Service beyond the 1st of the month. I offer this amendment to make provision for the unexpected deficiency.

THE CHAIRMAN:<sup>(18)</sup> The question is on agreeing to the amendment offered by the gentleman from Missouri.

18. J. Bayard Clark (N.C.).

The amendment was agreed to.

MR. [WILLIAM P.] LAMBERTSON [of Kansas]: Mr. Chairman, I have an amendment at the desk.

The Clerk read as follows:

Amendment offered by Mr. Lambertson: Page 3, line 22, strike out lines 22, page 3, to and including line 9 on page 4.

MR. CANNON of Missouri: Mr. Chairman, I make the point of order that the amendment comes too late. We have passed that paragraph. We have adopted an amendment since the paragraph was read and it is no longer subject to amendment.

MR. LAMBERTSON: Mr. Chairman, I was on my feet standing alone before the gentleman from Missouri rose. The Chair recognized the gentleman from Missouri, but I had the floor ahead of him.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, it is my impression that the gentleman from Kansas was on his feet, and, seeing that the chairman of the subcommittee rose, he deferred to him to offer an amendment first.

THE CHAIRMAN: The chairman of the committee was recognized by the Chair. The Chair asks the gentleman from Missouri if he insists upon his point of order.

MR. CANNON of Missouri: Mr. Chairman, I regret that I must insist on the point of order.

MR. [JOHN] TABER [of New York]: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN: Certainly.

MR. TABER: The gentleman from Kansas was on his feet asking for recognition at the time and on top of that

the amendment was offered by the gentleman from Missouri, but that would not preclude this amendment from being offered. This is an amendment to strike out the previous paragraph. The amendment that the gentleman from Missouri [Mr. Cannon], added was an amendment adding an additional paragraph.

MR. CANNON of Missouri: Mr. Chairman, the gentleman did not address the Chair at all. He at no time addressed the Chair until after the Clerk had concluded the reading of the new paragraph and the committee had adopted it.

MR. LAMBERTSON: I beg your pardon; I did. I did stand and I did address the Chair. I was standing before he ever started to get up.

THE CHAIRMAN: The Chair was aware of the fact that the gentleman from Kansas [Mr. Lambertson] was on his feet, and the Chair would like to overrule the point of order, but feels that technically the point of order is well taken, and it being insisted upon by the chairman of the Committee on Appropriations, the Chair is constrained to sustain the point of order.

MR. TABER: Mr. Chairman, I appeal from the decision of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken; and on a division [demanded by Mr. Taber] there were ayes 75 and noes 62.

MR. TABER: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed Mr. Cannon of Missouri and Mr. Taber to act as tellers.

The Committee again divided, and the tellers reported there were ayes 126 and noes 89.

So the decision of the Chair was sustained.

**§ 11.12 If an amendment affects, in part, a paragraph of an appropriation bill not yet read by the Clerk, but no point of order is made against the amendment, it is considered, but further amendments to intervening portions of text that have not been read are not precluded.**

On Apr. 3, 1957,<sup>(19)</sup> the Committee of the Whole was considering H.R. 6287, the Departments of Labor, Health, Education, and Welfare, and related agencies appropriation bill. At one point the Clerk read as follows, and the proceedings were as indicated below:

MR. [THOMAS M.] PELLY [of Washington]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:<sup>(20)</sup> The gentleman will state it.

MR. PELLY: I did not understand that the Clerk had read beyond line 17. May I inquire if this amendment includes the figure on line 20?

THE CHAIRMAN: The amendment that the gentleman from Louisiana offered was addressed to the language beginning on line 5 but does touch on a sum included in the next paragraph beginning on line 18.

MR. PELLY: Mr. Chairman, I have an amendment at the desk which would

apply to line 17. If this amendment were acted on, would that prevent my amendment from being offered at the end of the paragraph which begins on line 5 and ends on line 17?

THE CHAIRMAN: The amendment of the gentleman applies to that portion between line 15 and line 17?

MR. PELLY: That is correct.

THE CHAIRMAN: It would be in order, because the Clerk has not read the next 3 lines, 18, 19, and 20.

MR. [JOHN E.] FOGARTY [of Rhode Island]: May I be heard, Mr. Chairman?

THE CHAIRMAN: Yes.

MR. FOGARTY: It was my understanding that the amendment offered by the gentleman from Louisiana went down to and included the language at the end of line 20 on page 25.

THE CHAIRMAN: The amendment does go down that far, but the Clerk has not read those last three lines.

MR. FOGARTY: Mr. Chairman, I make the point of order that further amendments cannot be offered to the language before line 20 on page 25, because the amendment offered by the gentleman from Louisiana [Mr. Hébert] takes in 3 places in the bill and goes down to and including the paragraph "Salaries and expenses" where his amendment offers to cut the amount in line 20.

THE CHAIRMAN: The statement the gentleman makes is correct, but the fact remains no point of order was made when the amendment was read.

MR. FOGARTY: Mr. Chairman, the point I was trying to make is that there were no objections raised when the amendment was offered and considered down through line 20.

THE CHAIRMAN: The portion of the gentleman's amendment having to do

19. 103 CONG. REC. 5018, 5019, 85th Cong. 1st Sess.

20. Aime J. Forand (R.I.)

with those three lines, lines 18, 19, and 20, can have no effect until those lines are read and then considered.

MR. FOGARTY: Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. FOGARTY: Is the gentleman's amendment in order when he has, in one amendment, sought to cut three places in the bill, from lines 5 to 20?

THE CHAIRMAN: No point of order was raised against it.

MR. FOGARTY: I thought that would be a concession that those lines had been read, the lines down to and including line 20.

THE CHAIRMAN: It is no concession until such time as that portion of the bill is read

MR. PELLY: Mr. Chairman, reserving the right to object, if no objection were made, would that preclude the consideration of my amendment which begins on line 17, following the action on the amendment of the gentleman from Louisiana [Mr. Hébert]?

THE CHAIRMAN: No.

### ***Unanimous Consent To Offer Amendment***

#### **§ 11.13 An amendment to a paragraph of an appropriation bill which has been passed during the reading of the bill may be offered only by unanimous consent.**

On Apr. 14, 1970,<sup>(1)</sup> during consideration in the Committee of the

1. 116 CONG. REC. 11648, 91st Cong. 2d Sess. See also 118 CONG. REC.

Whole of the education appropriation bill (H.R. 19616) a point of order was raised against an amendment, as follows:

MR. [MARVIN L.] ESCH [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Esch: Strike out lines 17 and 18 on page 3 and insert in lieu thereof the following "titles I, III, IV (except part F), part E of title V and title VI of the Higher Education Act of 1965, as amended, title I, including section".

And, on line 2 of page 4, strike out "\$899,880,000" and insert in lieu thereof "\$992,100,000"

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment on precisely the same grounds. The Clerk has now read past page 4, line 17, "Community Education."

The gentleman was not on his feet. He did not address the Chair. The amendment is clearly out of order.

MR. ESCH: Mr. Chairman, I was on my feet, and as soon as the Clerk read "higher education" I said, "Mr. Chairman."

Mr. Chairman, I sincerely object to the fact that I am not given recognition. I was on my feet, having recognized the experience of the previous Member.

As soon as the Clerk read "higher education," I said "Mr. Chairman" twice.

THE CHAIRMAN:<sup>(2)</sup> The Chair would like to protect the gentleman in his

21118-22, 92d Cong. 2d Sess., June 15, 1972 (proceedings relating to H.R. 15417).

2. Chet Holifield (Calif.).



rights. If the gentleman did address the Chair, the Chair did not hear the gentleman at that point. The gentleman may make a unanimous-consent request that his amendment be considered although the Clerk had passed it at the time he was recognized by the Chair, and, if there is no objection, the amendment can be considered under those circumstances. Does the gentleman make such a request?

MR. ESCH: Mr. Chairman, I ask unanimous consent that my amendment be considered.

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

MR. FLOOD: Mr. Chairman, I must protect the bill. I am pained, but I must object.

THE CHAIRMAN: The Chair is constrained to uphold the point of order of the gentleman from Pennsylvania. The Chair wants to be fair, but the gentlemen in the Chamber that wish to offer their amendments must be on their feet.

### ***Amendment Affecting Previous Line in Paragraph***

**§ 11.14 The pending paragraph of an appropriation bill being read under the five-minute rule is open to amendment at any point; thus, a senior member of the committee reporting the bill may be recognized to offer an amendment, even though an amendment proposed by another Member affects a**

### **line occurring earlier in the paragraph.**

On July 23, 1970,<sup>(3)</sup> during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 18515) the following proceedings took place:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I have an amendment at the desk.

THE CHAIRMAN:<sup>(4)</sup> The Clerk will report the amendment.

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. JONAS: May I respectfully remind the Chair that I was recognized, and that the Chair allowed a point of order to intervene only, and I had been recognized. The Chair ruled that since a point of order had been made, the Chair would dispose of the point of order first.

THE CHAIRMAN: The Chair respectfully states that the point of order did intervene following the gentleman's recognition. The Chair intends to recognize members of the committee in the order of their seniority. The Chair, therefore, recognized the gentleman from Texas. The Chair will later recognize the gentleman from North Carolina.

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Chairman, a parliamentary inquiry.

3. 116 CONG. REC. 25635, 91st Cong. 2d Sess.

4. Chet Holifield (Calif.).

THE CHAIRMAN: The gentleman will state it.

MR. MICHEL: Did the Clerk read through the section concluding with line 3, page 39?

THE CHAIRMAN: It is the understanding of the Chair that he did.

MR. JONAS: Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. JONAS: I respectfully ask the Chair to rule that my amendment does precede the amendment that will be offered by the gentleman from Texas. My amendment goes to line 5, page 38, and my information is that the amendment to be offered by the gentleman from Texas comes at a later point in the paragraph.

THE CHAIRMAN: A whole paragraph is open to amendment at the same time. Therefore, the line does not determine the order of the amendment.

### *Language Previously Stricken*

**§ 11.15 A point of order having been sustained against an entire paragraph in an appropriation bill, it is in order to offer an amendment at that point in the bill to insert a new paragraph containing the stricken language excepting those provisions which were held in violation of the rules.**

On July 23, 1970,<sup>(5)</sup> during consideration in the Committee of the

5. 116 CONG. REC. 25634, 25635, 91st Cong. 2d Sess.

Whole of a general appropriation bill (H.R. 18515), a point of order was raised against the following amendment, and proceedings ensued as indicated below:

Amendment offered by Mr. [Robert H.] Michel [of Illinois]: on page 38, line 1, insert the following:

#### OFFICE OF ECONOMIC OPPORTUNITY

##### ECONOMIC OPPORTUNITY PROGRAM

For expenses necessary to carry out the provisions of the Economic Opportunity Act of 1964 (Public Law 88-452, approved August 20, 1964), as amended, \$2,046,200,000, plus reimbursements: *Provided*, That this appropriation shall be available for transfers to the economic opportunity loan fund for loans under title III, and amounts so transferred shall remain available until expended: *Provided further*, That this appropriation shall be available for the purchase and hire of passenger motor vehicles, and for construction, alteration, and repair of buildings and other facilities, as authorized by section 602 of the Economic Opportunity Act of 1964: *Provided further*, That this appropriation shall not be available for contracts under titles I, II, V, VI, and VIII extending for more than twenty-four months. . . .

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:<sup>(6)</sup> The gentleman will state the point of order.

MR. HALL: Mr. Chairman, the point of order against the amendment is that all of the language to which the amendment addresses itself on page 38 of the bill, H.R. 18515, has been stricken.

6. Chet Holifield (Calif.).

Mr. Chairman, there is no way that we can amend something that is not before the House.

THE CHAIRMAN: The gentleman from Illinois (Mr. Michel) has offered a separate amendment to insert a new paragraph, and the amendment is in order.

The gentleman from Illinois (Mr. Michel) is recognized for 5 minutes in support of his amendment.

### ***Changing Figures in Bill***

#### **§ 11.16 To a bill making appropriations for the District of Columbia that were to be chargeable against revenues of the District for the ensuing fiscal year, an amendment increasing the amount of the appropriation for certain items included in the bill was held to be in order.**

On June 14, 1954,<sup>(7)</sup> during consideration in the Committee of the Whole of the District of Columbia appropriations bill (H.R. 9517), which made appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1955, a point of order was raised against an amendment, and proceedings ensued as indicated below:

MR. [DEWITT S.] HYDE [of Maryland]: Mr. Chairman, I offer an amendment.

7. 100 CONG. REC. 8191, 8192, 83d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Hyde:

On page 22, line 20, strike out "\$1,124,365" and insert in lieu thereof "\$1,393,665."

On page 22, line 20, strike out "\$135,406" and insert in lieu thereof "\$404,706."

MR. [EARL] WILSON of Indiana: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation upon an appropriation bill. There is no authority of law for the District of Columbia to enter into a new activity of this kind, and a new business venture. Therefore, the subcommittee saw fit to eliminate that from the bill, and I make a point of order against it.

THE CHAIRMAN:<sup>(8)</sup> Permit the Chair to make this statement. The amendment, which is before the Committee and which the Chair now has before him, simply increases the amount of money in the bill. Does the gentleman from Indiana make a point of order against increasing the amount of money in the bill?

MR. WILSON of Indiana: Mr. Chairman, I was under the impression that it was for the purpose of starting the District of Columbia in the parking business. If I may reserve my point of order until the gentleman explains what the purpose of his amendment is, of course I will be in a better position to speak against it. . . .

Mr. Chairman, I still insist on the point of order on the ground that the appropriation is not authorized by law.

THE CHAIRMAN: The Chair is of the opinion that if the money is unauthorized it is ineffective. The Chair is also

8. J. Harry McGregor (Ohio).

of the opinion that the money can be used only for the items included in the bill and as authorized by law.

The Chair, therefore, overrules the point of order.

*Parliamentarian's Note:* If a ceiling had been specified on total authorized expenditures, an amendment which had the effect of exceeding that total would not have been permitted. The amounts added to the appropriation here did not cause a specific authorized total to be exceeded, and the Chair took the view that the increase in the appropriation would apply only to items included in the bill and already authorized.

**§ 11.17 Where the House has adopted an amendment changing a figure in an appropriation bill, it is not in order to further amend such figure.**

On Mar. 11, 1942,<sup>(9)</sup> the Committee of the Whole was considering H.R. 6736. The following proceedings took place:

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cochran: On page 7, line 5, after the word "law", strike out "\$144,973,700" and insert "\$128,273,700."

9. 88 CONG. REC. 2270, 2272, 77th Cong. 2d Sess.

(The amendment was adopted.)

MR. [JAMES] DOMENGEAUX [of Louisiana]: Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 7, line 5, strike out "\$144,973,700" and insert in lieu thereof "\$145,933,700."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment on the ground that there has been a change already in this figure and another change cannot be considered.

THE CHAIRMAN:<sup>(10)</sup> The gentleman is correct. The figure cannot now be amended.

**§ 11.18 Where a figure in an appropriation bill has been agreed to (and hence cannot be altered by an amendment proposing a further change in amount), an amendment inserted following the figure agreed upon and providing funds "in addition thereto" is in order if authorized.**

On June 5, 1959,<sup>(11)</sup> the Committee of the Whole was considering H.R. 7509, a bill making appropriations for the civil functions administered by the Department of the Army. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. (Fred) Wampler [of Indiana]: On page 21, line

10. Alfred L. Bulwinkle (N.C.).

11. 105 CONG. REC. 10057, 86th Cong. 1st Sess.

7, after the amount shown add the following: "And in addition \$52,000 for the following projects: Sugar Creek, West Terre Haute, Clinton, and Conover Levee."

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: <sup>(12)</sup> The gentleman will state it.

MR. TABER: Mr. Chairman, I make the point of order that the language has been once amended.

THE CHAIRMAN: The gentleman from New York must have misunderstood the reading of the amendment, because it follows the amount and does not alter the amount.

The gentleman from Indiana is recognized for 5 minutes in support of his amendment.

### ***Amendment in Nature of Substitute***

**§ 11.19 Where an appropriation bill is being read by paragraphs, a substitute for several paragraphs of the bill may be offered to the first paragraph modified by the amendment only if notice is given that, if the amendment is agreed to, motions will be made subsequently to strike out the remaining paragraphs affected thereby.**

On July 29, 1969,<sup>(13)</sup> the Committee of the Whole was consid-

12. Hale Boggs (La.).

13. 115 CONG. REC. 21217, 21218, 91st Cong. 1st Sess.

ering H.R. 13111, a Departments of Labor and Health, Education, and Welfare appropriation bill. The proceedings were as follows:

The Clerk read as follows:

Amendment offered by Mr. [Robert H.] Michel [of Illinois]: On page 25 strike out line 9 and all that follows on page 25 and insert in lieu thereof the following:

"For carrying out titles II, III, V, VII, and section 807 of the Elementary and Secondary Education Act of 1965, as amended, section 402 of the Elementary and Secondary Education Amendments of 1967, and title III-A and V-A of the National Defense Education Act of 1958, \$254,163,000. . . ."

MR. [JAMES G.] O'HARA [of Michigan]: Mr. Chairman, I make a point of order against the amendment

THE CHAIRMAN: <sup>(14)</sup> The gentleman will state his point of order

MR. O'HARA: Mr. Chairman, I make a point of order against the amendment on the ground that the paragraph which it amends has not yet been read. . . .

Mr. Chairman, when the amendment was offered, the Clerk had finished reading the paragraph which begins on line 9, page 25, and concludes on line 24, page 25.

At that point amendments to that paragraph were in order. But the amendment of the gentleman from Illinois does not change so much as a comma in that paragraph; it repeats it absolutely verbatim. It is not an amendment to that paragraph. It is only in subsequent paragraphs that any amendment is made.

14. Chet Holifield (Calif.).

I would make the point of order, Mr. Chairman, that the gentleman from Illinois will have to wait until that paragraph is read before he can offer an amendment to it.

THE CHAIRMAN: The Chair will hear the gentleman from Illinois on the point of order.

MR. MICHEL: Mr. Chairman, I submit that really all I am doing is adding to the first paragraph; therefore, it is very much in order.

THE CHAIRMAN: The Chair has considered the arguments both for and against the point of order. The Chair sees no inconsistency in the gentleman's amendment repeating the paragraph on page 26 which the Clerk had not yet read. It is a different paragraph, but the Chair feels that the following paragraph can be consolidated with an amendment to the total paragraph. . . .

MR. O'HARA: Mr. Chairman, under the rules of the House, when a bill is to be read by paragraph and a Member wishes to amend a paragraph that has been read and several succeeding paragraphs he is permitted to offer an amendment at the time the first of those paragraphs is read that he wants to amend and then at the same time give notice that if his amendment, which goes beyond the first paragraph and into several others, is adopted he will move to strike the succeeding paragraphs.

In the first place, the gentleman from Illinois gave no such notice, but let us not dwell on that. Let us dwell on the danger of upholding the amendment he is offering.

The gentleman from Illinois, I am sure, will agree that he makes no

change whatsoever in the paragraph just read; absolutely no change.

If the Chair is going to hold that one can offer an amendment at any place one wants in the bill in order to get a provision that comes a page later, or two pages later, or 10 pages later—and that is what he has done; he has offered an amendment here that changes nothing but gets at something on the next page—and if we are going to say that the precedents of this House say one can offer an amendment any place and repeat some language until it gets to the thing he wants to amend, we are heading for legislative chaos, Mr. Chairman.

I believe this is a very serious problem, and I most earnestly ask the Chair to carefully consider his ruling, because otherwise it might be possible to offer an amendment to repeat the language for the next 25 pages until it gets to the things one seeks to change. I believe it is terribly important that this amendment be considered out of order, Mr. Chairman. . . .

THE CHAIRMAN: The Chair is prepared to rule. The Chair is presented with a most difficult ruling at this time. He has resorted to a precedent in "Hinds' Precedent," volume V, page 404, paragraph 5795, which reads as follows:

When it is proposed to offer a single substitute for several paragraphs of a bill which is being considered by paragraphs, the substitute may be moved to the first paragraph with notice that if it be agreed to, motions will be made to strike out the remaining paragraphs.

The Chair notes that the gentleman from Illinois did not give such notice. The amendment goes beyond the para-

graph which has been read and in effect modifies a paragraph which has not yet been read.

The Chairman, therefore, sustains the point of order.

The amendment in the form in which it is offered is not in order.

**§ 11.20 Where an amendment in the nature of a substitute for several paragraphs of an appropriation bill has been agreed to and notice has been given that motions would be made to strike out ensuing paragraphs of the bill as read, the paragraphs are subject to perfecting amendments while such motions to strike are pending.**

On June 15, 1972, during consideration of the Departments of Labor and Health, Education, and Welfare appropriation bill<sup>(15)</sup> Mr. William D. Hathaway, of Maine, offered an amendment in the nature of a substitute, as follows:<sup>(16)</sup>

MR. HATHAWAY: Mr. Chairman, I have an amendment to the paragraph of the bill just read which is a single substitute for several paragraphs of the bill dealing with the Office of Education, and I hereby give notice that if the amendment is agreed to I will make motions to strike out the remaining paragraphs beginning with line 14 on page 19 and extending through and including line 17 on page 21.

15. H.R. 15417.

16. 118 CONG. REC. 21106, 92d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Hathaway: On page 19, strike out lines 6 through 13 and substitute in lieu thereof: . . .

The amendment was agreed to.<sup>(17)</sup>

Subsequently,<sup>(18)</sup> the following proceedings occurred:

MR. HATHAWAY: Mr. Chairman, I move to strike the paragraph beginning on line 16, page 20, and extending down through line 8 on page 21.

THE CHAIRMAN:<sup>(19)</sup> Without objection, the motion is agreed to.

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman reserving the right to object, I would like to make a parliamentary inquiry.

. . . I have an amendment at the desk which would, on page 21, line 1, strike out the words after "1974" down through the word "Act" on line 3. Is it possible to offer that amendment now that the Hathaway amendment has been adopted?

THE CHAIRMAN: It is possible.

MR. QUIE: Mr. Chairman, I offer that amendment.

The Clerk read as follows:

Amendment offered by Mr. Quie:

On page 21, line 1, strike out all that follows after "1974" through the word "Act" on line 3.

THE CHAIRMAN: The Chair was of the impression that the amendment offered by the gentleman from Maine had been agreed to, striking out the

17. *Id.* at p. 21118.

18. *Id.* at p. 21119.

19. Chet Holifield (Calif.).

paragraph to which the amendment is offered. . . .

MR. QUIE: In my copy of the Hathaway amendment it was not stricken out. If that is correct, the Hathaway amendment would put a period after "1974" on line 1 and strike out the rest. It was my understanding the Hathaway amendment put a period after the word "Act" on line 3 and struck out the proviso, which is the rest of line 3 down through line 8.

It then appeared that the Chairman had not heard Mr. Quie's reservation of objection. The following exchange occurred:

THE CHAIRMAN: The Chair would have to rule that the gentleman rose too late. The motion had been offered by Mr. Hathaway, and there was no objection and it was acceded to.

MR. QUIE: Mr. Chairman, the Chair asked if there was any objection, and I reserved the right to object, which I am still reserving, and on that I asked my parliamentary inquiry.

THE CHAIRMAN: The Chair must state that the Chair did not hear the gentleman say he was reserving the right to object on the Hathaway motion. . . .

The Chair will recognize the gentleman on the basis of his statement which the Chair did not hear.

The Clerk will report the amendment offered by the gentleman from Minnesota.

Further objection was made to the Quie amendment, however: <sup>(20)</sup>

20. 118 CONG. REC. 21119, 21120, 92d Cong. 2d Sess.

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Chairman, my point of order is that the committee has just agreed to this.

THE CHAIRMAN: The committee has agreed to what?

MR. FLOOD: The position taken by my friend, the gentleman from Minnesota (Mr. Quie). I have here, for instance, that we voted not to exceed \$18 million for research and training, under part C of said 1963 act. Now I had the clear impression, I am sorry to say, that the committee just agreed to this. . . .

THE CHAIRMAN: The Chair will state that the first amendment offered by Mr. Hathaway on page 19, was to the paragraph beginning on line 7 and that amendment was a substitute amendment, and was agreed to.

Now we still have to read each one of the paragraphs of the bill duplicated or modified by the Hathaway amendment, and a perfecting amendment to those paragraphs is in order even though a motion to strike out is first offered.

MR. O'HARA: Mr. Chairman, a point of order.

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

MR. O'HARA: Mr. Chairman, my point of order is if a motion to strike has been made, is it not then out of order to try to amend the paragraph that the motion to strike applies to?

THE CHAIRMAN: The Chair would have to rule that a perfecting amendment is in order although a motion to strike is pending. Therefore the Chair rules that the amendment offered by the gentleman from Minnesota (Mr. Quie) is in order on the basis that it is



a perfecting amendment to the paragraph to which the motion to strike is pending.

***Separate Votes in House on Amendments***

**§ 11.21 Separate votes have been demanded on amendments adopted in the Committee of the Whole.**

On Apr. 4, 1957,<sup>(1)</sup> H.R. 6287, the Departments of Labor and Health, Education, and Welfare appropriation bill was being considered in the House after amendments had been adopted in the Committee of the Whole. Speaker Sam Rayburn, of Texas, stated:<sup>(2)</sup>

The unfinished business is the further consideration of the bill H.R. 6287, which the Clerk will report by title.

[The Clerk read the title of the bill.]

Separate votes having been demanded on all amendments adopted in the Committee of the Whole, the Clerk will report the first amendment on which a separate vote was demanded.

1. 103 CONG. REC. 5162, 85th Cong. 1st Sess.
2. Note: The Committee on Appropriations furnished printed forms containing all 18 amendments to the bill adopted in the Committee of the Whole, with further pertinent information. Fourteen rollcalls occurred in one day with respect to such amendments.

***Recommittal of Bill With Instructions***

**§ 11.22 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken and that the bill be recommitted to the Committee on Appropriations with instructions was held not to be in order in the Committee of the Whole.**

On Apr. 3, 1957,<sup>(3)</sup> the Committee of the Whole was considering H.R. 6287, the Departments of Labor and Health, Education, and Welfare appropriation bill. The Clerk read a motion as follows, and proceedings ensued as indicated below.

Mr. Hoffman moves that the Committee do now rise, report the bill back to the House with the recommendation that the enacting clause be stricken and that the bill be recommitted to the Committee on Appropriations with instructions that it be reported back to the House within 5 days with amendments which will indicate the places and amounts in the budget where the committee believes, in view of the statements made in the Committee of the Whole House on the State of the Union, that substantial reductions may best be made and will meet the views of the House with the least curtailment

3. 103 CONG. REC. 5013, 85th Cong. 1st Sess.

of efficient administration by the Departments affected.

MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Chairman, I reserve a point of order on the motion. . . .

THE CHAIRMAN:<sup>(4)</sup> Does the gentleman from Rhode Island care to be heard on the point of order? The Chair is ready to rule.

MR. FOGARTY: Mr. Chairman, as I remember the reading of the motion, there is a matter of wording contained therein that is not permissible under the rules governing procedure in the Committee of the Whole, but would be allowed under the rules of procedure in the House.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard?

MR. [CLARE E.] HOFFMAN [of Michigan]: Yes, Mr. Chairman. I want to point out that there is a precedent for the motion and the rules cite a precedent where that motion has been held to be proper in the Committee

THE CHAIRMAN: The Chair is not familiar with that precedent, but the rules of the House provide that certain language contained in the motion made by the gentleman from Michigan could be entertained in the Committee of the Whole, but the balance of the motion would only be appropriate in the House. For that reason, the Chair sustains the point of order

*Parliamentarian's Note:* While the motion that the Committee rise and report the bill back to the House with the recommendation that the bill be recommitted may be in order when the bill is being

4. Aime J. Forand (R.I.).

considered under the general rules of the House (see 4 Hinds' Precedents §§4761, 4762; 8 Cannon's Precedents §2329), it is not in order in the form presented above (where inconsistent motions are joined) nor is it in order when a bill is being considered under a special rule (see 96 CONG. REC. 12219, 81st Cong. 2d Sess., Aug. 10, 1950).

**§ 11.23 On occasion a general appropriation bill has been recommitted with instructions to report back forthwith with an amendment; the bill has then been so reported, the amendment agreed to, the bill again ordered engrossed and read a third time, and the bill passed, in that order.**

On June 8, 1945,<sup>(5)</sup> during consideration in the House of H.R. 3368, a war agencies appropriation bill, the following proceedings occurred:

THE SPEAKER:<sup>(6)</sup> The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

5. 91 CONG. REC. 5832, 5833, 79th Cong. 1st Sess. See also 97 CONG. REC. 6533, 6534, 82d Cong. 1st Sess., June 13, 1951.

6. Sam Rayburn (Tex.).

MR. [JOHN] TABER [of New York]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. TABER: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Taber moves to recommit the bill to the Committee on Appropriations with instructions to report the same back forthwith with an amendment reducing the Office of War Information by \$17,000,000, to apply to the estimates for activities in Europe and the United States.

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

THE SPEAKER: The question is on the motion to recommit.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 120, noes 108.

MR. CANNON of Missouri: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 133, nays 128, not voting 166. . . .

MR. CANNON of Missouri: Mr. Speaker, pursuant to the instructions of the House, I now report back to the House the bill H.R. 3368, the war agencies appropriation bill, with the amendment incorporated in the motion to recommit, and with the recommendation that the amendment be agreed to and the bill as amended do pass.

THE SPEAKER: The Clerk will report the amendment.

The Clerk read as follows:

[Amendment reducing the Office of War Information by \$17,000,000, to apply to the estimates for activities in Europe and the United States.]

MR. CANNON of Missouri: Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER: The question is on agreeing to the amendment.

The amendment was agreed to.

THE SPEAKER: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

THE SPEAKER: The question is on the passage of the bill.

MR. CANNON of Missouri: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 252, nays 2, not voting 178. . . .

So the bill was passed.

#### **§ 11.24 A deficiency appropriation bill has been recommit- ted with instructions to re- port back forthwith with an amendment.**

On Apr. 1, 1948,<sup>(7)</sup> the Committee of the Whole was considering H.R. 6055. The Clerk read as follows, and proceedings ensued as indicated below:

MR. [CLARENCE] CANNON [of Missouri] moves to recommit the bill to

7. 94 CONG. REC. 3994, 3995, 80th Cong. 2d Sess.

the Committee on Appropriations with instructions to report the bill back forthwith with an amendment as follows:

On page 10, line 7, strike out "\$300,000,000" and insert in lieu thereof "\$400,000,000."

MR. [JOHN] TABER [of New York]: Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

MR. CANNON: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 199, nays 154, not voting 78. . . .

MR. TABER: Mr. Speaker, in accordance with the instructions of the House, I report the bill back with an amendment which is at the desk.

THE SPEAKER: <sup>(8)</sup> The Clerk will read the amendment.

The Clerk read as follows:

Page 10, line 7, strike out "\$300,000,000" and insert in lieu thereof "\$400,000,000."

THE SPEAKER: The question is on the amendment.

The amendment was agreed to.

### ***Reduction of Total Appropriation***

#### **§ 11.25 The House has agreed to a motion to recommit an appropriation bill with instructions to the Committee on Appropriations to report back forthwith with an**

8. Joseph W. Martin, Jr. (Mass.).

#### **amendment reducing the total appropriation to a figure not to exceed 95 percent of the budget estimates.**

On July 18, 1967,<sup>(9)</sup> during consideration in the House of H.R. 11456, a Department of Transportation appropriation bill, the following proceedings occurred:

The Clerk read as follows:

Mr. [Melvin R.] Laird [of Wisconsin] moves to recommit the bill to the Committee on Appropriations with instructions to that committee to report it back forthwith with the following amendment: On page 18, immediately following line 15, insert a new section as follows:

"Sec. 702. Money appropriated in this Act shall be available for expenditure in the fiscal year ending June 30, 1968, only to the extent that expenditure thereof shall not result in total aggregate net expenditures of all agencies provided for herein beyond 95 per centum of the total aggregate net expenditures estimated therefor in the budget for 1968 (H. Doc 15)."

THE SPEAKER: <sup>(10)</sup> Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

THE SPEAKER: The question is on the motion to recommit.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

9. 113 CONG. REC. 19273-75, 90th Cong. 1st Sess.

10. John W. McCormack (Mass.).

The question was taken; and there were—yeas 213, nays 188, not voting 30. . . .

So the motion to recommit was agreed to. . . .

MR. [EDWARD P.] BOLAND [of Massachusetts]: Mr. Speaker, pursuant to the instructions of the House, in the motion to recommit, I report back the bill H.R. 11456 with an amendment.

THE SPEAKER: The Clerk will report the amendment.

The Clerk read as follows:

On page 18, immediately following line 15, insert a new section as follows:

“Sec. 702. Money appropriated in this Act shall be available for expenditure in the fiscal year ending June 30, 1968, only to the extent that expenditure thereof shall not result in total aggregate net expenditures of all agencies provided for herein beyond 95 percent of the total aggregate net expenditures estimated therefor in the budget for 1968 (H. Doc 15).”

THE SPEAKER: The question is on the amendment.

The amendment was agreed to.

**§ 11.26 A motion to recommit an appropriation bill with instructions to the committee to reduce the amount of the appropriation by \$50 million is in order; but the committee, if the motion is adopted, may not report the bill back to the House with an amendment proposing a change in the amendments adopted by the House.**

On May 15, 1939,<sup>(11)</sup> the House was considering H.R. 6260, a War Department civil functions appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

MR. [D. LANE] POWERS [of New Jersey] moves to recommit the bill to the Committee on Appropriations with instructions to report the same back forthwith with amendments reducing the total amount of the bill \$50,000,000

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Speaker, I make the point of order that the motion to recommit undertakes to do indirectly what cannot be done directly.

The amount carried in this bill, with these amendments, totals \$305,000,000. Part of it is for the Panama Canal, part for cemeterial expense, part for the Signal Corps and Alaskan Communications Commission, part for rivers and harbors, part for flood control, and part for the United States Soldiers' Home. Of the amount of \$305,000,000, \$277,000,000 is for rivers and harbors and flood control, leaving only \$28,000,000 for all of these other governmental activities. A reduction of \$50,000,000 would take away a large part of the money carried in the two amendments voted in the House last Wednesday. A motion to recommit to do this cannot be done. This motion to recommit attempts to do indirectly what cannot be done directly. It proposes a second vote on the same propositions that were voted on last

11. 84 CONG. REC. 5535, 5536, 76th Cong. 1st Sess.

Wednesday, therefore is subject to a point of order.

THE SPEAKER:<sup>(12)</sup> The Chair may state, in connection with the point of order made by the gentleman from Mississippi, that the Chair understands the purpose of the motion to recommit, one motion to recommit always being in order after the third reading, is to give to those Members opposed to the bill an opportunity to have an expression of opinion by the House upon their proposition. It is true that under the precedents it is not in order by way of a motion to recommit to propose an amendment to an amendment previously adopted by the House, but the motion now pending does not specifically propose to instruct the Committee on Appropriations to do that. The Chair is inclined to the opinion that the motion to recommit in the form here presented is not subject to a point of order.

The Chair overrules the point of order. . . .

MR. [DEWEY] SHORT [of Missouri]: Mr. Speaker, the motion is simply to reduce the bill \$50,000,000.

THE SPEAKER: The Chair understands the rule to be that the House can adopt a motion to recommit with instructions to reduce the amount of the appropriation by \$50,000,000, but the committee, if this motion should be adopted, could not report the bill back to the House with an amendment proposing a change in the amendments adopted by the House.

### ***Prohibition on Use of Appropriations***

#### **§ 11.27 The House has agreed to a recommittal motion**

12. William B. Bankhead (Ala.).

**which sought a prohibition on the use of funds in a supplemental appropriation bill (providing funds for the Department of Agriculture) to finance the export of agricultural commodities to the United Arab Republic.**

On Jan. 26, 1965,<sup>(13)</sup> the House was considering House Joint Resolution 234. The Clerk read a motion to recommit and proceedings ensued as indicated below:

MR. [ROBERT H.] MICHEL [of Illinois] moves to recommit House Joint Resolution 234 to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendment: On page 2, line 13, strike the period at the end of the sentence and insert the following: “: *Provided*, That no part of this appropriation shall be used during the fiscal year 1965 to finance the export of any agricultural commodity to the United Arab Republic under the provisions of title I of such Act.”

The previous question was ordered.

THE SPEAKER:<sup>(14)</sup> The question is on the motion to recommit.

MR. MICHEL: Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 204, nays 177, not voting 53. . . .

So the motion to recommit was agreed to. . . .

13. 111 CONG. REC. 1194, 1195, 89th Cong. 1st Sess.

14. John W. McCormack (Mass.).

The result of the vote was announced as above recorded.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, pursuant to the instructions of the House, I report back to the House, House Joint Resolution 234, with an amendment.

THE SPEAKER: The Clerk will report the amendment. . . .

The question is on the amendment.

The amendment was agreed to.

THE SPEAKER: The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

THE SPEAKER: The question is on the passage of the joint resolution.

The joint resolution was passed.

A motion to reconsider was laid on the table.

**§ 11.28 The House adopted an amendment, reported pursuant to a recommittal motion, to prohibit the use of appropriations in the bill to administer any program for the sale of agricultural commodities to nations that sell supplies to North Vietnam.**

On Apr. 26, 1966,<sup>(15)</sup> during consideration in the House of H.R. 14596, a Department of Agriculture appropriation bill, the following proceedings occurred:

The Clerk read as follows:

15. 112 CONG. REC. 8972, 8973, 89th Cong. 2d Sess.

MR. [PAUL] FINDLEY [of Illinois] moves that the bill be recommitted to the Committee on Appropriations with instructions to report it back forthwith with the following amendment: On page 36, on line 6 strike the period, insert a colon and the following:

*“Provided, That no funds appropriated by this Act shall be used to formulate or administer programs for the sale of agricultural commodities pursuant to title I or IV of Public Law 480, Eighty-third Congress, as amended, to any nation which sells or furnishes or which permits ships or aircraft under its registry to transport to North Vietnam any equipment, materials, or commodities, so long as North Vietnam is governed by a Communist regime.”*

The previous question was ordered.

THE SPEAKER:<sup>(16)</sup> The question is on the motion to recommit.

MR. FINDLEY: Mr. Speaker, on this vote I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 290, nays, 98, not voting 44. . . .

So the motion to recommit was agreed to. . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, pursuant to the instructions of the House in the motion to recommit, I report back the bill H.R. 14596 with an amendment.

THE SPEAKER: The Clerk will report the amendment. . . .

The question is on the amendment.

The amendment was agreed to.

THE SPEAKER: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

16. John W. McCormack (Mass.).

THE SPEAKER: The question is on the passage of the bill.

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

The yeas and nays were ordered.

The question was taken; and there were—yeas 366, nays 23, not voting 43.

### ***Enrollment of Appropriation Bills***

**§ 11.29 Set out below is the form of a concurrent resolution providing that in the enrollment of general appropriation bills enacted during the remainder of a session the Clerk of the House may correct chapter, title, and section numbers.**

On July 4, 1952,<sup>(17)</sup> Mr. George H. Mahon, of Texas, by unanimous consent, submitted the following concurrent resolution (H. Con. Res. 239):

*Resolved by the House of Representatives (the Senate concurring), That in the enrollment of general appropriation bills enacted during the remainder of the second session of the Eighty-second Congress the Clerk of the House may correct chapter, title, and section numbers.*

The concurrent resolution was considered and agreed to. A motion to reconsider the vote whereby the concurrent resolution was

17. H. JOUR. 746, 82d Cong. 2d Sess.

agreed to was, by unanimous consent, laid on the table.

### **§ 12. Points of Order; Timeliness**

*Parliamentarian's Note:* The Committee of the Whole has no authority to delete by points of order portions of a bill referred to it by the House absent reservation of that authority in the House at the time the bill is first referred to the Calendar of the Committee of the Whole House on the state of the Union (the Union Calendar). Absent reserved authority to delete provisions in violation of clauses 2 and 6 of Rule XXI, the Committee of the Whole can merely recommend amendments to be acted upon by the House to change general appropriation bills committed thereto.

### ***Reservation of Points of Order***

**§ 12.1 Points of order are ordinarily reserved against general appropriation bills prior to referral of the bills to the Committee of the Whole, i.e., when placed upon the Union Calendar, and may be reserved thereafter only by unanimous consent.**

On Feb. 26, 1940,<sup>(18)</sup> the following proceedings took place:

18. 86 CONG. REC. 1991, 76th Cong. 3d Sess.



MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Speaker, I 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. 8341) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1940, to provide supplemental appropriations for such fiscal year, and for other purposes; and pending that motion, I ask unanimous consent that general debate shall continue for 2½ hours, to be confined to the bill and the time to be equally divided between myself and the gentleman from New York [Mr. Taber].

THE SPEAKER: <sup>(19)</sup> Is there objection to the request of the gentleman from Virginia (Mr. Woodrum)?

MR. [JOHN] TABER [of New York]: Mr. Speaker, reserving the right to object, has this bill been reported?

MR. WOODRUM of Virginia: Yes; it has been reported.

MR. TABER: Mr. Speaker, I desire to reserve all points of order against the bill.

THE SPEAKER: Without objection, the gentleman from New York reserves all points of order against the bill.

There was no objection.

*Parliamentarian's Note:* Unanimous consent was requested since the bill had been referred to the Committee of the Whole by the Speaker when reported. That is the proper time to reserve points of order in the House against a general appropriation bill. Once the bill is referred to the Union

Calendar, it is then too late absent unanimous consent.

**§ 12.2 The committee chairman obtained unanimous consent that the committee have until midnight to file a report on an appropriation bill, and a Member thereafter obtained unanimous consent to reserve all points of order on the bill.**

On Nov. 26, 1945,<sup>(20)</sup> the following unanimous-consent request was made:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the first deficiency appropriation bill.

THE SPEAKER: <sup>(1)</sup> Is there objection to the request of the gentleman from Missouri?

There was no objection. . . .

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MICHENER: I have been on the floor all morning, but I have been advised that earlier in the day unanimous consent was given to the chairman of the Committee on Appropriations to have until midnight to file a report on the deficiency appropriation bill. I did not hear that request.

20. 91 CONG. REC. 10984, 10993, 79th Cong. 1st Sess.

1. Sam Rayburn (Tex.).

19. William B. Bankhead (Ala.).

THE SPEAKER: The request was made and the consent was granted.

MR. MICHENER: The gentleman from New York [Mr. Taber], the ranking member of the Committee on Appropriations, was in the committee room, as I am advised, at the time. Had he been present and known about it, he would have asked permission to reserve all points of order on the bill.

I now ask unanimous consent to reserve all points of order on the bill.

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

There was no objection.

### ***Precedence Over Pro Forma Amendment***

#### **§ 12.3 A point of order against a paragraph in a general appropriation bill takes precedence over any amendment (including a pro forma amendment) to that paragraph.**

On June 4, 1970,<sup>(2)</sup> during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 17867) the following proceedings took place:

Sec. 117. None of the funds appropriated or made available in this Act for carrying out the Foreign Assistance Act of 1961, as amended, shall be available for assistance to the United Arab Republic, unless the President determines that such availability is es-

2. 116 CONG. REC. 18406, 91st Cong. 2d Sess.

sential to the national interest of the United States.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I move to strike the last word.

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I was on my feet to make a point of order as to section 117 that was just read.

THE CHAIRMAN:<sup>(3)</sup> The gentleman from Wisconsin has a point of order on section 117?

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

THE CHAIRMAN: The Chair will hear the gentleman from Wisconsin on his point of order.

MR. ZABLOCKI: Mr. Chairman, I will gladly defer to the gentleman from Texas (Mr. Mahon) if I do not lose my opportunity to make my point of order in so doing.

THE CHAIRMAN: The Chair will state that the point of order takes precedence.

### ***Priority in Recognition***

#### **§ 12.4 Members of the committee reporting a bill have priority of recognition in making points of order against proposed amendments to bills.**

On Mar. 30, 1949,<sup>(4)</sup> the Committee on the Whole was considering H.R. 3838, an Interior Department appropriation bill. The

3. Hale Boggs (La.).

4. 95 CONG. REC. 3520, 81st Cong. 1st Sess.

Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Francis H.] Case of South Dakota: On page 47, line 7, strike out the period, insert a colon and the following: "*Provided further*, That no part of these funds shall be used to build, operate, or administer transmission lines to carry power developed at Fort Randall Dam across the boundaries of the State of South Dakota in which the power is produced, unless the power so produced shall exceed the requests for power in that State."

MR. [HENRY M.] JACKSON [of Washington]: Mr. Chairman, a point of order.

MR. [CARL T.] CURTIS [of Nebraska]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(5)</sup> The Chair recognizes the gentleman from Washington, a member of the committee, to state a point of order.

### ***Point of Order Against Two Paragraphs***

**§ 12.5 Because a general appropriation bill is read for amendment by paragraphs, a point of order against two consecutive paragraphs comprising a section in the bill can be made only by unanimous consent.**

On June 4, 1970,<sup>(6)</sup> the Committee of the Whole was consid-

5. Jere Cooper (Tenn.).

6. 116 CONG. REC. 18405, 91st Cong. 2d Sess.

ering H.R. 17867, a foreign assistance appropriation bill. A Member stated as follows, and proceedings ensued as indicated below:

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when the Clerk reads the next section, I propose to raise a point of order against both clauses (a) and (b), and I rise at this time to inquire if I can make the point of order against both clauses and have it considered at the same time.

THE CHAIRMAN:<sup>(7)</sup> The Chair will state to the gentleman from Minnesota that that can be done only by unanimous consent.

Is there objection to the request of the gentleman from Minnesota?

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I object.

### ***Assertion That Bill Is Not "General" Appropriation Bill.***

**§ 12.6 In response to a point of order based on Rule XXI clause 2, it was asserted that the bill under consideration was not a "general" appropriation bill and therefore not subject to the rule; but the Chair ruled that such assertion should have been made when the bill was first taken up as a privileged general appropriation bill and was not timely made after**

7. J. Caleb Boggs (Del.).

**the stage of amendment was reached.**

On June 21, 1939,<sup>(8)</sup> the Committee of the Whole was considering an appropriations bill.<sup>(9)</sup> A point of order was raised against the following amendment:

Amendment offered by Mr. [Ross A.] Collins [of Mississippi]: Page 10, line 11, after the word "thereof", insert "*Provided further*, That of the amounts herein appropriated and authorized to be obligated for the procurement of 2,290 airplanes, obligations shall not be incurred for the procurement of more than 1,007 airplanes unless and until the President shall determine that the interests of national defense require the procurement of any portion or all of the number in excess of 1,007."

A point of order having been raised, the following exchange took place:

MR. [FRANCIS H.] CASE of [South Dakota]: Mr. Chairman, there are two points on which this is in order. In the first place, it proposes retrenchment; and, if so, comes under the Holman Rule. In the second place, the bill before us is not a general appropriation bill. The rule under which the point of order is made is rule XXI, section 2, and that rule specifically says:

No appropriation shall be reported in any general appropriation

bill. . . . For any expenditure not previously authorized by law. . . . Nor shall any provision in any such bill or amendment thereto changing existing law be in order—

And so forth. The limitations apply only to recognized general appropriation bills. In Cannon's Procedure, which I have in my hand, on page 20, this point is specifically treated, and on page 20 the statement is flatly made:

The rule applies to general appropriation bills only.

THE CHAIRMAN:<sup>(10)</sup> The Chair is ready to rule. The argument just made, if containing merit, should have been made earlier, when the bill was taken up. It has been reported as a general appropriation bill and so considered, and was reported under the rules as a general appropriation bill.

***Point of Order That Paragraph Has Been Passed***

**§ 12.7 A point of order that a paragraph has been passed and is therefore not subject to amendment will not lie where a Member was on his feet seeking recognition to offer an amendment, while the Clerk continued to read.**

On Apr. 3, 1957,<sup>(11)</sup> The Committee of the Whole was considering H.R. 6287, the Departments of Labor and Health, Education,

8. 84 CONG. REC. 7673, 76th Cong. 1st Sess.

9. H.R. 6791, supplemental military establishment appropriation of 1940.

10. Schuyler Otis Bland (Va.).

11. 103 CONG. REC. 5034-36, 85th Cong. 1st Sess.

and Welfare appropriation bill. The following proceedings took place:

THE CHAIRMAN: <sup>(12)</sup> For what purpose does the gentleman from North Carolina rise?

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I offer an amendment which is at the Clerk's desk.

THE CHAIRMAN: The Clerk will report the amendment.

MR. [HAMER H.] BUDGE [of Idaho]: Mr. Chairman.

THE CHAIRMAN: For what purpose does the gentleman from Idaho rise?

MR. BUDGE: Mr. Chairman, I have an amendment.

THE CHAIRMAN: The gentleman from North Carolina has just been recognized to offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cooley: On page 32, after line 21, insert the following paragraph: "Grants to States for training public-welfare personnel: For grants to States for increasing the number of adequately trained public-welfare personnel available for work in the publicassistance programs as authorized by section 705 of the Social Security Act, as amended, \$2,500,000."

MR. [ALBERT P.] MORANO [of Connecticut]: Mr. Chairman, I make a point of order. I believe that section was passed, but I will reserve the point of order.

MR. COOLEY: It was not passed. My amendment was at the Clerk's desk, but the Clerk was reading so rapidly that he passed that section inadvertently. . . .

MR. [JOHN] TABER [of New York]: Mr. CHAIRMAN, I make a point of order against the amendment on the ground that it is not in order at this point in the bill, the Clerk having read down to line 2 on page 33; and, furthermore, that it is not authorized by law.

MR. COOLEY: May I be heard on the point of order, Mr. Chairman?

THE CHAIRMAN: The Chair will hear the gentleman.

MR. COOLEY: Do I understand the gentleman to base his point of order upon the ground that this amount was not authorized by law?

MR. TABER: Upon the ground that the amendment is not in order at the point where the Clerk had finished reading.

THE CHAIRMAN: The Chair is ready to rule on that point. The gentleman from North Carolina was on his feet while the Clerk was reading. The Clerk continued to read before the gentleman had a chance to offer his amendment.

The gentleman was entitled to recognition.

The Chair overrules the point of order.

### *After Reading of Paragraph*

**§ 12.8 The time for making points or order against items in an appropriation bill is after the House has resolved itself into the Committee of the Whole and after the paragraph containing such items has been read for amendment.**

12. Aime J. Forand (R.I.).

On July 5, 1945,<sup>(13)</sup> the following proceedings took place in the House:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I 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. 3649), making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate in the Committee of the Whole.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:<sup>(14)</sup> The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, if, as in this case, the bill contains many items that are subject to a point of order, is it not in order to make a point of order against sending this bill to the Committee of the Whole?

THE SPEAKER: Under the rules of the House, it is not.

MR. MARCANTONIO: Then the procedure to make the point of order is to make it as the bill is being read for amendment?

THE SPEAKER: As the paragraphs in the bill are reached.

**§ 12.9 The proper time to raise a point of order against language in a paragraph of a general appropriation bill is**

13. 91 CONG. REC. 7226, 79th Cong. 1st Sess.

14. Sam Rayburn (Tex.).

**after the paragraph has been read but before debate starts thereon. (Note: The Chair, however, will not permit the reading of an amendment to preclude a point of order made by a Member who has shown due diligence and who sought recognition at the proper time.)**

On May 24, 1960,<sup>(15)</sup> during consideration in the Committee of the Whole of a general appropriation bill, the following proceedings occurred:

The Clerk read as follows:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law. . . .

MR. [FRED] WAMPLER [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wampler: On page 4, line 16, strike the amount "\$662,622,300" and insert in lieu thereof the amount "\$662,807,300".

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:<sup>(16)</sup> The gentleman will state it.

MR. GROSS: I have a point of order against the language to be found on this page. Will the discussion of this

15. 106 CONG. REC. 10979, 10980, 86th Cong. 2d Sess.

16. Hale Boggs (La.).

amendment abrogate my right to make a point of order?

THE CHAIRMAN: The gentleman is correct, it would. If the gentleman has a point of order, it would have to be urged at this point.

MR. GROSS: The gentleman is trying to obtain recognition from the Chair to make a point of order.

THE CHAIRMAN: The Chair recognizes the gentleman to make the point of order.

**§ 12.10 A point of order against language in a paragraph of an appropriation bill comes too late after the paragraph has been read and amendments thereto have been considered.**

On May 25, 1959,<sup>(17)</sup> during consideration in the Committee of the Whole of a general appropriation bill (H.R. 7176) the following proceedings took place:

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Chairman, I make a point of order.

THE CHAIRMAN:<sup>(18)</sup> The gentleman will state it.

MR. VANIK: I make a point of order to the language on page 9, lines 5 and 6 "from the Baltic countries."

THE CHAIRMAN: The Chair must advise the gentleman that the point of order comes too late. That section has been read and amendments to the section have been considered. The point of order is overruled.

17. 105 CONG. REC. 9013, 86th Cong. 1st Sess.

18. Carl Albert (Okla.).

The Clerk will read.

**§ 12.11 A point of order against language in a paragraph of an appropriation bill comes too late after the paragraph has been read and an amendment thereto has been agreed to.**

On June 13, 1961,<sup>(19)</sup> the Committee of the Whole was considering H.R. 7577, a bill making appropriations for the executive office and the Department of Commerce. The Clerk read as follows, and proceedings ensued as indicated below:

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles, \$6,750,000. . . .

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Patman: On page 28, lines 11 and 12, after "exceed", strike out "\$17,524,000" and insert "\$18,447,000".

MR. [GEORGE W.] ANDREWS [of Alabama]: Mr. Chairman, the committee accepts the amendment.

THE CHAIRMAN:<sup>(20)</sup> The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

19. 107 CONG. REC. 10177, 10178, 87th Cong. 1st Sess.

20. Carl Albert (Okla.).

The Clerk read as follows: . . .

For necessary expenses of the Subversive Activities Control Board, including services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a) . . . \$305,000.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. GROSS: Is a point of order to the language on page 29 in order?

THE CHAIRMAN: If it is to language preceding line 5 on page 29 it is not in order.

MR. GROSS: It does precede line 5 on page 29. The Clerk did not read the language on page 29, lines 1 to 5.

THE CHAIRMAN: The Clerk has read and an amendment has been adopted to the paragraph starting on page 28, line 8 and ending on page 29, line 5.

MR. GROSS. Then a point of order to the language on page 29, line 5, is not in order?

THE CHAIRMAN: The Chair will advise the gentleman it comes too late at this time.

### ***Bill Considered as Read***

**§ 12.12 Where the remainder of a general appropriation bill has been considered as read and open to amendment at any point by unanimous consent, points of order against any provision in that portion of the bill must be made prior to debate or amendment to the remainder of the bill.**

On June 26, 1972,<sup>(1)</sup> during consideration in the Committee of the Whole of a general appropriation bill (H.R. 15586) the following proceedings took place:

THE CHAIRMAN:<sup>(2)</sup> The Clerk will read.

The Clerk proceeded to read the bill.

MR. [JOSEPH L.] EVINS of Tennessee: Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read in full and open to amendment at any point.

THE CHAIRMAN: Is there objection to the request of the gentleman from Tennessee?

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Chairman, reserving the right to object, would that foreclose the making of a point of order against a point that has not been reached in the bill?

A point of order can still be made?

THE CHAIRMAN: Yes.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a further parliamentary inquiry.

Mr. Chairman, is it not necessary that the point of order be made now?

Having dispensed with the reading of the bill, the point of order has to be made now?

THE CHAIRMAN: If the unanimous-consent request of the gentleman from Tennessee is approved, the gentleman from Iowa is correct, the point of order should be made at that time.

### ***Points of Order Against Amendments***

**§ 12.13 Points of order against proposed amendments must**

1. 118 CONG. REC. 22428, 92d Cong. 2d Sess.
2. Wayne N. Aspinall (Colo.).



**be made immediately after the amendment is read; after a Member has been granted 15 minutes to address the Committee of the Whole on his amendment, it is too late to make a point of order against it.**

On Apr. 17, 1943,<sup>(3)</sup> the Committee of the Whole was considering H.R. 2481, an Agriculture Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Clarence] Cannon of Missouri: On page 65, line 6, after the colon, insert: "*Provided further*, That no part of said appropriation or any other appropriation carried in this bill shall be used for incentive payments or subsidies or for any expense for or incident to the payment of incentive payments or any other form of subsidy payments."

MR. CANNON of Missouri: Mr. Chairman, I ask unanimous consent to speak for 15 minutes.

THE CHAIRMAN:<sup>(4)</sup> Is there objection to the request of the gentleman from Missouri?

There was no objection.

THE CHAIRMAN: The gentleman is recognized for 15 minutes.

MR. [USHER L.] BURDICK (of North Dakota): Mr. Chairman, I reserve a point of order on the amendment.

3. 89 CONG. REC. 3510, 78th Cong. 1st Sess.

4. William M. Whittington (Miss.).

THE CHAIRMAN: The point of order comes too late.

MR. [JOHN] TABER [of New York]: The regular order, Mr Chairman.

THE CHAIRMAN: The point of order comes too late. The gentleman has been recognized and has been granted permission to proceed for 15 minutes. The gentleman from Missouri is recognized.

### ***Appropriations in Legislative Bills***

**§ 12.14 While Rule XXI clause 4 (now clause 5) provides that points of order against appropriations in legislative bills may be raised at any time, the practice of the House is that such points of order should be raised when the bill is read for amendment.**

On Mar. 18, 1946,<sup>(5)</sup> the Committee of the Whole was considering H.R. 5407, a bill granting certain powers to the Federal Works Administration. The following proceedings took place:

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5407, with Mr. [Fadjo] Cravens [of Arkansas] in the chair.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I desire to make

5. 92 CONG. REC. 2365, 79th Cong. 2d Sess.

a point of order against portions of the bill in paragraphs (a), (b), and what was originally (c), proposed now to be made (b) by a committee amendment, on the ground that they constitute appropriations. Under the rule forbidding the reporting of appropriations by a committee without jurisdiction, I make a point of order against the consideration of the language on page 2, beginning in line 4, reading:

And the unobligated balances of appropriations heretofore made for the construction of projects outside the District of Columbia.

Also on page 2, beginning in line 23, the last sentence of that paragraph which reads:

Funds for this purpose are hereby made available from the unobligated balances of appropriations heretofore made for the construction of buildings outside the District of Columbia.

Under the rule, a point of order would lie against consideration of those portions of the bill, and I make such a point of order at this time.

MR. [FRITZ G.] LANHAM [of Texas]: Mr. Chairman, the appropriations referred to by the gentleman from South Dakota (Mr. Case) have already been made, and this money has been appropriated.

THE CHAIRMAN: The Chair believes that the proper time to raise such points of order is not at the present time, but when the bill is read under the 5-minute rule for amendment.

MR. CASE of South Dakota: Of course, I know that is frequently done, but I think the rule authorizes the point of order to be made at any time during consideration of the bill. . . .

THE CHAIRMAN: The Chair is informed that under the previous practice of the House, such points of order should be raised when the bill is read for amendment.

MR. CASE of South Dakota: I have no objection to presenting them later, but I do not want to lose my right to present them by failure to raise them at this time.

THE CHAIRMAN: The gentleman will not lose any of his rights.

**§ 12.15 Points of order against appropriations in legislative bills may be raised at any time, even though debate has taken place on the merits of the proposition.**

On June 17, 1937,<sup>(6)</sup> the Committee of the Whole was considering H.R. 7472, a District of Columbia tax bill. The Clerk read as follows, and proceedings ensued as indicated below:

The Commissioners of the District of Columbia are hereby authorized and empowered, in their discretion, to fix, prescribe, and collect fees for the parking of automobiles. . . .

The Commissioners of the District of Columbia are further authorized and empowered, in their discretion, to purchase, rent, and install such mechanical parking meters or devices as the Commissioners may deem necessary or

6. 81 CONG. REC. 5915-18, 75h Cong. 1st Sess. See also 99 CONG. REC. 10398, 83d Cong. 1st Sess., July 29, 1953 (proceedings relating to H.R. 6016).

advisable to insure the collection of such fees. . . .

MR. [THOMAS] O'MALLEY [of Wisconsin]: I make the point of order that this section appropriates money out of fees to be collected, and therefore it is appropriation on a legislative bill. Line 24 provides that the purchase price of these machines shall be paid from the fees collected and the remainder of the fee shall be paid into the Treasury.

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make the point of order that the point of order comes too late. The section has been debated and amendments have been offered, and an amendment to strike out the section has been offered.

MR. O'MALLEY: I was attempting to get recognition from the very beginning.

THE CHAIRMAN:<sup>(7)</sup> The Chair is ready to rule. The last sentence of section 4, rule 21, provides as follows:

A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

It is the opinion of the Chair that the point of order is properly raised at this time and that this is purely an appropriation, and, therefore, that language, as indicated in the gentleman's point of order, is ruled out of order.

The Chair sustains the point of order.

**§ 12.16 A point of order under Rule XXI clause 4 (now clause 5) against an appropriation in a bill reported by a legislative committee) "may**

7. James M. Mead (N.Y.).

**be raised at any time"; and in response to an inquiry the Chair advised a Member that if the offending. Language was not stricken by amendment it could still be reached by a point of order.**

On May 18, 1966,<sup>(8)</sup> during consideration in the Committee of the Whole of an amendment to H.R. 14544, the Participation Sales Act of 1966, proceedings occurred as follows:

Committee amendment: On page 3, line 3 strike out "Notwithstanding any other provision of law," and insert: "Subject to the limitations provided in paragraph (4) of this subsection."

The committee amendment was agreed to Mr. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:<sup>(9)</sup> The gentleman will state the parliamentary inquiry.

MR. JONAS: Mr. Chairman, I have a point of order against the language to be amended by the committee amendment. I would not insist on the point of order if I knew the committee amendment would be adopted.

Should the committee amendment be rejected, I inquire of the Chair if I then might be able to lodge my point of order against the language stricken by the amendment.

THE CHAIRMAN: The Chair will state to the gentleman from North Carolina

8. 112 CONG. REC. 10894, 89th Cong. 2d Sess.

9. Eugene J. Keogh (N.Y.).

that the Chair will undertake to protect the gentleman's right to raise points of order under clause 4 of rule XXI at any time during the consideration of this section of the bill whether the committee amendments are adopted or rejected.

**§ 12.17 A point of order having been raised in the Committee of the Whole against a bill reported by a legislative committee, on the ground that it proposed an appropriation contrary to Rule XXI clause 4 (now clause 5), the Committee rose pending decision by the Chair on the point of order.**

On June 4, 1957,<sup>(10)</sup> the Committee of the Whole was considering H.R. 6974, a bill to extend the Agricultural Development and Assistance Act of 1954. The following proceedings took place:

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I rise to a point of order against the entire bill, H.R. 6974, on the ground that it is a bill from a committee not having authority to report an appropriation. . . .

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . I am a little bit apprehensive that the point of order may be sustained if the Chair is called upon to rule on it. But, I think it would be very unfortunate for us to delay final action on the bill, and in the circumstances we have no other alternative other than to move that the Committee do

now rise, and so, Mr. Chairman, I make that motion.

THE CHAIRMAN:<sup>(11)</sup> The Chair is prepared to rule on the point of order, but the motion offered by the gentleman from North Carolina that the Committee do now rise is in order, and the Chair will put the question.

The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hays of Arkansas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6974) to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes, had come to no resolution thereon.

*Parliamentarian's Note:* In this case the language of the bill was in fact in violation of Rule XXI clause 4 (now clause 5), and the Member in charge of the bill moved that the Committee rise so application could be made to the Committee on Rules for a resolution waiving points of order against the bill. See House Resolution 274. However, a point of order under this rule applies only to offensive language in the bill, and not against consideration of the entire bill (see 7 Cannon's Precedents §2142; 121 CONG. REC. 12049, 94th Cong. 1st Sess.,

10. 103 CONG. REC. 8318, 8319, 85th Cong. 1st Sess.

11. Brooks Hays (Ark.).

Apr. 28, 1975). If the entire language of the bill were ruled out in Committee of the Whole, the enacting clause would still exist and an amendment would still be in order if germane to the title of the bill and not containing an appropriation.

***Point of Order Against Senate Bill***

**§ 12.18 Where language in violation of Rule XXI clause 4 (now clause 5) is stricken from a Senate bill in Committee of the Whole by a point of order, the Chairman reports that fact to the House.**

On July 31, 1957,<sup>(12)</sup> the Committee of the Whole was considering S. 1865, a bill providing for development and modernization of the national system of navigation and traffic control facilities. At one point, proceedings were as follows:

THE CHAIRMAN:<sup>(13)</sup> The time of the gentleman from Michigan has expired.

All time has expired.

The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Mahon, Chairman of the Committee of the Whole House on the

**12.** 103 CONG. REC. 13181, 13182, 85th Cong. 1st Sess.

**13.** George H. Mahon (Tex.).

State of the Union, stated that that Committee having had under consideration the bill (S. 1856) to provide for the development and modernization of the national system of navigation and traffic-control facilities to serve present and future needs of civil and military aviation, and for other purposes, pursuant to House Resolution 361, he reported the same back to the House.

The Chairman also reported that the language in the bill on page 7, line 12, reading as follows: "and unexpended balances of appropriations, allocations, and other funds available or" was stricken out on a point of order.<sup>(14)</sup>

**§ 13. House-Senate Relations**

The general subject of relations between the House and Senate, and that of House-Senate conferences, are discussed in other chapters.<sup>(15)</sup> This section discusses a few issues that arise specifically with respect to appropriations.

Under the Constitution, it is exclusively the prerogative of the

**14.** *Parliamentarian's Note:* The resulting change in the Senate bill was treated as an amendment of the Senate bill and so engrossed and messaged to the Senate, though not voted upon as a separate amendment.

**15.** See Ch. 32, House-Senate Relations, *infra*; Ch. 33, House-Senate Conferences, *infra*. See also Ch. 13, Powers and Prerogatives of the House, *supra*.

House to originate revenue bills. Article I, section 7, clause 1, provides that,

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.<sup>(16)</sup>

The scope of this prerogative is discussed in detail elsewhere.<sup>(17)</sup> (Because questions relating to the prerogative of the House to originate revenue legislation involve interpretation of the Constitution rather than House rules, they are decided by the House rather than the Chair.)<sup>(18)</sup>

The House has traditionally taken the view that this prerogative encompasses the sole power to originate at least the general appropriation bills. Mr. Clarence Cannon, of Missouri, has observed:<sup>(19)</sup>

Under immemorial custom the general appropriation bills, providing for a number of subjects<sup>(20)</sup> as distinguished from special bills appropriating for single, specific purposes,<sup>(1)</sup> originate in

the House of Representatives and there has been no deviation from that practice since the establishment of the Constitution.

Following the view expressed by Mr. Cannon, the House has returned Senate-passed general appropriation bills.<sup>(2)</sup>

The Senate has not always accepted the view that the House has the exclusive right to originate appropriation measures.<sup>(3)</sup>

Issues sometimes arise with respect to the implications of House rules barring, in specified circumstances, unauthorized appropriations and legislation on general appropriation bills,<sup>(4)</sup> and appropriations on legislative bills.<sup>(5)</sup>

Points of order under the House rule prohibiting appropriations on legislative bills<sup>(6)</sup> have been successfully directed against items of appropriation in Senate bills, for example,<sup>(7)</sup> but not against a Senate amendment to an appropriation bill.<sup>(8)</sup> Procedural remedies

16. See *House Rules and Manual* §102 (1981).

See also Constitution of the United States of America: Analysis and Interpretation, S. Doc. No. 92-82, 92d Cong. 2d Sess. pp. 125, 126 (1972).

17. See Ch. 13 §13-20, *supra*.

18. See Ch. 13 §13, *supra*.

19. Cannon's Procedure (1959) p. 20.

20. 4 Hinds' Precedents §§3566-68.

1. 8 Cannon's Precedents §2285.

2. See Ch. 13 §20.3, *supra*.

3. See Ch. 13 §20.1, *supra*.

4. See Ch. 26, *infra*, for general discussion of Rule XXI clause 2.

5. See §4, *supra*, for general discussion of appropriations on legislative bills.

6. Rule XXI clause 5, *House Rules and Manual* §846 (1981).

7. See §13.16, *infra*.

8. See 7 Cannon's Precedents §1572. Rule XXI clause 5 does apply to an amendment in the House to a Senate

against the inclusion of appropriations in Senate bills also include possible points of order under section 401 of the Congressional Budget Act (if the Senate provision can be construed as new spending authority not subject to amounts specified in advance in appropriations acts where budget authority has not been provided in advance; section 401 is not applicable where money has already been appropriated and is in a revolving fund).

The House may also return Senate bills which contain appropriations to the Senate by asserting the constitutional prerogative of the House to originate “revenue” measures, which, as noted above, are construed to include at least “general appropriation bills.”

A rule of the House<sup>(9)</sup> provides:

No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of Rule XXI, if said amendment had originated in the House,<sup>(10)</sup>

amendment to a House legislative bill. See *Procedure in the U.S. House of Representatives* Ch. 25 §3.29 (4th ed.).

9. Rule XX clause 2, *House Rules and Manual* §829 (1981).
10. Rule XXI clause 2, *House Rules and Manual* §834 (1981), prohibits unauthorized appropriations and legislation on general appropriation bills. For further discussion of unauthor-

nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

Under this rule, where a House legislative measure has been committed to conference, and the conferees agree to a Senate amendment appropriating funds, the conference report thereon may be ruled out.<sup>(11)</sup> In the 96th Congress, a point of order that House conferees had violated clause 2 of Rule XX by agreeing to a provision in a Senate amendment to a House legislative bill, directing the use of funds already appropriated for a new purpose, was conceded, and the conference report was ruled out of order.<sup>(12)</sup> But a point of order against an appropriation in a conference report on a legislative bill will only lie under the rule if that provision was originally contained in a Senate amendment and if House conferees were without specific authority to agree to that amend-

ized appropriations and legislation on general appropriation bills, generally, and Senate amendments that violate the rule, see Ch. 26, *infra*.

11. See §13.8, 13.9, *infra*.

12. See §13.9, *infra*.

ment, and will not lie against a provision permitted by the House to remain in its bill.<sup>(13)</sup> Moreover, since the rule applies only to Senate amendments which are sent to conference, it does not apply to appropriations contained in Senate legislative bills.<sup>(14)</sup>

Where an appropriation for a certain purpose has been enacted into law, a provision in a legislative bill authorizing the use, without a subsequent appropriation, of those funds for a new purpose constitutes an appropriation prohibited by clause 5 of Rule XXI, and if in a Senate amendment included in a conference report violates clause 2 of Rule XX (prohibiting House conferees from agreeing to such a provision absent authority from the House).<sup>(15)</sup>

### ***Prerogatives of House and Senate***

#### **§ 13.1 A discussion took place in the House with regard to the prerogatives of the House in initiating the forms of general appropriation bills, during debate on a mo-**

13. See § 13.12, *infra*.

14. See § 13.11, *infra*.

15. See *Procedure in the U.S. House of Representatives* Ch. 25 § 3.30 and Ch. 33 § 15.13. (4th ed.).

**tion that the House instruct its managers of a conference committee not to agree to a Senate amendment to a War Department appropriation bill.**

On June 24, 1937,<sup>(16)</sup> during consideration of the War Department appropriation bill of 1938, the following proceedings took place:

MR. [J. BUELL] SNYDER of Pennsylvania: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 6692, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

THE SPEAKER:<sup>(17)</sup> Is there objection?

. . .

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, by direction of the Committee on Appropriations, I submit a motion, which I send to the desk.

The Clerk read as follows:

Mr. Cannon of Missouri moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the

16. 81 CONG. REC. 6304-06, 75th Cong. 1st Sess.

For further discussion of the powers of the two Houses with respect to revenue and appropriation measures, see Ch. 13, *supra*. See also Chs. 32 and 33, *infra*, for discussion of House-Senate relations, conferences, and related matters. And see § 13.2, *infra*.

17. William B. Bankhead (Ala.).



bill H.R. 6692, the Military Appropriation Act, 1938, be instructed not to agree to the Senate amendments to such bill numbered 47 to 77, inclusive, and 80, and not to agree to the amendment of the Senate amending the title of such bill.

MR. CANNON of Missouri: Mr. Speaker, the Constitution confers upon the House and the Senate respectively certain exclusive prerogatives. Among those reserved to the House by the Constitution is the right to originate revenue bills, and from the beginning of the Government the House has asserted and successfully maintained that the right to originate revenue bills also involves the right to initiate general appropriation bills. That has been the uniform practice, and in keeping with that doctrine the House has formulated the general appropriation bills since the establishment of the Government. Of course, the right to originate general appropriation bills necessarily includes the right to determine the form and the manner in which they shall be presented, and from the beginning the number and scope of the various annual supply bills have been determined by the House with the acquiescence of the Senate. Only on one or two rare occasions has this right of the House been questioned, and in each such instance the Senate has promptly disavowed any intention of infringing on the constitutional prerogatives of the House and yielded without contention.

The last instance was in the second session of the Sixty-second Congress and was the occasion for an exhaustive study of the subject by Hon. John Sharp Williams, formerly minority leader of the House and at the time a

member of the Senate, which was published as a Senate document and which so conclusively confirmed the contention of the House that its right to originate the general supply bills and determine their form had not since been challenged until the receipt just now of a message from the Senate informing the House that the Senate has assumed the right to combine the two War Department appropriation bills by attaching the nonmilitary bill to the military bill as an amendment. . . .

The motion offered proposes [that House conferees be instructed] to decline to agree to the amendment by which the two bills have been merged or to any perfecting amendment which may have been made to the text of the nonmilitary bill. Under such instruction, House conferees will be at liberty to consider and agree in full on the final text of the War Department appropriation bill providing for military activities and the Senate may then message over as a separate bill the nonmilitary bill, as amended by the Senate, and the House will appoint conferees to meet with Senate conferees on the disagreeing votes of the two Houses on the bill as originated by the House of Representatives.

The motion was agreed to.

**§ 13.2 The Senate receded from its amendments which proposed to attach a non-military appropriation bill to a military activities appropriation bill and in so doing discussed the role of the Senate in amending general appropriation bills of the House.**

On July 1, 1937,<sup>(18)</sup> the following proceedings took place in the Senate during consideration of a conference report on H.R. 6692 (appropriations for the military establishment):

MR. [ROYAL S.] COPELAND [of New York]: Mr. President, I am about to move the adoption of the report, but before doing so I think an explanation should be made to the Senate. I am sure that the matter which I shall present will be of interest to every Senator, because it has to do with the rights of the Senate regarding appropriation bills.

During the 15 years of my membership in the Senate, and for a long time prior thereto, it has been the custom to embody all appropriations for the Military Establishment in one bill. This year the House . . . undertook to . . . separate the appropriations and embody them in two bills, one devoted to the strictly military activities . . . and a second to the nonmilitary activities of the Government. . . .

The Senate Committee on Appropriations decided to blend the bills and to present them to the Senate as they have been presented through many years. Explanation was made to the Senate, and the Senate, by unanimous vote, decided to accept and act upon the bill in the usual form.

18. CONG. REC. 6652-54, 75th Cong. 1st Sess. For further discussion of the powers of the two Houses with respect to revenue and appropriation measures, see Ch. 13, *supra*. See also Chs. 32 and 33, *infra*, for discussion of House-Senate relations, conferences, and related matters.

After discussing the response of the House, and noting the existence of divergent views of the respective prerogatives of the Houses relating to appropriation bills and their form, the Senator stated:

Of course, we do not concede . . . that the Constitution confers upon the House any such right to initiate general appropriation bills. . . .

Mr. President, I am instructed by the Committee on Appropriations to say that we challenge the contention that it is the exclusive right of the House to determine the form and number of appropriation bills.

The Senator, however, noted the existence of special circumstances in the present case, and indicated he would therefore move that the conference report be agreed to. The conference report was accordingly agreed to. The following proceedings then took place:

MR. COPELAND: I now move that the Senate agree to the amendments of the House to the amendments of the Senate numbered 24, 26, and 79.

The motion was agreed to.

MR. COPELAND: I now move that the Senate recede from its amendments still in disagreement, and its amendment to the title of the bill.

The motion was agreed to.

MR. [J. W.] ROBINSON [of Utah]: Mr. President, I should like to ask the Senator from New York to tell the Senate the status of the military appropriations, and the status of the nonmilitary appropriations. In what condition does this action leave them?

MR. COPELAND: Mr. President, title I of the Senate bill, which is the military part, has now been agreed to by both Houses, and on my motion, just made, we receded from the amendments which covered the nonmilitary appropriations.

I now wish to present to the Senate for immediate action House bill 7493, as amended by the Senate committee and by the Senate to cover the nonmilitary item, so that the House will be in the position of having two bills, as it desires.

MR. ROBINSON: In other words, that puts the Senate in the position of completely yielding to the House?

MR. COPELAND: Yes.

### ***Reference of Bill to Committee on Appropriations***

#### **§ 13.3 The Speaker announces to the House that he has referred a general appropriation bill with Senate amendments thereto to the Committee on Appropriations**

On July 2, 1945,<sup>(19)</sup> Speaker Sam Rayburn, of Texas, stated as follows:

THE SPEAKER: The Chair desires to announce that he has referred the bill H.R. 3368, the war agencies bill, with Senate amendments thereto, to the Committee on Appropriations.

*Parliamentarian's Note:* While the Speaker has this discretionary authority to refer Senate amend-

ments to any bill under Rule XXIV clause 2, it is seldom exercised.

### ***Conferees for Separate Chapters of Bill***

#### **§ 13.4 The Speaker has appointed a series of conferees for separate chapters of an appropriation bill.**

On July 27, 1955,<sup>(1)</sup> a Member addressed Speaker Sam Rayburn, of Texas, as follows, and proceedings ensued as indicated below:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7278) making supplemental appropriations for the fiscal year ending June 30, 1956, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

THE SPEAKER: Is there objection to the request of the gentleman from Missouri? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. Cannon and Taber; and on chapter I, Messrs. Whitten, Marshall, and H. Carl Anderson; on chapter II, Messrs. Preston, Thomas, and Bow; on chapter III, Messrs. Mahon, Sheppard, Sikes, Wigglesworth, Scrivner, and Ford; on chapter IV, Messrs. Passman, Gary, and Wigglesworth.

19. 91 CONG. REC. 7142, 79th Cong. 1st Sess.

1. 101 CONG. REC. 11686, 84th Cong. 1st Sess.

**§ 13.5 In appointing conferees on the general appropriation bill, 1951, the Speaker appointed a set of conferees for each chapter of the bill, and four Members to sit in the conference on all chapters.**

On Aug. 7, 1950,<sup>(2)</sup> a Member addressed Speaker Sam Rayburn, of Texas, and the following proceedings ensued:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 7786, an act making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and ask for a conference with the Senate.

THE SPEAKER: Is there objection to the request of the gentleman from Missouri? [After a pause.] The Chair hears none and appoints the following conferees.

Managers on the part of the House:

Messrs. Cannon, Rabaut, Norrell, Taber, and on Chap. I, Messrs. Bates of Kentucky, Yates, Furcolo, Stockman, and Wilson of Indiana; on Chap. II, Messrs. McGrath, Kirwan, Andrews, Canfield, and Scrivner; on Chap. III, Messrs. Rooney, Flood, Preston, Stefan, and Clevenger. . . .

MR. [FRANCIS H.] CASE of South Dakota: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. CASE of South Dakota: Will the chairman take a minute to explain how the conferees will operate under this arrangement?

MR. CANNON: Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

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

There was no objection.

MR. CANNON: Mr. Speaker, we expect to go to conference tomorrow morning at 10 o'clock. The bill will be taken up by chapters seriatim. As a chapter is reached the entire subcommittee which wrote that particular chapter, and which therefore is more familiar with it than anyone else on the committee, along with the other managers on the part of the House, will take up the chapter with the Senate conferees.

MR. CASE of South Dakota: This means, then, that the four Members who were first named will sit through the entire conference.

MR. CANNON: They are the ranking members on the central subcommittee which reported the bill to the House and will sit with the respective subcommittees throughout the conference.

MR. CASE of South Dakota: And the Members who are assigned to a particular chapter will receive notification as their particular chapter is approached?

MR. CANNON: When a chapter is taken up, the conferees on the next succeeding chapter will be notified. We hope to proceed with as little delay as possible, subject always to the approval of the managers on the part of the Senate.

2. 96 CONG. REC. 11894, 11895, 81st Cong. 2d Sess.

***Agreement as to Selection of Conference Chairman***

**§ 13.6** An agreement was made between the House and the Senate Committees on Appropriations with respect to selecting a conference chairman.

On July 19, 1962,<sup>(3)</sup> Mr. Clarence Cannon, of Missouri, stated as follows:

Mr. Speaker, each branch of Congress in conference has group autonomy. The selection of the conference chairman is procedural for orderly functioning of the conference. Realizing this, the question of the selection of the conference chairman for the present session of Congress shall be left to the decision of the two subcommittee chairmen.

It is agreed by the joint committee on behalf of the full Committees on Appropriations of the Senate and House of Representatives that for this session only the subcommittee chairmen of each body shall decide who shall act as chairman of the conference. It is further agreed that the chairmen of the Senate and House Committees on Appropriations appoint representatives of each committee to serve as a joint committee to study all the issues involved and to report in January 1963 their recommendations.

***Appropriations on Legislative Bills—Duty of Conferees***

**§ 13.7** Conferees of the House may not in conference agree

3. 108 CONG. REC. 14133, 14134, 87th Cong. 2d Sess.

to a Senate amendment providing for an appropriation upon any other than a general appropriation bill without first having secured specific authority from the House to do so.

On May 22, 1936,<sup>(4)</sup> a Member addressed Speaker Joseph W. Byrns, of Tennessee, as follows, and proceedings ensued as indicated below:

MR. [JAMES M.] MEAD [of New York]: Mr. Speaker, I call up the conference report on the bill (H.R. 9496) to protect the United States against loss in the delivery through the mails of checks in payment of benefits provided for by laws administered by the Veterans' Administration, and I ask unanimous consent that the statement may be read in lieu of the report.

The Clerk read the title of the bill.

MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Speaker, I make a point of order on the conference report that it includes an appropriation which is contrary to the rules of the House and the Senate. . . .

THE SPEAKER: The gentleman from New York [Mr. Mead], chairman of the Committee on the Post Office and Post Roads, presents a conference report signed by the conferees on the part of the Senate and the House. The gentleman from Texas [Mr. Buchanan] makes the point of order that the conference report is out of order because the conferees on the part of the House

4. 80 CONG. REC. 7790-92, 74th Cong. 2d Sess.

in conference agreed to an amendment of the Senate providing an appropriation contrary to the rules of the House.

Senate amendment no. 1 contains the following language:

The Secretary of the Treasury is authorized to advance, from time to time, to the Postmaster General, from the appropriation contained in the Supplemental Appropriation Act, fiscal year 1936, approved February 11, 1936, for "administrative expenses, adjusted-compensation payment act, 1936, Treasury Department, 1936 and 1937", such sums as are certified by the Postmaster General to be required for the expenses of the Post Office Department in connection with the handling of the bonds issued hereunder. Such bonds—

This amendment also contains the following language:

The Secretary of the Treasury shall reimburse the Postmaster General, from the aforesaid appropriation contained in said supplemental appropriation act, for such postage and registry fees as may be required in connection with such transmittal.

Rule XX, clause 2, of the rules of the House of Representatives, reads as follows:

No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of rule XXI, if said amendment had originated in the House, nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

It is clear to the Chair that the managers on the part of the House in agreeing in conference to Senate amendment no. 1 violated the provisions of rule XX, inasmuch as the amendment provides an appropriation.

The Chair therefore sustains the point of order.

The Clerk will report the first amendment in disagreement.

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

THE SPEAKER: The gentleman will state it.

MR. SNELL: Mr. Speaker, if the conference report is out of order, how can we consider it?

THE SPEAKER: The amendments are before the House and must be disposed of.

MR. SNELL: I supposed that the whole report went out.

THE SPEAKER: The report goes out, but that leaves the amendments before the House, and some action must be taken on them. It is for the House to say what action it will take. . . .

MR. [CARL E.] MAPES [of Michigan] (interrupting the reading of the Senate amendment): Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MAPES: Mr. Speaker, supplementing what the gentleman from New York [Mr. Snell] has said, an attempt was made to get this bill before the House by calling up the conference report and the conference report was held out of order. No further action to get the bill before the House has been taken. There has been no request to bring it up in any other way

except through the conference report, and the Speaker, very properly I think, has ruled that the conference report is out of order.

THE SPEAKER: The conference report was called up by the gentleman from New York [Mr. Mead]. The conference report has been held to be out of order, which leaves the Senate amendments before the House for consideration. The House must take some action on them.

MR. MAPES: How do the amendments get before the House for consideration?

THE SPEAKER: They are called up by the gentleman from New York [Mr. Mead].

MR. MAPES: No attempt has been made by the gentleman from New York [Mr. Mead], as I understand, to call them up.

THE SPEAKER: The Chair, in answer to the gentleman from Michigan, reads from section 3257 of Cannon's Precedents:

When a conference report is ruled out of order the bill and amendments are again before the House as when first presented, and motions relating to amendments and conference are again in order.

The Chair thinks that completely answers the gentleman from Michigan.

MR. MAPES: That seems to cover the matter.

MR. [FREDERICK R.] LEHLBACH [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. LEHLBACH: Are amendments put on a House bill by the Senate privileged?

THE SPEAKER: After the stage of disagreement has been reached they are.

For this reason it is necessary that the House take some action upon the amendments at this time.

**§ 13.8 Where House conferees agreed to a Senate amendment providing that "benefits shall be paid from the civil service retirement and disability fund", such an agreement constituted a violation of Rule XX clause 2, and was ruled out on a point of order.**

On Oct. 4, 1962,<sup>(5)</sup> a Member addressed Speaker pro tempore Carl Albert, of Oklahoma, and proceedings ensued as follows:

MR. [THOMAS J.] MURRAY [of Tennessee]: Mr. Speaker, I call up the conference report on the bill (H.R. 7927) to adjust postal rates, 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.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Tennessee?

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object and I do so in order to make a parliamentary inquiry, I desire to make a point of order against considerations of the conference report. . . .

Mr. Speaker, I desire to make a point of order against consideration of the conference report, and I ask to be recognized at the proper time to make that point of order.

5. 108 CONG. REC. 22332, 22333, 87th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: When the Clerk reports the title of the bill, the gentleman may be recognized.

The Clerk will report the title of the bill.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: The gentleman from Iowa makes a point of order. The gentleman will state the point of order.

MR. GROSS: Mr. Speaker, I make the point of order against the conference report on the ground that it violates clause 2 of rule XX of the House rules.

Clause 2, rule XX, reads in part as follows:

Nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall first be given by the House by a separate vote on every such amendment.

Mr. Speaker, H.R. 7927 as passed with the amendment of the Senate provides in section 1104, page 110, the following:

Sec. 1104. Notwithstanding any other provision of law the benefits made payable under the Civil Service Retirement Act by reason of the enactment of this part shall be paid from the civil service retirement and disability fund.

The words "shall be paid from the civil service retirement and disability fund" constitute an appropriation within the meaning of clause 2 of rule XX. . . .

Inasmuch as the House, when it sent the bill to conference, did not give specific authority to agree to such amendment I, therefore, submit that it is not in order for such language to be included in the conference report. . . .

THE SPEAKER PRO TEMPORE: Does the gentleman from Tennessee [Mr. Murray] desire to be heard on the point of order?

MR. MURRAY: I do not, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman from Iowa [Mr. Gross] makes a point of order that the language contained on page 110, section 1104, line 12, "shall be paid from the civil service retirement and disability fund" is in violation of clause 2, rule XX.

The Chair sustains the point of order.

**§ 13.9 A point of order that House conferees had violated clause 2, Rule XX by agreeing to a provision in a Senate amendment to a House legislative bill, directing the use of funds already appropriated for a new purpose, was conceded and the conference report was ruled out of order.**

On Nov. 29, 1979,<sup>(6)</sup> a conference report on H.R. 2676 (EPA research authorization for appropriations, fiscal year 1980) authorizing appropriations for environmental research and development was called up for consideration. Included in the conference report was a provision originally contained in a Senate amendment, directing that funds appropriated

6. 125 CONG. REC. 34113, 96th Cong. 1st Sess.



pursuant to the authorization be obligated and expended on a certain project not specifically funded by the appropriation law.

The Chair, noting that the appropriation bill for the activity concerned had already been enacted for the year in question, ruled that the provision at that time constituted an appropriation on a legislative bill and could not, under clause 2 of Rule XX, be agreed to by House conferees. The proceedings were as follows:

MR. [EDWARD P.] BOLAND [of Massachusetts]: Mr. Speaker, I make a point of order against the conference report.

THE SPEAKER PRO TEMPORE:<sup>(7)</sup> The gentleman from Massachusetts will state the point of order.

MR. BOLAND: Mr. Speaker, clause 5 of rule XXI prohibits committees without proper jurisdiction from reporting measures carrying appropriations. Interpretation of the rule has held that language reappropriating, making available, or diverting an appropriation already made for one purpose to another is not in order. This has been sustained numerous times, but it is very clearly stated in a ruling on August 11, 1921, and is a precedent that is nearly identical to the issue that is before us now.

In the paragraph authorizing appropriations for the health and ecological effects activity of the water quality research and development program House conferees on H.R. 2676 agreed to retain in the bill the following provision added by the Senate:

*Provided, That of the funds appropriated pursuant to this paragraph \$900,000 shall be obligated and expended on the Cold Climate Research program through the Environmental Protection Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon.*

The 1980 Environmental Protection Agency budget request did not include any funding for cold climate research. The 1980 appropriation of EPA's research and development programs also did not include any funding for cold climate research.

The proviso amounts to a diversion of funds previously appropriated and violates clause 5, rule XXI.

Mr. Speaker, I urge that the point of order be sustained.

THE SPEAKER PRO TEMPORE: Does the gentleman from Florida (Mr. Fuqua) wish to speak on the point of order?

MR. [DON] FUQUA: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is conceded and sustained.

In this instance, the conference report containing the Senate amendment having been ruled out of order because containing an appropriation, the manager of the conference report moved to recede and concur in the Senate amendment with an amendment merely encouraging, but not mandating, the use of funds already appropriated for a new purpose.<sup>(8)</sup>

7. Abraham Kazen, Jr. (Tex.).

8. 125 CONG. REC. 34114, 96th Cong. 1st Sess., Nov. 29, 1979.

**§ 13.10 The rule restricting the authority of conferees in agreeing to appropriation language in Senate amendments does not apply to language in Senate bills.**

On Jan. 25, 1972,<sup>(9)</sup> a conference report on S. 2819 (the foreign military assistance authorization) was under consideration which contained an additional provision beyond the scope of the differences committed to conference.<sup>(10)</sup> The Speaker, Carl Albert, of Oklahoma, in overruling a point of order against the report, noted that the House had adopted a resolution waiving points of order against the inclusion of such additional matter, and that clauses 2 and 3 of Rule XX (restricting the authority of House conferees from agreeing to appropriation or nongermane language, respectively, in Senate amendments) are not applicable where a Senate bill and House amendments are committed to conference. The proceedings were as indicated below:

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

9. 118 CONG. REC. 1076, 1077, 92d Cong. 2d Sess.

10. Inclusion of such matter violates Rule XXVIII clause 3.

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

Sec. 658. Limitation on Use of Funds.—

(a) Except as otherwise provided in this section, none of the funds appropriated to carry out the provisions of this Act or the Foreign Military Sales Act shall be obligated or expended until the Comptroller General of the United States certifies to the Congress that all funds previously appropriated and thereafter impounded during the fiscal year 1971 for programs and activities administered by or under the direction of the Department of Agriculture, the Department of Housing and Urban Development, and the Department of Health, Education and Welfare have been released for obligation and expenditure.

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

MR. [THOMAS E.] MORGAN [of Pennsylvania]: . . . The rule is broad and covers the objections made by the gentleman from Iowa. Last November the House sent to conference two foreign aid bills, one economic and one military, which passed the Senate. At that time the House struck out all after the enacting clauses of both bills and inserted in lieu thereof the complete text of H.R. 9910, which had passed the House last August.

All the provisions of both the House and Senate bills that were in disagree-

ment were considered in conference. The House having adopted a rule to send these two Senate bills (to conference) the amendments to which the gentleman from Iowa has objected automatically became House amendments and the provisions from the Senate bill are no longer subject to a point of order.

THE SPEAKER: The Chair is ready to rule.

The gentleman from Iowa has raised a point of order against the conference report on the ground that the House conferees have exceeded their authority by including in the conference report provisions not germane or not in either the Senate bill or the House amendment and agreed to an appropriation in violation of clause 2, rule XX. That rule provides in relevant part:

No amendment of the Senate . . . providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House.

The Chair would point out that it was a Senate bill which was sent to conference, with a House amendment thereto. The rule is restricted in its application to Senate amendments, and thus is not applicable in the present situation.

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

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

For these reasons the Chair overrules the point of order.

**§ 13.11 Clause 2 of Rule XX which precludes House conferees from agreeing to Senate amendments providing for appropriations in a conference report absent specific authority applies only to Senate amendments which are sent to conference and not to appropriations contained in Senate legislative bills.**

On June 30, 1976,<sup>(11)</sup> the Speaker<sup>(12)</sup> overruled a point of order against a conference report containing a provision permitting a new use of funds in an existing revolving fund, even though such provision constituted an appropriation on a legislative bill, since the provision had been contained in the Senate bill and since clause 2 of Rule XX is not applicable where a Senate bill and House amendments are committed to conference. The proceedings were as follows:

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Speaker, I call up the conference report on the Senate bill (S. 3295) to extend the authorization for annual contributions under the U.S. Housing Act of 1937, to extend certain

11. 122 CONG. REC. 21632, 21633, 94th Cong. 2d Sess.

12. Carl Albert (Okla.).

housing programs under the National Housing Act, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report. . . .

MR. [GARRY] BROWN [of Michigan]: Mr. Speaker, I make a point of order against the conference report on S. 3295 on the basis that the House managers exceeded their authority by agreeing to two matters not in the original House amendment to the Senate bill and which violates clause 2, rule XX, of the House Rules and Precedents of the House. Clause 2, rule XX, reads in part as follows:

Nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall first be given by the House by a separate vote on every such amendment.

The Senate-passed bill contains section 9(a)(2) and 9(b) which in effect provide for expenditures to be made from the various FHA insurance funds to honor claims made eligible for payment by the provisions of section 9 generally. These amendments are to section 518(b) of the National Housing Act and relate to sections 203 and 221 housing programs for which the authority of the Secretary of HUD to pay claims related to certain structural defects has expired if the claims were not filed by March 1976.

Both sections 9(a)(2) and 9(b) include identical language which states as follows:

Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance

benefits on the mortgage covering the structure to which the expenditures relate.

The words "Expenditures pursuant to this subsection shall be made from the insurance fund" constitute an appropriation within the meaning of clause 2, rule XX. Based on precedents under clause 5, rule XXI, it is clear that payments out of funds such as the FHA insurance fund are within the meaning of the term "appropriation" and that the action taken by the House managers is violative of clause 2, rule XX.

In support of this point of order, I cite the ruling of the Chair on a point of order raised by H.R. Gross on October 1, 1962, to the conference report on H.R. 7927. A Senate provision agreed to in that report provided that—

The benefits made payable . . . by reason of enactment of this part shall be paid from the civil service retirement and disability fund.

Inasmuch as when the House agreed to go to conference, it did not give specific authority to agree to such an amendment. I therefore submit that it is not in order for such language to be included in the conference report.

The FHA insurance funds are designed to provide the reserves for payments on defaulted mortgages and for the operation of HUD related to the various insurance programs and any diversion of the use of such funds such as for payment for defects in the structure would violate clause 5 of rule XXI. In further support of this point of order, and specifically on the point that the provisions constitute a diversion of funds for a separate purpose not within the intention of the legisla-

tion establishing the fund, I cite the ruling of the Chair on October 5, 1972, which holds that an amendment allowing for the use of highway trust fund moneys to purchase buses,

would seem to violate clause 4 of rule XXI in that it would divert or actually reappropriate for a new purpose funds which have been appropriated and allocated and are in the pipeline for purposes specified by the law under the original 1956 act.

I say, Mr. Speaker, I make a point of order against the conference report on this basis.

I would note, Mr. Speaker, that the gentleman from Oklahoma is the one who sustained the point of order raised by Mr. Gross in the case which I have referred to.

Mr. Speaker, I am inclined to anticipate a ruling against my point of order, but if that should be the case, Mr. Speaker, I suggest we are making a mockery of the rules of the House.

Since some of my comrades may not be aware of it, the rules of the House in clause 5, rule XXI, provide:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. . . .

Mr. Speaker, that is a rule of the House. Now, since the House in its rules cannot have extraterritorial effect or extra body effect, in order to protect the House from having its rules violated by the Senate, we adopted clause 2 of rule XX which related to action that the Senate might take that would

be violative of the House rules. But the very fact that this is not a Senate amendment on a House bill is insignificant if the rules of the House are going to have any real meaning because what we are saying is any time we want to violate the House rules, we can have the rule provide that after consideration of the bill it shall be in order for the such-and-such Senate bill to be taken from the Speaker's desk and everything after the enacting clause stricken and apply the House language. . . .

MR. [THOMAS L.] ASHLEY [of Ohio]: . . . Mr. Speaker, clause 2 of rule XX of the rules of the House makes out of order any provision in a Senate amendment which provides for an appropriation. However, the rule does not address itself to provisions in Senate bills. The conferees accepted the provision in question, without change, from a Senate bill and not from a Senate amendment. Therefore, no violation of the House rules is involved even if the provision is considered to be an appropriation.

THE SPEAKER: The Chair is ready to rule.

The gentleman from Michigan has made a point of order against the conference report, referring to the language of rule XX, clause 2, which places certain restrictions on the managers on the part of the House in a conference with the Senate.

The Chair has ruled on this matter before.

On January 25, 1972, the Chair ruled in connection with a point of order made by the gentleman from Iowa (Mr. Gross) against the conference report on a foreign military as-

sistance authorization bill (S. 2819) on the ground that the House conferees had exceeded their authority by including in the conference report an appropriation entirely in conflict with clause 2, rule XX. That rule provides, in relevant part, that “no amendment of the Senate”—that is the important language—no amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House.

The Chair would point out that it was a Senate bill which was sent to conference with a House amendment thereto. The rule is restricted in its application to Senate amendments and, thus, is not applicable in the present situation.

The Chair, therefore, overrules the point of order.

After the above ruling, Mr. Brown pointed to the following language in the conference report as representing, in effect, an agreement by the Senate “with a Senate amendment”:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment.

The Speaker responded that a conference report on a Senate bill which recommends that the Senate concur in the House amendment with an amendment does not place before the House a Senate amendment against which a point of order can be raised under clause 2 of Rule XX, since the con-

ference report represents only a proposed compromise and not a Senate amendment originally committed to conference.<sup>(13)</sup>

**§ 13.12 Although Rule XXI clause 5 permits a point of order against an appropriation in a legislative bill or amendment to be raised “at any time” during the initial consideration of the bill or amendment under the five-minute rule in the House, a point of order against similar language permitted to remain in the House version and included in a conference report on that bill will not lie, since the only rule prohibiting such inclusion (Rule XX clause 2) is limited to language originally contained in a Senate amendment where House conferees have not been specifically authorized to agree thereto.**

The following proceedings took place on May 1, 1975,<sup>(14)</sup> during consideration of a conference report, as indicated below:

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Speaker, I call up the conference report on the bill (H.R.

13. 122 CONG. REC. 21634, 94th Cong. 2d Sess., June 30, 1976.

14. 121 CONG. REC. 12752, 12753, 94th Cong. 1st Sess.

6096) to authorize funds for humanitarian assistance and evacuation programs in Vietnam and to clarify restrictions on the availability of funds for the use of U.S. Armed Forces in Indochina, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report. . . .

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Speaker, I would like to make a point of order against the conference report.

THE SPEAKER [Carl Albert, of Oklahoma]: The gentlewoman will state it.

MS. HOLTZMAN: Mr. Speaker, section 7 of the conference report in the last sentence refers to evacuation programs authorized by this act. It permits a waiver of a series of laws for the purpose of allowing those evacuation programs to take place.

In the House bill (H.R. 6096), section 3 dealt with evacuation programs referred to in section 2 of the bill and waived the same series of laws with respect thereto. In order for section 3 to be considered, it required a rule from the Rules Committee. And a rule was granted waiving points of order against section 3 of the bill. But section 7 of the conference report, in speaking of evacuation programs authorized by the entire act and not just by one section, exceeds the scope of section 3 of the bill and exceeds the waiver that was permitted under the rule. It therefore violates rule XXI, clause 5, and violates rule XX, clause 2, which prohibits House conferees from accepting a Senate amendment providing for an appropriation on a nonappropriation bill in excess of the rules of the House. . . .

MR. MORGAN: . . . The point of order has no standing. Section 3 of the

House bill and section 7 of the conference report referred to use of funds of the Armed Forces of the United States for the protection and evacuation of certain persons from South Vietnam. The language of the conference report does not increase funds available for that purpose. Both the House bill and the conference report simply removed limitations on the use of funds from the DOD budget. These limitations were not applicable to the funds authorized in H.R. 6096. The scope of the waiver is the same in the conference report and the House bill.

Mr. Speaker, the changes in language are merely conforming changes. Section 2 of the House bill was a section which authorized the evacuation programs in the House bill. The conference version contains the evacuation programs authority in several sections plus reference to the entire act rather than to one specific section. . . .

THE SPEAKER: The Chair is ready to rule.

The gentlewoman from New York makes the point of order that section 7 of the conference report constitutes an appropriation on a legislative bill in violation of clause 5, rule XXI, to which the House conferees were not authorized to agree pursuant to clause 2, rule XX.

The Chair would first point out that the provisions of clause 2, rule XX, preclude House conferees from agreeing to a Senate amendment containing an appropriation on a legislative bill, and do not restrict their authority to consider an appropriation which might have been contained in the House-passed version. In this instance, the conferees have recommended language which is

virtually identical to section 3 of the House bill, and they have not agreed to a Senate amendment containing an appropriation. Therefore, clause 2, rule XX, is not applicable to the present conference report.

While clause 5, rule XXI, permits a point of order to be raised against an appropriation in a legislative bill "at any time" consistent with the orderly consideration of the bill to which applied—Cannon's VII, sections 2138–39—the Chair must point out that H.R. 6096 was considered in the House under the terms of House Resolution 409 which waived points of order against section 3 of the House bill as constituting an appropriation of available funds for a new purpose. . . .

The gentlewoman from New York also has in effect made the point of order that section 7 of the conference report goes beyond the issues in difference between the two Houses committed to conference in violation of clause 3, rule XXVIII.

In the House-passed bill, section 3 contained waivers of certain provisions of law in order to make available funds already appropriated to the Department of Defense to be used for the Armed Forces in "evacuation programs referred to in section 2 of the act." The conferees have recommended that the same waivers of law shall apply to "evacuation programs authorized by this act."

In the opinion of the Chair, a conforming change in phraseology in a conference report from language contained in the House or Senate version to achieve consistency in the language thereof, absent proof that the effect of that change is to broaden the scope of

the language beyond that contained in either version, does not necessarily render the conference report subject to a point of order. In this instance, it appears to the Chair that the only effect of the language in the conference report was to accomplish the same result that would have been reached by section 3 of the House bill, namely to remove certain limitations on the use of funds in the Defense budget for military evacuation programs under this bill.

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

### ***Amendments to Senate Amendments***

#### **§ 13.13 Where a Senate amendment on a general appropriation bill proposes an expenditure not authorized by law, it is in order in the House to perfect such Senate amendment by germane amendments.**

The following proceedings took place on Feb. 8, 1937,<sup>(15)</sup> during consideration of H.R. 3587, a deficiency appropriations bill:

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Speaker, I move to recede and concur in the Senate amendment with an amendment, which I send to the Clerk's desk. . . .

MR. [HENRY] ELLENBOGEN [of Pennsylvania]: Mr. Speaker, I offer a pref-

15. 81 CONG. REC. 975, 976, 75th Cong. 1st Sess.



erential motion, which I send to the Clerk's desk.

The Clerk read as follows:

Mr. Ellenbogen moves that the House recede and concur in Senate amendment no. 9.

MR. WOODRUM: Mr. Speaker, I ask for a division of the question.

THE SPEAKER PRO TEMPORE:<sup>(16)</sup> The gentleman from Virginia demands a division of the question. The question is, Shall the House recede from its disagreement to the Senate amendment?

The question was taken, and the motion to recede was agreed to.

MR. WOODRUM: Mr. Speaker, I move to concur in the Senate amendment with an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Mr. Woodrum moves that the House concur in the Senate amendment with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "or of any appropriation or other funds of any executive department or independent executive agency shall be used after June 30, 1937, to pay the compensation of any person detailed or loaned for service in connection with any investigation or inquiry undertaken by any committee of either House of Congress under special resolution thereof."

MR. ELLENBOGEN: Mr. Speaker, I make the point of order that the motion of the gentleman from Virginia violates the rules of the House in that it is legislation on an appropriation bill.

THE SPEAKER PRO TEMPORE: The Chair will state that the Senate amendment is legislation, and the

amendment to that amendment offered by the gentleman from Virginia is not out of order because it contains legislation. The Chair therefore overrules the point of order.

MR. [THOMAS] O'MALLEY [of Wisconsin]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. O'MALLEY: Mr. Speaker, I make the point of order that the amendment of the gentleman from Virginia is not germane, since it limits the Senate amendment by date.

THE SPEAKER PRO TEMPORE: The Chair will state that it deals with the same subject matter, and the mere limitation of the Senate amendment by date does not destroy its germaneness, and the Chair therefore overrules the point of order.

**§ 13.14 Where the Senate attaches to an appropriation bill a legislative amendment, it is in order in the House to concur with a perfecting amendment provided such amendment does not broaden the scope of the legislation in the Senate amendment.**

On June 15, 1933,<sup>(17)</sup> during consideration of Senate amendments to the independent offices appropriation bill,<sup>(18)</sup> the following proceedings took place:

The Clerk read as follows:

<sup>17</sup> 77 CONG. REC. 6150, 73d Cong. 1st Sess.

<sup>18</sup> H.R. 5389.

<sup>16</sup> John J. O'Connor (N.Y.).

Amendment No. 30: On page 57, after line 14, insert:

"Sec. 6. After the enactment of this act the Postmaster General is directed to suspend payments upon any air mail or ocean mail contract to any individuals, companies, or corporations which, singly or in combination with other individuals, companies, or corporations receiving a subsidy, pay any salary or salary combined with bonus to any officer, agent, or employee in excess of a salary of \$17,500. . . ."

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Speaker, I move to recede and concur with an amendment, which I send to the desk.

The Clerk read as follows:

Mr. Woodrum moves that the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"Sec. 6. Hereafter the Postmaster General shall not award any air mail contract or any ocean mail contract under the Merchant Marine Act of 1928 to any individuals, companies, or corporations which, singly or in combination with other individuals, companies, or corporations pay any salary, or salary combined with bonus, to any officer, agent, or employee in excess of \$17,500. . . ."

MR. [EDWARD W.] GOSS [of Connecticut]: Mr. Speaker, a point of order.

The amendment as I heard it read contains the word "hereafter", making this permanent law, forever. I have no particular objection to the language contained, that makes it for the duration of the life of this appropriation bill, but it might not be wise, under certain circumstances, to make it per-

manent, forever. The word "hereafter" makes it legislation on an appropriation bill, which makes it permanent legislation.

MR. WOODRUM: The original text makes it permanent legislation.

MR. GOSS: But it reads "after the enactment of this act."

THE SPEAKER:<sup>(19)</sup> We are considering the Senate amendment. The entire amendment of the Senate is legislation which the House may now perfect by any germane amendment.

MR. GOSS: I will reserve it for the moment, to hear further explanation. I do not want to see it made permanent law.

MR. WOODRUM: The only change which the House makes in it is the very proper change not to undertake to make this retroactive to apply to contracts. They have postoffice contracts that have already been made in good faith, but it does provide—

MR. GOSS: For all time.

MR. WOODRUM: Yes; until Congress changes it, because the original language was for all time. . . .

THE SPEAKER: The Chair overrules the point of order made by the gentleman from Connecticut.

### **§ 13.15 In amending a Senate amendment the House is not confined within the limits of the amount set by the original bill and the Senate amendment.**

On June 20, 1932,<sup>(20)</sup> during consideration of H.R. 11267, the

19. Henry T. Rainey (Ill.).

20. 75 CONG. REC. 13522-25, 72d Cong. 1st Sess.

Economy Committee amendment to the legislative appropriation bill, a Senate amendment was under consideration which provided for an 11 percent reduction in all government salaries in excess of \$2,500. An amendment was offered proposing to reduce salaries by a graduated scale with a minimum exemption of \$1,200. A point of order was made as follows, and proceedings ensued as indicated below:

MR. [FIORELLO H.] LAGUARDIA [of New York]: Mr. Speaker, I make the point of order that the subject matter contained in the gentleman's motion at this time is not proper in that there is nothing before the House at this time which shows a change of attitude on the part of the House in its action on the question of salary reduction. There are two propositions before the House. One is the House bill providing for a reduction with a \$2,500 exemption, and the other is the Senate so-called furlough plan. The gentleman seeks to concur in the Senate plan with an amendment, and the matter in the amendment is not germane to that plan. The gentleman's motion is beyond the province of conferees. The subject matter contained in the motion is an entirely new proposition. If conferees have failed to agree on either the House bill or Senate bill, then they should be discharged. If the gentleman seeks to carry out a reduction plan, then I submit that the House has not indicated by vote or otherwise that it recedes from its original position. What the gentleman is seeking to do is to get

legislative action de novo on a matter which has already been passed on by the House. When we come to that point—enter on our own initiative or from the Senate—new conferees representing the views of the House should be and would be appointed. I repeat, Mr. Speaker, that the view of the House must first be presented by friends of the proposition to the Senate conferees. There is no indication in the report or otherwise that the House bill was actually sponsored in conference by the conferees on the part of the House, and I submit that at this stage we can not legislate de novo in order to carry out the personal views or preference of the conferees. The House should at least be given the opportunity to express itself on its own bill. In this roundabout method the House is compelled to take other action without first knowing what the attitude of the other body on the proposition may be.

MR. [JOHN C.] SCHAFER [of Wisconsin]: Mr. Speaker, I believe the Chair should hold that the amendment offered by the gentleman from Alabama is out of order, because the amendment goes beyond the range of difference between the action of the House and the Senate. The furlough plan incorporated in the bill by the Senate and the salary-reduction plan as passed by the House contain no salary reductions in salaries below \$2,500 per year. I believe on that point alone the amendment is not germane, and therefore it is not in order, as the conferees have exceeded their authority.

MR. [JOHN] MCDUFFIE [of Alabama]: Mr. Speaker, I think the Chair has ample precedent for overruling the point of order raised by the gentleman

from Wisconsin, because, in the first place we are not dealing with a conference report, and in the second place, I direct the attention of the Speaker to the fact that anything that is germane is permissible to be written in an amendment such as I have offered.

THE SPEAKER PRO TEMPORE [William B. Bankhead, of Alabama]: The Chair is ready to rule.

The gentleman from New York (Mr. LaGuardia) interposes a point of order against the amendment offered by the gentleman from Alabama (Mr. McDuffie) to the Senate proposal, upon the ground that it does not affirmatively appear that the House conferees really took into consideration the action and voice of the House in the conference. That, of course, is a matter entirely beyond the province of the Chair, and is a matter of speculation, necessarily. The Chair, therefore, overrules that point of order.

The gentleman from Wisconsin (Mr. Schafer) raised the point of order that the provisions embodied in the motion of the gentleman from Alabama to recede and concur with an amendment to the Senate amendment was beyond the limits fixed in either the House bill or the Senate amendment. The Parliamentarian has furnished the Chair with a syllabus of an opinion by Chairman Hepburn, of Iowa, made on February 26, 1902, which may be found in Hinds' Precedents (vol. 5, sec. 6187). It is as follows: "In amending a Senate amendment the House is not confined within the limits of amount set by the original bill and the Senate amendment." The Chair thinks that that decision disposes of the point of order raised by the gentleman from Wisconsin. The Chair desires to say in

passing upon these points of order that in cases of this kind the only requirement is that the amendment proposed in the motion to recede and concur with an amendment must be germane to the Senate amendment. This question arose on May 3, 1922, when Mr. Speaker Gillett, in overruling a point of order similar to this, held that to a Senate amendment providing a new method of taxation in the District of Columbia and revising the fiscal relationship of the District of Columbia and the United States with other incidental propositions an amendment proposing a different scheme is germane, although different in detail.

The Chair thinks that these decisions fully cover points of order raised by the gentleman from New York and the gentleman from Wisconsin, and therefore overrules the points of order.

Similarly, on June 28, 1932,<sup>(1)</sup> the following proceedings took place during consideration of the Navy appropriation bill:<sup>(2)</sup>

THE SPEAKER:<sup>(3)</sup> The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Amendment No. 16: Page 23, line 17, strike out "\$1,014,250" and insert in lieu thereof "\$1,191,850."

MR. [WILLIAM A.] AYRES (of Kansas): Mr. Speaker, I move that the House recede and concur with an amendment.

The Clerk read as follows:

Mr. Ayres moves to recede and concur in Senate amendment No. 16

1. *Id.* at pp. 14207, 14208.
2. H.R. 11452.
3. John N. Garner (Tex.).

with the following amendment: In lieu of the sum proposed by said amendment insert the following: "\$1,157,535 (none of which shall be available for increased pay for making aerial flights by nonflying officers or observers except eight officers above the grade of lieutenant commander, to be selected by the Secretary of the Navy)."

Mr. LaGuardia: I make the point of order that the amendment offered by the gentleman from Kansas is beyond the power and scope of the conferees; that it brings in entirely new matter, that the difference between the Senate bill and the House bill is simply one of amount, and we can not at this stage of the proceedings legislate on the bill.

THE SPEAKER: On the grounds the gentleman makes his point of order the Chair will overrule it. The question is on the motion to concur with an amendment.

The motion was agreed to.

THE SPEAKER: Let the Chair say in connection with that point of order that if the gentleman from New York had made the point of order that the proposed amendment was not germane to the Senate amendment, the Chair thinks it would have been sufficient, but the gentleman from New York said it was beyond the jurisdiction of the conferees, and the motion to concur with an amendment is not subject to that point of order.

### ***Point of Order Against Appropriations in Senate Bill***

**§ 13.16 A point of order under the rule barring appropriations in a legislative bill may be raised against an item of**

### **appropriation in a Senate bill.**

On July 30, 1957,<sup>(4)</sup> during consideration of S. 1865, a bill establishing an airways modernization board and to provide for the development and modernization of the national system of navigation and traffic control facilities to serve present and future needs of civil and military aviation, a provision granting authority to transfer "unexpended balances of appropriations, allocations, and other funds available," was ruled out by Chairman George H. Mahon, of Texas, as an appropriation reported from a nonappropriating committee in violation of clause 4, rule XXI.

The language having been stricken from the Senate bill pursuant to the point of order, that fact was reported by Chairman Mahon to the House.<sup>(5)</sup> The language stricken from the bill on the point of order was treated as an amendment of the Senate bill and so engrossed and messaged to the Senate.

### ***Special Rule Waiving Points of Order***

**§ 13.17 A resolution is set forth below waiving points of**

4. 103 CONG. REC. 13056, 85th Cong. 1st Sess.

5. *Id.* at pp. 13181, 13182, July 31, 1957.

**order against a conference report on a general appropriation bill, and making in order a motion to recede from disagreement and to concur therein with an amendment.**

On Dec. 23, 1963,<sup>(6)</sup> the following proceedings took place:

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I present a privileged resolution (H. Res. 600) from the Committee on Rules and ask for its immediate consideration.

The Clerk read the title of the resolution.

THE SPEAKER:<sup>(7)</sup> The resolution will be referred to the House Calendar and ordered to be printed.

The resolution is as follows:

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

6. 109 CONG. REC. 25495, 88th Cong. 1st Sess.

Note: The waiver of points of order against the amendment was necessary because the language of the amendment would have been subject to the point of order that it constituted further legislation on an appropriation bill.

7. John W. McCormack (Mass.).

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.

### ***Suspension of Rules for Matters Not in Disagreement***

**§ 13.18 The two Houses having been unable to agree on all provisions of the bill, the House, under a motion to suspend the rules, passed a new bill containing matters in the original bill not in controversy.**

On July 2, 1942,<sup>(8)</sup> the Department of Agriculture appropriation bill for fiscal 1943 was passed in the House in the following manner:

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, I move to suspend the rules and pass the bill H.R. 7349, which I send to the Clerk's desk.

The Clerk read as follows:

A bill making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1943, and for other purposes.

THE SPEAKER:<sup>(9)</sup> Is a second demanded?

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Speaker, I demand a second.

MR. TARVER: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

8. 88 CONG. REC. 5953, 5954, 5960, 5961, 77th Cong. 2d Sess.

9. Sam Rayburn (Tex.).

THE SPEAKER: Is there objection to the request of the gentleman from Georgia (Mr. Tarver)?

There was no objection.

MR. TARVER: Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, this is a proposal to enact for the present fiscal year 1943, the provisions of H.R. 6709, the Agricultural appropriation bill, insofar as those provisions have been agreed upon by the House and the Senate, and with respect to the appropriations for the farm tenant land purchase program and for the Farm Security Administration, which are in disagreement, the provisions of the bill are for expenditures by the Farm Security Administration for these purposes for the next 60 days; that is, for the months of July and August, which will be authorized upon the same bases proportionate for the time involved as the expenditures for those purposes were authorized in the Agricultural Appropriation Act for the fiscal year 1942, with the proviso that any amount expended by the Farm Security Administration for these purposes during the months of July and August shall be charged against whatever amounts are finally appropriated by the Congress to the uses of the Farm Security Administration for these objectives.

As I said, all of the provisions of the bill, and all of the limitations in the bill so far as there does not exist disagreement between the House and Senate with reference thereto, are proposed to be enacted. The proviso with regard to Commodity Credit Corporation funds is to be enacted except as the Senate amendments thereto in disagreement are involved.

There is also a further proviso in title II of the bill which I have just sent to the Clerk's desk, which would validate expenditures upon the bases which I have described to and including the 1st day of July.

H.R. 7349 passed in the House. Subsequently, various Members discussed the consequences of the bill's passage. Some of the remarks are as follows:

MR. DIRKSEN: Mr. Speaker, may I inquire whether or not the majority leader wants to say anything about the situation that is now in abeyance for the information of the House?

MR. [JOHN W.] MCCORMACK [of Massachusetts]: I have nothing to advise the House about at this time. The Senate has adjourned, and I have been informed that they sent the bill which passed the House a short time ago to the committee.

MR. DIRKSEN: Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

THE SPEAKER: Is there objection?

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, reserving the right to object, as I understand the parliamentary situation, as far as the appropriation bill is concerned, it is this. The House passed the regular Department of Agriculture appropriation bill. It went to the Senate. The Senate placed amendments. The two Houses were in disagreement and conferees were appointed. That appropriation bill is in conference. This afternoon certain members of the Appropriations Committee who happened to be the conferees on the agriculture bill brought in another and different appropriation

bill.<sup>(10)</sup> It was passed under suspension of the rules, with a new number. It had no connection with the bill in conference. It was an independent bill. After that bill passed the House and went to the Senate, the Senate recognized it as a new appropriation bill, which it is, and treated it according to the rules of the Senate, and referred it to the Appropriations Committee of the Senate for consideration. The Senate conferees had no part in framing the new bill. So that today the regular agriculture appropriation bill is in conference between the two Houses. Today's House action has had no effect on the conference committee. Another appropriation bill covering much of the same matter has been referred to the Senate Committee on Appropriations.

MR. MCCORMACK: I think the gentleman's statement fairly presents the picture except—I would not want to take issue—but I would want to enlarge or express my own views on one observation which the gentleman made—that it had no relationship to the bill in conference. It at least had an attempted relationship.

MR. MIRCHENER: Yes; the two bills deal with the same subject matter, but one bill was the legitimate child of the rules of the House and the Appropriations Committee. The other bill was not.

MR. MCCORMACK: I am not taking issue with my friend, but I will certainly say there was an attempted relationship. At least the House in its own way attempted to meet the legislative situation that exists.

### ***Amendment by Concurrent Resolution***

#### **§ 13.19 Items in an appropriation bill not in disagreement**

10. H.R. 7349.

**between the two Houses, and hence not committed to the conferees, have been changed through consideration by unanimous consent of a concurrent resolution directing the changes in the enrollment of the bill.**

On July 23, 1962,<sup>(11)</sup> the following proceedings took place:

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, pursuant to the unanimous agreement of last Friday, I call up for consideration a House concurrent resolution.

The Clerk read as follows:

H. CON. RES. 505

*Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives be authorized and directed in the enrollment of the bill H.R. 11038 to make the following changes in the engrossed House bill:*

(1) Page 2, strike out lines 13 to 16, inclusive. . . .

(28) Page 14, strike out lines 4 to 7, inclusive.

(29) Page 14, strike out lines 17 to 21, inclusive.

MR. THOMAS (interrupting reading of the House concurrent resolution): Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, I shall attempt to explain what it is.

THE SPEAKER:<sup>(12)</sup> Is there objection to the request of the gentleman from Texas?

11. 108 CONG. REC. 14400-03, 87th Cong. 2d Sess.

12. John W. McCormack (Mass.).



There was no objection.

MR. THOMAS: Mr. Speaker, it will be recalled this deals with what we call the second supplemental appropriation bill for 1962. When the supplemental left the House it had 55 items carrying about \$447 million, which was a reduction, in round figures, of \$100 million under the budget, a reduction of about 20 percent.

It went to the other body and that body added some 29 items, increasing the amount over the House by \$112 million, which made a round figure of about \$560 million.

We bring to you two items, one a concurrent resolution and the other a conference report. First, why the concurrent resolution? We put in the concurrent resolution some 29 items which were originally in the supplemental, but those 29 items are a reduction—follow me now—below the figure that was in the supplemental when it left the House and the figure when it left the Senate.

It is a complete reduction and a change. It is in the concurrent resolu-

tion because it could not be in the conference report, and the reason it could not be in the conference report is because it is a reduction in those amounts. . . .

THE SPEAKER: The question is on the resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.<sup>(13)</sup>

- 13.** *Parliamentarian's Note:* The second supplemental appropriation bill, H.R. 11038, was passed by the House on Mar. 30, 1962; by the Senate, amended, on Apr. 6. The conference report was not filed until July 20. Since fiscal year 1962 expired on June 30, the need for some of the funds in the bill had dissipated. To eliminate the sums no longer required and not in disagreement, the concurrent resolution was agreed to.